

# Proposed Updates to KPB Violations and Enforcement

#	Code	Current Language	Proposed Change
1	20.10.030 (F) Violations and remedies	Breach of KPB 20.10.030(A), (B), or (C) shall constitute a misdemeanor punishable by a fine not to exceed \$1,000 and by imprisonment not to exceed 90 days for each violation. Each transfer, sale, offer to sell, or entry into a contract to sell any land subdivided in violation of this title shall constitute a separate offense.	<del>Breach</del> -Violation of KPB 20.10.030(A), (B), or (C) shall constitute a misdemeanor punishable by a fine not to exceed \$1,000 and by imprisonment not to exceed 90 days for each violation. Each transfer, sale, offer to sell, or entry into a contract to sell any land subdivided in violation of this title shall constitute a separate offense.
2	20.10.030 (G) Violations and remedies	New sentence.	Violation of KPB 20.10.030(A), (B) or (C) is subject to a fine not exceeding \$1,000 for every day the violation continues which shall be enforced through the applicable provisions of KPB 21.50.010-170.
3	21.06.030 (D) General Provisions	Noncompliance—Enforcement. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements shall be enforced by the remedies set forth in KPB 21.50. Each day a violation continues is a separate violation.	Noncompliance—Enforcement. <del>Structures and activities which are not permitted or allowed by this chapter are prohibited.</del> No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements shall be enforced by the remedies set forth in KPB 21.50. Each day a violation continues is a separate violation.
4	21.50.010 Purpose	The purpose of this chapter is to promote compliance with borough ordinances and promote consistency in enforcement of borough land use regulations.	The purpose of this chapter is to promote compliance with borough ordinances and promote consistency in enforcement of borough land use <del>and subdivision</del> regulations.
5	21.50.030 (A) Violations	Each of the following is a violation of this title:	Each of the following is a violation of <del>this title</del> <b>borough code</b> :

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6	21.50.030 (A)(1) Violations	A use or occupancy of land or a structure that conflicts with a provision of this title, or a permit, entitlement or enforcement order issued under this title.	A use or occupancy of land or a structure that conflicts with a provision of <del>this</del> KPB <del>€</del> Title 20 or 21, or a permit, entitlement or enforcement order issued under <del>this</del> these titles.
7	21.50.030(A)(2) Violations	The construction, alteration, repairing or moving of a structure or part thereof that conflicts with a provision of this title, or a permit issued under this title.	The construction, alteration, repairing or moving of a structure or part thereof that conflicts with a provision of <del>this</del> title, or a permit issued under <del>this</del> KPB Title 20 or 21.
8	21.50.030 (A)(4) Violations	The development, occupancy or use of any land or structure for which this title requires a permit without first obtaining the permit, or after the required permit has been suspended or revoked.	The development, occupancy or use of any land or structure for which KPB- <del>€</del> Title 20 or 21 requires a permit, <del>variance or exception</del> without first obtaining the permit, <del>variance or exception</del> , or after <del>the</del> a required permit has been suspended or revoked.
9	21.50.030 (A)(6) Violations	To cause or permit another to commit a violation of this title.	To cause or permit another to commit a violation of <del>this</del> KPB <del>€</del> Title 20 or 21.
10	21.50.030 (A)(8) Violations	Ownership, control or the right to control land or a structure where the land or structure is used, occupied, maintained, kept, altered, constructed or established in violation of a provision of this title, or a permit issued under this title.	Ownership, control or the right to control land or a structure where the land or structure is used, occupied, maintained, kept, altered, constructed or established in violation of <del>A-PROVISION-OF-THIS</del> KPB <del>€</del> Title 20 or 21, or a permit issued under this title.
11	21.50.030 (B)	Each act or condition is a violation of this title, and every day upon which the act or condition occurs, is a separate violation.	Each act or condition <del>is</del> constitutes a violation <del>OF THIS TITLE</del> , and every day upon which the act or condition occurs, is a separate violation
12	21.50.040 (B)(2) Remedies for Violations	To recover a civil penalty not exceeding \$500.00 per day for each violation in accord with the fine schedule set forth at KPB 21.50.055.	To recover a civil penalty not exceeding \$1,000.00 <del>500.00</del> per day for each violation in accord with the fine schedule set forth at KPB 21.50.055.
13	21.50.040 (B)(3) Remedies for Violations	New sentence	To cease and desist a violation set forth in KPB 21.50.030 or stop work.

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14	21.50.040 (C)(1)	A permit may be revoked for failure to comply with the terms of the permit or with applicable provision of Title 21. Staff shall issue an enforcement notice pursuant to KPB 21.50.080 and make a request for a revocation hearing and a written recommendation to the hearing officer by filing the same with the borough clerk. The clerk shall issue notice to the permittee of the revocation hearing at least 20 but not more than 30 days prior to the hearing. The permittee and staff shall file all evidence relevant to the permit revocation with the borough clerk 7 days prior to the hearing. If the noncompliance which lead to the request for revocation is satisfactorily resolved the administrative official may dismiss the revocation proceeding.	A permit may be revoked for failure to comply with the terms of the permit or with applicable provision of Title 21. Staff shall issue an enforcement notice pursuant to KPB 21.50. <del>080-100</del> and make a request for a revocation hearing and a written recommendation to the hearing officer by filing the same with the borough clerk. The clerk shall issue notice to the permittee of the revocation hearing at least 20 but not more than 30 days prior to the hearing. The permittee and staff shall file all evidence relevant to the permit revocation with the borough clerk 7 days prior to the hearing. If the noncompliance which lead to the request for revocation is satisfactorily resolved the administrative official may dismiss the revocation proceeding.
15	Fine Schedule 21.50.055	New fine	<del>20.10.030(A). Offering land for sale without final plat approval \$300.00</del>
16	Fine Schedule 21.50.055	New fine	<del>20.10.030(B). Filing/recording unapproved subdivision/plat \$300.00</del>
17	Fine Schedule 21.50.055	New Fine	<del>20,10.030(C). Violation of subdivision code or condition \$300.00</del>
18	Fine Schedule 21.50.055	New Fine	<del>21.06.030(D). Structure or activity prohibited by KPB 21.06 \$300.00</del>
19	Fine Schedule 21.50.055	21.06.045. Failure to obtain a SMFDA Development Permit/Floodplain Management \$300.00	<del>21.06.045. Failure to obtain a SMFDA Development Permit/Violation of SMFDA permit conditions/Floodplain Management \$300.00</del>
20	Fine Schedule 21.50.055	Failure to obtain floodplain logging or fuel storage permit/Violation of permit conditions/Floodplain Management \$300.0	<del>21.06.055-050.-FAILURE TO OBTAIN FLOODPLAIN LOGGING OR FUEL STORAGE PERMIT/Violation of permit conditions/Floodplain Management \$300.00</del>

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21	Fine Schedule 21.50.055	Violation of Conditional Land Use Permit Conditions/Material Site Permits \$300.00	21.29.050. Violation of Conditional Land Use Permit Conditions/Material Site Permits <b>Also applies to unexpired KPB 21.26 material site permits \$300.00</b>
22	Fine Schedule 21.50.055	Violation of Reclamation Plan/Material Site Permits \$300.00	21.29.060. Violation of Reclamation Plan/Material Site Permits \$300.00 <b>Also applies to KPB 21.26 material site permits</b>
23	Fine Schedule 21.50.055	Violation of enforcement notice/stop work order \$500	21.50.100(G). Violation of enforcement notice/stop work order <b>\$1000 \$500</b>
24	Fine Schedule 21.50.055	Violation of an enforcement order \$500	21.50.130 (I). Violation of an enforcement order <b>\$500-\$1,000.00</b>
25	21.50.055 (B) Fines	For enforcement notices involving a failure to obtain a permit, if a permit is subsequently granted by staff or the planning commission, the permit fee shall be doubled. This section is applicable to violations of KPB 21.06.040, 21.06.045, 21.06.055, 21.09.090(E), 21.18.071, 21.18.072, 21.18.081, 21.18.090, 21.29.020, 21.40.100, 21.42.110(D).	For enforcement notices involving a failure to obtain a permit, if a permit is subsequently granted by staff or the planning commission, the permit or <b>application</b> fee shall be doubled. This section is applicable to violations of KPB 21.06.040, 21.06.045, [21.06.055,] <b><del>21.09.090(E)</del></b> , 21.18.071, 21.18.072, 21.18.081, 21.18.090, <b><u>21.25.040</u></b> , 21.29.020, <b><del>21.40.100,</del></b> <b><del>21.42.110(D)</del></b> .
26	21.50.060 Permit compliance	A permit may not be issued under this title if	A permit may not be issued <b>under this title-</b> if
27	21.50.060 Permit compliance (A)	Either the permit applicant or the owner of the parcel that is the subject of the application has any enforcement orders regarding outstanding violations of the chapter under which the permit is being sought; or	Either the permit applicant or the owner of the parcel that is the subject of the application has any <b>unresolved</b> enforcement <b>notices or</b> <b>enforcement</b> orders regarding <b>OUTSTANDING-</b> violations of the chapter under which the permit is being sought; or

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28	21.50.060 Permit compliance (B)	Either the parcel that is the subject of the permit application or any adjacent parcel in the same ownership has any outstanding violations of this title.	Either the parcel that is the subject of the permit application or any adjacent parcel in the same ownership has any <del>OUTSTANDING VIOLATIONS OF THIS TITLE</del> unresolved enforcement notice or is in violation of an enforcement order.
29	21.50.100 (B) Enforcement Hearing	The borough shall serve an enforcement notice on each alleged violator, and each record owner of the real property that is the location of the alleged violation according to the records of the borough assessing department. An enforcement notice may be served upon a person by:	The borough shall serve an enforcement notice <b>and response form</b> on each alleged violator, and each record owner of the real property that is the location of the alleged violation according to the records of the borough assessing department. An enforcement notice may be served upon a person by:
30	21.50.100 (H) Enforcement Proceeding	New paragraph	<b>The borough and a property owner may enter an enforcement agreement as provided herein. An enforcement agreement between the borough and a property owner or occupant shall constitute an admission and acknowledgement by the property owner or occupant of the alleged code violation. The enforcement agreement shall include an agreement to remedy the violation and pay civil fines as described within the agreement within the timeframe agreed upon. The enforcement agreement shall be submitted for signature of the hearing officer as an enforcement order. The hearing officer shall approve the agreement upon finding it is in compliance with KPB 21.50. It shall have the full force and effect of an enforcement order issued under KPB 21.50.130(G)</b>

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31	21.50.100 (H)(1) Enforcement Proceeding.	New paragraph	A suspended fine may be included in an enforcement agreement between the borough, property owner, occupant or responsible party. An enforcement agreement may be entered requiring a fine of up to the maximum fine allowable for each violation cited in an enforcement notice. The fine for all but the minimum fine required by KPB 21.50. <del>100(H)</del> <b>055(A)</b> may be suspended to a date certain to allow time to obtain compliance. All or a portion of the suspended fine may be forgiven by order of the hearing officer commensurate with the compliance obtained with the enforcement order.
32	21.50.120 (E) Prehearing Procedure	Not less than seven (7) days before the hearing, the administrative official shall provide each respondent the administrative official's complete file regarding the enforcement notice, except for the redaction of confidential material. The file shall include at a minimum the enforcement notice, complaints concerning the violations alleged in the enforcement notice, all investigative reports regarding each alleged violation, and all correspondence to or from the administrative official regarding each alleged violation.	Not less than seven (7) days before the hearing, the administrative official shall provide each respondent the administrative official's complete file regarding the enforcement notice, except for the redaction of confidential material. <del>The file shall include at a minimum the enforcement notice, complaints concerning the violations alleged in the enforcement notice, all investigative reports regarding each alleged violation, and all correspondence to or from the administrative official regarding each alleged violation.</del>

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## Reason for Change

This change was made to have consistent language throughout KPB code.

This is a new addition to the KPB platting code. It enables the KPB to enforce this section of code.

This sentence clarifies that structures and activities not referenced in the chapter are unpermitted.

Modified to add Title 20 which governs subdivisions.

Modified to add Title 20.

**Reason for Change**

After successfully administering 21.50 for 5 years, the platting code was included to allow enforcement of Title 20 also.

This is a new addition to the platting KPB Code. It is required to give us the ability to enforce this section of code.

Modified to add Title 20 and added the variance/exception language.

Modified to add Title 20.

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Modified to add Title 20.

The fine for violation of enforcement notice/stop work order and violation of enforcement order has been increased.

Gives enforcement authority to stop work.



**Reason for Change**

Referred to the incorrect section of code.

Added fine to include Title 20 in enforcement process.

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Added fine to include Title 20 in enforcement process.

Added ability to enforce SMFDA permit violations.

Removed because it referred to a section of repealed code and modified to correct a citation.

<b>Reason for Change</b>
Clarified to ensure fines are applicable to active 21.26 material sites.
Clarified to ensure fines are applicable to active 21.26 material sites.
Increased the fine for violating enforcement notice.
Increased the fine for violating enforcement order.
Deleted code referred to repealed code sections. New code refers to conditional land use permits/ application fee.
Modified to add Title 20.
Changed to clarify language.

**Reason for Change**

Changed to clarify language.

KPB will provide a response form to the respondent for convenience.

This section was added to save borough resources. This allows the parties to enter into an agreement pre-enforcement hearing which reduces the work required of the hearing officer and the need for a hearing.

**Reason for Change**

The suspended fine was added to give KPB the flexibility to encourage compliance by forgiving the larger portion of a fine if compliance is achieved within a time certain.

Reduced redundant language.