

**AN ORDINANCE AMENDING SECTION 405.050, ENFORCEMENT AND VIOLATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEARNEY, MISSOURI.**

**WHEREAS**, the Revised Statutes of Missouri, Section 89.120, addresses enforcement of zoning regulations by cities; and

**WHEREAS**, the Board of Aldermen finds it in the best interest of the City to amend Section 405.050 of the Municipal Code to more closely align with said Section 89.120.

**BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF KEARNEY, MISSOURI, AS FOLLOWS:**

**Section 1.** That Section 405.050 of the Municipal Code of the City of Kearney, Missouri is hereby amended per the following:

- A. *Misdemeanor.* Pursuant to Section 89.120, RSMo., a violation of any regulation adopted in this Unified Development Code shall be a misdemeanor punishable by a fine not less than ten dollars (\$10) and not more than one hundred dollars (\$100.00) for each day such violation continues. Second and subsequent offenses involving the same violation at the same building or premises shall be punishable by imprisonment for ten (10) days for each day that such violation continues, a fine not to exceed two hundred fifty dollars (\$250.00) for each day that such violation continues, or by both such fine and imprisonment in the discretion of the Court.
- B. *Civil And Other Remedies.* The Board of Aldermen, or any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of these zoning regulations and to prevent unlawful erection, construction or alteration of structures, use of land, occupation of buildings, construction or alteration of structures, abatement of nuisances, failure to obtain permits, sale of land for development purposes without reference to a valid plat or refusal to obey and adhere to a lawful order of the City Administrator and/or Community Development Director or his/her authorized representative. In addition to the enforcement powers and remedies specified in these zoning regulations, the City may institute injunction, mandamus or other appropriate action or proceeding and exercise any and all enforcement powers and remedies granted to it by the State of Missouri.
- C. *Administrative Actions.* The City Administrator and/or Community Development Director or his/her authorized representative, upon finding a violation of these UDC regulations or if a proposed action would constitute a violation), shall have the power to:
  - 1. Issue a notice of violation that shall specify the offense, the name of the property owner or agent and/or occupant, the legal description of the property and the remedy. A reasonable time, not less than thirty (30) days, shall be set to correct the violation or to file an appeal.
  - 2. Issue a stop work order that commands any person to immediately cease and desist from any unlawful construction, use or alteration of any building or land.
- D. *Filing Of Complaint.* Whenever a violation of this Chapter occurs or is alleged to have occurred, any person may file a complaint with the City Administrator and/or Community Development Director or his/her authorized representative stating fully the facts or grounds upon which the complaint is based. The City Administrator and/or Community Development Director or his/her authorized representative shall promptly record and investigate such complaint and take appropriate action as provided in this Chapter.

- E. *Notification Of Violation.* Whenever any provision of this Chapter is violated, the City Administrator and/or Community Development Director or his/her authorized representative shall promptly notify in writing the person(s) responsible for the violations. The notification shall contain the nature of the violation and any corrective orders.
1. Any such person who, having been served with such notification(s) of violation, shall fail to remedy the violation(s) or file an appeal within the time specified in the notice, shall also be subject to a civil penalty of two hundred fifty dollars (\$250.00).
- F. *Administrative Remedies.* The City Administrator and/or Community Development Director or his/her authorized representatives shall have, but are not limited to, the following remedies:
1. No action. Following any complaint, and after careful consideration, the City may issue a "No Conflict" opinion.
  2. Informal contact. The City shall have the authority to abate the violation through informal meetings or conversations.
  3. Agreement to abate. The City may enter into an agreement with a violator to abate or remedy a violation within a period not to exceed six (6) months, unless extended by the Planning and Zoning Commission.
  4. Permits. The City may refuse to issue any required permits on tracts, parcels or lots cited for active violations of this Chapter.

**Section 2.** That this ordinance shall be in full force and effect from and after the date of its passage and approval.

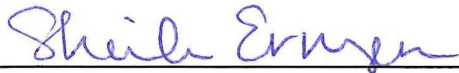
**ADOPTED AND APPROVED BY THE MAYOR AND BOARD OF ALDERMEN, CITY OF KEARNEY, MISSOURI, THIS 3RD DAY OF NOVEMBER 2025.**

APPROVED:



Randy Pogue, Mayor

ATTEST:



Sheila Ernzen, City Clerk



# Memo

To: Planning & Zoning Commission

From: David Pavlich, Community Development Director

Date: October 15, 2025

Re: Code Amendment – Section 405.050 Violations and Enforcement (Public Hearing)

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An amendment to the Municipal Code Section 405.050 is proposed, pertaining to enforcement and violations of the Zoning Regulations. The purpose of the proposed amendment is to clean up the language and clarify the notice requirements.

Attached is a clean version of proposed section 405.050, along with a version that tracks the proposed changes with additions in **bold** and deletions in ~~striketrough~~.

The proposed amendment was prepared and reviewed by the City attorney.

Staff recommends approval of the proposed Zoning Code Amendment to Section 405.050.

The Planning & Zoning Commission can move to recommend the Board of Aldermen approve, approve with changes, or deny the proposed zoning code amendment.

Sample Motion: “I move that the Planning & Zoning Commission recommend the Board of Aldermen approve the proposed amendment to Municipal Code Section 405.050, as recommended by staff.”

Proposed Update:

Title IV Land Use

Chapter 405 – Zoning Regulations

Article I – General Provisions

Section 405.050 – Enforcement and Violations.

- A. *Misdemeanor.* Pursuant to Section 89.120, RSMo., a violation of any regulation adopted in this Unified Development Code shall be a misdemeanor punishable by a fine not less than ten dollars (\$10) and not more than one hundred dollars (\$100.00) for each day such violation continues. Second and subsequent offenses involving the same violation at the same building or premises shall be punishable by imprisonment for ten (10) days for each day that such violation continues, a fine not to exceed two hundred fifty dollars (\$250.00) for each day that such violation continues, or by both such fine and imprisonment in the discretion of the Court.
- B. *Civil And Other Remedies.* The Board of Aldermen, or any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of these zoning regulations and to prevent unlawful erection, construction or alteration of structures, use of land, occupation of buildings, construction or alteration of structures, abatement of nuisances, failure to obtain permits, sale of land for development purposes without reference to a valid plat or refusal to obey and adhere to a lawful order of the City Administrator and/or Community Development Director or his/her authorized representative. In addition to the enforcement powers and remedies specified in these zoning regulations, the City may institute injunction, mandamus or other appropriate action or proceeding and exercise any and all enforcement powers and remedies granted to it by the State of Missouri.
- C. *Administrative Actions.* The City Administrator and/or Community Development Director or his/her authorized representative, upon finding a violation of these UDC regulations or if a proposed action would constitute a violation), shall have the power to:
1. Issue a notice of violation that shall specify the offense, the name of the property owner or agent and/or occupant, the legal description of the property and the remedy. A reasonable time, not less than thirty (30) days, shall be set to correct the violation or to file an appeal.
  2. Issue a stop work order that commands any person to immediately cease and desist from any unlawful construction, use or alteration of any building or land.
- D. *Filing Of Complaint.* Whenever a violation of this Chapter occurs or is alleged to have occurred, any person may file a complaint with the City Administrator and/or Community Development Director or his/her authorized representative stating fully the facts or grounds upon which the complaint is based. The City Administrator and/or Community Development Director or his/her authorized representative shall promptly record and investigate such complaint and take appropriate action as provided in this Chapter.

- E. *Notification Of Violation.* Whenever any provision of this Chapter is violated, the City Administrator and/or Community Development Director or his/her authorized representative shall promptly notify in writing the person(s) responsible for the violations. The notification shall contain the nature of the violation and any corrective orders.
1. Any such person who, having been served with such notification(s) of violation, shall fail to remedy the violation(s) or file an appeal within the time specified in the notice, shall also be subject to a civil penalty of two hundred fifty dollars (\$250.00).
- F. *Administrative Remedies.* The City Administrator and/or Community Development Director or his/her authorized representatives shall have, but are not limited to, the following remedies:
1. No action. Following any complaint, and after careful consideration, the City may issue a "No Conflict" opinion.
  2. Informal contact. The City shall have the authority to abate the violation through informal meetings or conversations.
  3. Agreement to abate. The City may enter into an agreement with a violator to abate or remedy a violation within a period not to exceed six (6) months, unless extended by the Planning and Zoning Commission.
  4. Permits. The City may refuse to issue any required permits on tracts, parcels or lots cited for active violations of this Chapter.

Proposed Update Tracking showing additions in **Bold** and removals in ~~Strikethrough~~:

Section 405.050 Enforcement and Violations.

- A. *Misdemeanor.* Pursuant to **Section 89.120, RSMo.**, A a violation of any regulation adopted in this Unified Development Code shall be a misdemeanor ~~and shall be punishable as provided in Section 100.220 General Penalty of the Kearney City Code. Any violation of any provision of these zoning regulations shall be deemed to be an ordinance violation and punishable by a fine not less than ten dollars (\$10) and not more than of not to exceed one hundred dollars (\$100.00) for each day that such violation continues. ordinance violation and each day's violation shall constitute a separate ordinance violation. Second and subsequent offenses involving the same violation at the same building or premises~~ **If the ordinance violation be deemed willful in nature by a court, the violation shall be deemed to be an ordinance violation punishable by imprisonment for ten (10) days for each day that such violation continues, for each ordinance violation and a fine not to exceed two hundred fifty dollars (\$250.00) for each day that such violation continues, or by both such fine and imprisonment in the discretion of the Court. Each day's willful violation shall constitute a separate ordinance violation. Any such person who, having been served with an order to remove any such violation, shall fail to comply with said order within ten (10) days after such service or shall continue to violate any provisions of the regulations made under authority of this Section in the respect named in such order shall also be subject to a civil penalty of two hundred fifty dollars (\$250.00).**
- B. *Civil And Other Remedies.* The Board of Aldermen, or any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of these zoning regulations and to prevent unlawful erection, construction or alteration of structures, use of land, occupation of buildings, construction or alteration of structures, abatement of nuisances, failure to obtain permits, sale of land for development purposes without reference to a valid plat or refusal to obey and adhere to a lawful order of the City Administrator and/or Community Development Director or his/her authorized representative. In addition to the enforcement powers and remedies specified in these zoning regulations, the City may institute injunction, mandamus or other appropriate action or proceeding and exercise any and all enforcement powers and remedies granted to it by the State of Missouri.
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1. **Any such person who, having been served with such notification(s) of violation, shall fail to remedy the violation(s) or file an appeal within the time specified in the notice, shall also be subject to a civil penalty of two hundred fifty dollars (\$250.00).**
- F. *Administrative Remedies.* The City Administrator and/or Community Development Director or his/her authorized representative shall have, **but are not limited to**, the following remedies: ~~without limitations:~~
1. No action. Following any complaint, and after careful consideration, the City may issue a "No Conflict" opinion.
  2. Informal contact. The City shall have the authority to abate the violation through informal meetings or conversations.
  3. Agreement to abate. The City may enter into an agreement with a violator to abate or remedy a violation within a period not to exceed six (6) months, unless extended by the Planning and Zoning Commission.
  4. Permits. The City may refuse to issue any required permits on tracts, parcels or lots cited for active violations of this Chapter