



**Michigan Association of Planning  
A Chapter of the American Planning Association**

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*The Planning and Zoning Officials Academy provides local elected and appointed officials with both basic and advanced topics addressing issues that are unique to the role as a local government representative. To suggest a topic, please contact Kelly McIntyre at (734)913-2000.*

### **ZONING ENFORCEMENT**

Zoning ordinance enforcement is vital to the success of community planning efforts. A clear and concise zoning ordinance, well-trained planning commission, and eloquent master plan are insufficient if the municipality fails to consistently enforce ordinance requirements, approved site plans, and special land use and variance conditions of approval.

#### **WHO SHOULD ENFORCE?**

Some communities, in an effort to maximize use of limited resources, delegate zoning enforcement to building inspectors. However, a lack of zoning experience may lead some building inspectors to make zoning enforcement a low priority. This also applies where zoning enforcement is given to the local police department. To ensure consistent enforcement of the zoning ordinance, one person should be designated as “zoning administrator” (or “zoning enforcement officer”) with the authority to ensure compliance with all zoning ordinance provisions, including the authority to conduct site inspections, investigate complaints, and issue citations. Depending on the size and needs of the community, the zoning administrator could be a full or part-time municipal employee, or

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could be under contract on an “as-needed” basis. A growing number of smaller or more rural communities have contracted with private planning consulting firms to provide this service.

The zoning administrator acts as the “eyes and ears” of the municipality, especially the planning commission and zoning board of appeals. The zoning administrator should meet periodically with these groups, and should regularly visit sites where zoning approvals (such as site plans, variances, special land use permits, etc.) have been granted to verify compliance with ordinance requirements and conditions of approval.

## **HOW TO ENFORCE?**

The means by which zoning violations are resolved must be reasonable, follow a due process to obtain compliance, and be applied in a consistent manner. For example, a pattern of actions by municipal officials who routinely “look the other way” to avoid requiring certain individuals to comply with the zoning ordinance may cause the validity of the zoning ordinance itself to be called into question. Zoning administrators should follow a clear procedure for investigating violations that includes the following:

- **Reporting:** Complaint forms should be used to report possible violations. Communities may wish to consider providing an on-line complaint form to improve communication from the general public.
- **Site inspection:** The zoning administrator should visit the site to determine whether a violation has occurred, while respecting the private property rights of the individuals involved.
- **Documentation:** If a violation is found, documentation (photographs, drawings and notes) should be collected and preserved in a separate file for each case. The zoning administrator should keep a written log of all actions taken with respect to the violation.
- **Meeting with the violator:** Many violations are unintentional, and are quickly resolved by bringing the matter to the violator’s attention. In other cases, violators may respond favorably to “gentle” pressure from the zoning administrator to fix the problem or face possible court action.
- **Notice:** Prior to issuing a civil infraction or taking other legal action to resolve the violation, the zoning administrator should provide written notice to the violator listing the nature of the violation (cite sections of the ordinance), what is needed to correct it and the date by which it must be corrected.

In enforcing zoning ordinances, communities generally rely on the following processes:

1. Criminal prosecution as a misdemeanor offense,
2. Civil lawsuit in Circuit Court to abate a nuisance and seek an injunction preventing further violations, or
3. Issuance of a civil infraction (like a traffic ticket).

Civil infractions are commonly used for zoning enforcement, since the underlying purpose for zoning enforcement is not punishment, but rather correction of the violation. Where violators fail to respond to civil infractions, the community has the option of filing suit in Circuit Court. In all cases, the zoning administrator should maintain a professional working relationship with all parties involved, and should work closely with the municipal attorney to ensure that all enforcement actions are legally defensible.

For more information about zoning enforcement, see the American Association of Code Enforcement (AACE) website (<http://www.aace1.com>), and the zoning enforcement page on the Michigan State University Extension (MSUE) Web site (<http://www.msue.msu.edu/msue/imp/modlb/morefile/sec27.pdf>).