

ARTICLE IX ENFORCEMENT

Section 1. Enforcement by Zoning Administrator.

The provisions of this Ordinance shall be enforced by the Zoning Administrator or his designated Code Enforcement Officer. Pursuant to NCGS 160D-403, staff are authorized to enter any premises within the Town's jurisdiction at all reasonable hours for the purposes of enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not opened to the public or that any appropriate inspection warrant has been secured.

Section 2. Enforcement Procedures.

- A. Notice of Violation.** The Zoning Administrator or his designated Code Enforcement Officer, upon a determination that a violation of this Ordinance has taken place, shall give written notice of the violation.
- B. Service.** Pursuant to NCGS 160D-404, The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property.

The Zoning Administrator or his designated Code Enforcement Officer providing the notice of violation shall certify to the Town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

- C. Content.** The notice of violation shall include a description of the violation and its location, the measures necessary to correct the violation, the time period allowed to correct the violation, notice of the possibility of civil penalties and judicial enforcement action, and notice of right of appeal to the Board of Adjustment.
- D. Time Period for Correction Violations.** The Zoning Administrator or designated Code Enforcement Officer shall determine the time-period allowed to correct the violation. No time-period allowed to correct a violation shall exceed thirty (30) days after the date of receipt of the notice of violation.
- E. When Notice of Violation Not Required.** The Town may pursue remedies set forth in Section 3 of this Article without a notice of violation under the following circumstances:

- 1) When a notice of violation of the same violation has been issued to the same violator at the same property within the previous two (2) years; or
- 2) When action is taken under Section 3 (D) Permit Denial or Conditions.

F. Appeals. All appeals of notices of violation must be brought within thirty (30) days after the date of receipt of the notice of violation and in accordance with Article X, Section 1 of this Ordinance.

G. Noncompliance. Failure to complete the corrective measures set out in the notice of violation, from which no appeal has been taken, or failure to comply with a judgment of the Board of Adjustment after an appeal has been taken, shall subject the violator to one or more of the remedies or enforcement actions set out in Section 3 of this Article.

Section 3. Remedies and Enforcement.

Enforcement may be by one, all, or a combination of the remedies described below or in other sections of this Ordinance or by any other remedy authorized by common law or statute, including but not limited to NCGS § 160A- 175, 160D-404, -807.

A. Injunctive Relief. The Town may pursue any appropriate equitable remedy, a mandatory or prohibitory injunction, or an order of abatement as authorized by NCGS 160A-175. The Town may execute an order of abatement and the costs of execution shall be billed to the property owner.

B. Civil Penalties. The Town may pursue civil penalties through the issuance of citations for violations as provided below.

- 1) **Citation.** The Zoning Administrator or designated Code Enforcement Officer may issue a citation for a violation after the time-period set out in the notice of violation for taking corrective measures has expired.
- 2) **Service.** The citation shall be delivered to the violator by:
 - a) Hand delivery or certified mail to the violator's last known address;
or
 - b) Hand delivery or certified mail to the property in violation; or
 - c) Posting of the Notice of Violation (NOV), in a conspicuous location, at the property in violation.

When service is made by certified mail, a copy of the citation may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused, but the regular mail is not returned by the Post Office within ten (10) days after mailing.

- 3) **Contents.** The citation shall include the nature of the violation, the amount of the civil penalty, information about where to pay the civil penalty, the deadline for payment, notification of daily penalties for continuing violations, and the notification of possible civil and criminal enforcement.
- 4) **Penalty Amount.** The Zoning Administrator or designated Code Enforcement Officer shall assess a civil penalty of up to five-hundred dollars (\$500.00). Determination of the amount of the civil penalty for continuing violations shall be based upon the standards set forth in the *Ramseur Code Enforcement Policies and Guidelines Manual*.
- 5) **Deadline for Paying Civil Penalties.** All civil penalties shall be paid on or before thirty (30) days after receipt of the notice of violation. Failure to pay civil penalties within said deadline may subject the violator to a civil action.
- 6) **Continuing Violations.** The citation shall also include notice that a daily penalty of up to five-hundred dollars (\$500.00) shall be assessed for each day of continued violation and that the penalty shall be cumulative. If the violation continues for more than thirty (30) days after receipt of the citation, payment of subsequent daily civil penalties must be made within twenty-four (24) hours for every day of violation past the thirtieth (30th) day.
- 7) **Settlement of Violations.** Once a violation has been corrected, the Zoning Administrator or designated Code Enforcement Officer may waive payment of a single civil penalty or, in the case of a continuing violation, reduce the amount to a single-day civil penalty, if one or more of the following factors are present:
 - a) The violator has not previously received a citation for a violation;
 - b) The violation does not directly impact the public health and safety of the community;
 - c) The violation was difficult to correct in an expeditious manner; or
 - d) The degree of noncompliance was not substantial.

If the violation has not been corrected, payment shall not release a violator from potential civil enforcement, criminal prosecution, injunctive relief, or an order of abatement.

- 8) **Appeals.** All appeals of citations must be brought within thirty (30) days after the date of receipt of the citation and in accordance with Article X, Section 1 of this Ordinance.

- 9) **Judicial Action to Collect Civil Penalty.** The Town may file a civil action in the nature of a debt in any court of competent jurisdiction to collect an unpaid civil penalty after the thirty (30) day deadline for paying the civil penalty, set out in the notice of violation, has expired. Additional civil actions in the nature of a debt may be filed to collect an unpaid civil penalty for a continuing violation lasting more than thirty (30) days after receipt of the citation.
- C. Criminal Penalties.** A violation of this ordinance shall constitute a Class 3 misdemeanor, as provided by NCGS 14-4, and shall be subject to maximum fine of five hundred (\$500.00) per violation. Each day of continued violation shall constitute a separate and distinct offense for purposes of criminal prosecution.
- D. Permit Denial or Conditions.** Any permit, certificate, or other authorization that has been issued for property on which there is an uncorrected violation may be withheld or may be conditioned on the correction of the violation and/or payment of a civil penalty, and/or posting of a performance bond.
- E. Permit Revocation or Voiding.** Any permit, certificate, or other authorization may be revoked or voided upon a written determination by the Zoning Administrator that the violation is substantial. Any permit or certificate mistakenly issued in violation of State law or local ordinance or issued based on misrepresentations by the applicant, owner, or owner's agent may be revoked or voided without written determination. In accordance with GS 160D-403(f), staff shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval.