

## ARTICLE 15 ADMINISTRATION and ENFORCEMENT

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### 15.1 Administrative Official

The Zoning Code Administrator shall administer and enforce this Ordinance except as otherwise provided herein. Appeals from and review of any order, requirement, decision or determination made by a Town official charged with the enforcement of this Ordinance shall be made to the Board of Adjustment in accordance with the provisions of Section 9.7.2 of Article 9, *Review and Approval Procedures*.

### 15.2 Building Permit Required.

1. A building permit shall be obtained from the Town's designated Building Inspector before commencing the construction, erection, repair, alteration, or movement of any building, structure or part thereof, before excavating for any such building or structure, or before erecting any sign (except when specifically authorized by this Ordinance).
2. Before commencing the removal or demolition of any building or structure, a building permit authorizing said removal or demolition shall be obtained from the Town's designated Building Inspector.

### 15.3 Certificates Required.

As provided for in Section 9.5.1 of Article 9 '*Review And Approval Procedures*', it shall be unlawful to change or commence the use of any building or land until a Certificate of Zoning Compliance ("CZC") and Certificate of Occupancy ("CO") shall have been issued by, respectively, the Zoning Code Administrator and the Town's designated Building Inspector stating that the building and/or proposed use complies with the provisions of all applicable Town, county, state and federal statutes, codes, rules, regulations and ordinances.

### 15.4 Complaints Regarding Violations

Whenever the Zoning Code Administrator receives a complaint alleging a violation of this Ordinance, he/she shall investigate the complaint and take action in accordance with the provisions set forth in Sections 15.6 and 15.7 herein.

### 15.5 Persons Liable

The owner, tenant, or occupant of any building or land or part thereof, and any other person who knowingly participates in, assists, directs, creates, or maintains any situation in violation of the provisions of this Ordinance, may be held liable for the violation and be subject to the penalties and remedies provided for herein. For the purposes of this article, "Persons Liable" shall include both domestic and foreign entities.

#### 15.6 Procedures Upon Discovery of Violations

- b. Right of entry. The Zoning Code Administrator may enter any property or premises at all times to perform any duty imposed upon him/her by this Ordinance whenever he/she has cause to believe that a violation of this Ordinance is occurring, provided that:
  - i. The Zoning Code Administrator shall present proper credentials, state the reason for and request entry from the owner or occupant and:
    - 1. If entry is denied, he/she may seek a court-ordered inspection warrant if sufficient cause exists; and
    - 2. If entry is denied, the Zoning Code Administrator shall have recourse to every other remedy provided by law to secure entry.
  - ii. The Zoning Code Administrator shall make a reasonable effort to locate the owner of unoccupied property, inform the owner of the reasons for entry and request entry.
  - iii. The Zoning Code Administrator shall not enter any property or premises in the absence of permission to enter, unless an inspection warrant has been issued by a court of competent jurisdiction.
- 1. Consistent with NCGS 160D-404(a), if the Zoning Code Administrator finds that any provision of this Ordinance is being violated, he/she shall send a written Notice of Violation to the person liable for such violation indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Zoning Code Administrator's discretion. The notice shall state what action the Zoning Code Administrator intends to take if the violation is not corrected.
- 2. A Notice of Violation may be followed by a First Citation if the person liable for the violation does not take the required corrective action such that the violation continues or re-occurs within a specified period of time. The First Citation shall describe the nature of the violation, order the action which the Zoning Code Administrator deems necessary to correct it, and state the potential and actual criminal and civil penalties resulting from the violation.
- 3. A First Citation may be followed by a Second Citation, which in turn may be followed by a Final Citation, if the person liable for the violation does not take the required corrective action such that the violation continues or re-occurs within a specified period of time. Both the Second and Final Citations shall describe the nature of the violation, order the action which the Zoning Code Administrator

deems necessary to correct it, and state the potential and actual criminal and civil penalties resulting from the violation.

4. Notices of Violation and any citation may be appealed to the Board of Adjustment in accordance with the provisions of Article 9 herein.
5. Consistent with NCGS 160D-404(f), the Zoning Code Administrator may revoke a permit issued under this Ordinance by providing written notification, via hand delivery or regular/electronic mail, to the permit holder, or its designated representative, when false statements or misrepresentations were made in securing the permit, work is being or has been done that substantially does not conform with the approved application or plan, or work is being done in a manner that endangers life, limb, or property. A revocation of a zoning permit may be appealed to the Board of Adjustment in accordance with the provisions of Section 9.7 herein.
6. In cases where delay would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety or general welfare, the Zoning Code Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies set forth in this Ordinance.

#### 15.7 Penalties and Remedies for Violations.

##### 1. Criminal and Civil Penalties for Violations.

Pursuant to the Town's prosecutorial discretion, the Town may enforce violations of the Ordinance as criminal or civil matters.

- a. The procedures set forth in this Ordinance shall be in addition to any other remedies, civil or otherwise, which may now or hereafter exist under law for the enforcement of violations and abatement of public nuisances, and the Town's recourse to such other remedies shall not preclude the Town from proceeding in a criminal action against a person liable for a violation as provided for in General Statute Sec. 14-4.
- b. Infraction/misdemeanor. Any person violating the provisions of this Ordinance shall be guilty of either an infraction or a misdemeanor as provided for below. Each day, or any part thereof, during which a violation is committed or allowed to continue shall constitute a separate criminal offense.
- c. Prosecution. Every violation of this Ordinance shall be a misdemeanor provided however, that when the Town Attorney has determined that such action would be in the best interest of justice, he/she may specify in the accusatory pleading or citation, that the violation be prosecuted as an infraction.

- d. Penalties. Every violation of this Ordinance, regardless of whether it is criminally prosecuted, shall result in the imposition of the following civil penalties:
  - i. A fine not exceeding fifty dollars (\$50.00) for a First Citation;
  - ii. A fine not exceeding one hundred dollars (\$100.00) for a Second Citation issued for the same or similar violation occurring within one (1) year after the issuance of the First Citation;
  - iii. A fine not exceeding two hundred dollars (\$200.00) for a Final Citation issued for the same or similar violation occurring within one (1) year after the issuance of the Second Citation; and
  - iv. Each new day, or part thereof, during which a violation occurs shall constitute a separate offense resulting in a separate civil penalty being imposed under the respective citation.

- 2. Violations of this ordinance may, when appropriate, be enforced by an appropriate equitable action.

15.8 Costs of Enforcement.

In any civil or criminal enforcement hearing or action the Town shall be entitled to recover from the defendant the costs of such action including, but not being limited to, a reasonable attorney's fee, court costs, and the Town's enforcement costs including expenses and fees for any related inspections, cleanup, and/or abatement. Any such costs not paid to the Town by the defendant shall be a lien on the property where the violation occurred and such lien shall have the same priority and be collected as unpaid ad valorem taxes. These costs, if unpaid shall also be a lien on any other real property owned by the defendant located in or within one (1) mile of the Town's corporate limits except for the defendant's primary residence. This additional lien shall be inferior to all other liens and shall be collected as a money judgment.

15.9. Conclusive Notice.

Mailing notice of any hearing or order authorized under this Ordinance to the owner of the property where the violation occurred, at the address shown on the last equalized roll upon which Town taxes were collected, shall be conclusively deemed as having mailed notice to the proper person at the proper address, and the failure of any such addressee to receive the notice shall not invalidate any of the proceedings for which the notice was provided.