

ORDINANCE NO. 1232

AN ORDINANCE AMENDING SECTION 4.7 OF ORDINANCE 1205 TO CLARIFY PROVISIONS REGARDING NOTICE OF VIOLATIONS OF THE MILES CITY FLOODPLAIN ORDINANCE

BE IT ORDAINED by the City Council of the City of Miles City, Montana as follows:

Section 1. Section 4.7 of Ordinance 1205 of the City of Miles City, Montana is amended to read as follows:

“4.7 VIOLATION NOTICE

The Floodplain Administrator shall bring any violation of these regulations to the attention of the local governing body, its legal counsel, and the Montana Department of Natural Resources and Conservation.

- (a) **Investigation Request** An investigation of an artificial obstruction or nonconforming use within the Regulated Flood Hazard Area may be made by the Floodplain Administrator, either on his/her own initiative, or on the written request of three titleholders of land which may be affected by the activity within the Regulated Flood Hazard Area. The names and addresses of the persons requesting the investigations shall be released if requested. (MCA 76-5-105)
- (b) **Notice to Enter and Investigate Lands or Waters** The Flood Plain Administrator may make reasonable entry upon any lands and waters for the purpose of making an investigation, inspection or survey to verify compliance with these regulations.
 - 1. The Flood Plain Administrator shall provide notice of entry by mail, electronic mail, phone call, personal delivery to the owner, owner's agent, lessee, or lessee's agent whose lands will be entered.
 - 2. If none of these persons can be found, the Flood Plain Administrator shall affix a copy of the notice to one or more conspicuous places on the property for five (5) days.
 - 3. If the owners do not respond, cannot be located or refuse entry to the Flood Plain administrator, the Flood Plain Administrator may only enter the property through a Search Warrant.
- (c) **Notice to Respond and Order to Take Corrective Action** When the Flood Plain Administrator determines that a violation may have occurred, the Flood Plain administrator may issue written notice to the owner or an agent of the owner, either personally or by certified mail. Such notice and order shall cite the regulatory offense and include an order to take corrective action within a reasonable time.
- (d) **Administrative Review** The order is final, unless within five (5) working days or any granted extension, after the order is received, the owner submits a written request for an administrative review before the Flood Plain Administrator. A request for an administrative review does not stay the order.
- (e) **Appeal of Administrative Decision.** Within ten (10) working days or any granted extension of receipt of the Flood Plain administrator's

decision concluding the administrative review, the property owner or owner's agent may appeal the decision to the Board.

- (f) **Failure to Comply with Order to Take Corrective Action.** Remedies may include administrative or legal actions, or penalties through court.
- (g) **Judicial Review.** Any person aggrieved by the decision may appeal the decision to a court of competent jurisdiction.
- (h) **Other Remedies.** This section does not prevent efforts to obtain voluntary compliance through warning, conference, or any other appropriate means. Action under this part shall not bar enforcement of these regulations by injunction or other appropriate remedy.

Section 2. This amendment shall become effective thirty (30) days after the final passage of this Ordinance.

Said ordinance read and put on its passage this 28th day of February, 2012.

C.A. Grenz, Mayor

ATTEST:

Rebecca Stanton, City Clerk

FINALLY PASSED AND ADOPTED this 27th day of March, 2012.

C.A. Grenz, Mayor

ATTEST:

Rebecca Stanton, City Clerk