

**ARTICLE IX**  
**ENFORCEMENT**

**Table of Contents**

9-1 VIOLATIONS .....	2
9-1.1 Development Without Permit.....	2
9-1.2 Development Inconsistent With Permit.....	2
9-1.3 Violation by Act or Omission.....	2
9-1.4 Use in Violation.....	2
9-1.5 Subdivide in Violation.....	3
9-1.6 Continue a Violation.....	3
9-2 ENFORCEMENT INTENT.....	3
9-2.1 Questions.....	3
9-3 ENFORCEMENT PROCEDURE.....	3
9-3.1 Notice of Violation.....	3
9-3.2 Appeal and Action on Enforcement Officer's Notice of Violation.....	4
9-3.3 Failure to Comply with an Order.....	4
9-4 REMEDIES.....	4
9-4.1 Injunction.....	4
9-4.2 Civil Penalties.....	5
9-4.3 Denial of Permit or Certificate.....	5
9-4.4 Conditional Permit or Temporary Certificate.....	5
9-4.5 Revocation of Permits.....	5
9-4.6 Criminal Penalties.....	5
9-5 CIVIL PENALTIES - ASSESSMENT AND PROCEDURES .....	6
9-5.1 Penalties.....	6
9-5.2 Notice.....	6
9-5.3 Responsible Parties.....	6
9-5.4 Continuing Violation.....	6
9-5.5 Demand for Payment.....	6
9-5.6 Nonpayment.....	7
9-6 OTHER POWERS AND ACTIONS.....	7
9-6.1 State and Common Law Remedies.....	7
9-6.2 Previous Enforcement.....	7
9-7 REMEDIES CUMULATIVE AND CONTINUOUS.....	7
9-7.1 Cumulative Violations.....	7
9-7.2 Repeat Violations.....	8
9-8 ACTION BY OTHERS.....	8
9-8.1 Adjacent or Neighboring Property.....	8
9-8.2 Land Purchaser.....	8

**ARTICLE IX**  
**ENFORCEMENT**

**9-1 VIOLATIONS**

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Article and by state law.

**9-1.1 Development Without Permit**

To engage in any development, use, construction, remodeling or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates or other forms of authorization as set forth in this Ordinance.

**9-1.2 Development Inconsistent With Permit**

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

**9-1.3 Violation by Act or Omission**

To violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the governing body or its agent boards upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereon.

**9-1.4 Use in Violation**

To erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this Ordinance, or any other regulation made under the authority conferred thereby.

### **9-1.5 Subdivide in Violation**

To subdivide land in violation of this Ordinance or transfer or sell land by reference to, exhibition of, or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this Ordinance and recorded in the Office of the Register of Deeds. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this Ordinance.

### **9-1.6 Continue a Violation**

Each day's violation of any provision of this Ordinance is a separate and distinct offense.

## ***9-2 ENFORCEMENT INTENT***

### **9-2.1 Questions**

It is the intention of this Ordinance, unless otherwise provided, that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Town Enforcement Officer, unless the question pertains to a permit issued by a Guilford County department, and that such questions shall be presented to the Board of Adjustment only on appeal from the Enforcement Officer's decision. An appeal from the decision of the Board of Adjustment shall be by proceedings in the nature of certiorari to the Superior Court as provided by law.

## ***9-3 ENFORCEMENT PROCEDURE***

When the Enforcement Officer finds a violation of this Ordinance, it shall be his duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation, unless the violation pertains to a permit issued by Guilford County, in which case the Enforcement Officer shall notify the county department which issued the permit. The owner or occupant shall immediately remedy the violation.

### **9-3.1 Notice of Violation**

If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the Enforcement Officer shall give the owner or occupant written

notice, by certified or registered mail to his last known address, or by personal service or by posting notice of the violation conspicuously on the property:

- A. that the land, building, sign, structure, or use is in violation of this Ordinance
- B. the nature of the violation, and citation of the section of this ordinance violated; and
- C. the measures necessary to remedy the violation;

### **9-3.2 Appeal and Action on Enforcement Officer's Notice of Violation**

A. Any owner or occupant who has received a notice of violation may appeal in writing the decision of the Enforcement Officer to the Board of Adjustment within fifteen (15) days after receiving written notice of violation. The Board of Adjustment shall hear an appeal within a reasonable time, and it may affirm, modify or revoke the notice of violation. If there is no appeal, then remedies and penalties sought by the Enforcement Officer are final.

B. If the Board of Adjustment finds that the owner or occupant is in violation of this Ordinance, the Board of Adjustment shall order the owner or occupant in writing to comply with the remedies and or penalties set forth by the Enforcement Officer.

### **9-3.3 Failure to Comply with an Order**

An Owner or occupant who fails to comply with the Enforcement Officer's notice of violation from which no appeal has been taken, or an the Board of Adjustment's order following an appeal, is subject to the remedies and penalties provided for by state law and Section 9-4 (Remedies) of this Ordinance. If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through a court of competent jurisdiction.

## **9-4 REMEDIES**

Anyone or all of the following procedures may be used to enforce the provisions of this Ordinance.

### **9-4.1 Injunction**

Any violation of this Ordinance or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

#### **9-4.2 Civil Penalties**

Any person who violates any provisions of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section 9-5 (Civil Penalties - Assessments and Procedures).

#### **9-4.3 Denial of Permit or Certificate**

The Enforcement Officer may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate or other authorization previously granted.

#### **9-4.4 Conditional Permit or Temporary Certificate**

The Enforcement Officer may condition the authorization of any permit or certificate upon the correction of the deficiency, or payment of civil penalties within a specified time.

#### **9-4.5 Revocation of Permits**

The Enforcement Officer may revoke and require the return of a permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; refusal or failure to comply with the requirements of state or local laws, or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

#### **9-4.6 Criminal Penalties**

Any violation of this Ordinance shall be a misdemeanor or infraction as provided by NCGS 14-4.

## **9-5 CIVIL PENALTIES - ASSESSMENT AND PROCEDURES**

### **9-5.1 Penalties**

Any person who violates any provisions of this Ordinance shall be subject to assessment of a civil penalty in the amount of \$25.00 for the first violation; \$50.00 for the second violation; \$100.00 for the third violation; and \$200.00 for the fourth and succeeding violations thereafter.

### **9-5.2 Notice**

No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with Section 9-3.1 (Notice of Violation). If after receiving a notice of violation under Section 9-3.1, the owner or other violator fails to take corrective action, a civil penalty may be imposed under this Section in the form of a citation. The citation shall be served in the manner of a Notice of Violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within fifteen (15) days of the date of the notice.

### **9-5.3 Responsible Parties**

The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

### **9-5.4 Continuing Violation**

For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

### **9-5.5 Demand for Payment**

The Enforcement Officer shall make written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for

which the civil penalty has been imposed.

### **9-5.6 Nonpayment**

If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided, however, if the civil penalty is not paid within the time prescribed, the Enforcement Officer may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to NCGS 14-4.

## ***9-6 OTHER POWERS AND ACTIONS***

### **9-6.1 State and Common Law Remedies**

In addition to other enforcement provisions contained in this Article, the Town Council may exercise any and all enforcement powers granted to it by state law or common law.

### **9-6.2 Previous Enforcement**

Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions.

## ***9-7 REMEDIES CUMULATIVE AND CONTINUOUS***

### **9-7.1 Cumulative Violations**

All such remedies provided herein shall be cumulative. To the extent that North Carolina law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

## **9-7.2 Repeat Violations**

If an owner or occupant repeats the same violation within a five year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies.

## **9-8 ACTION BY OTHERS**

### **9-8.1 Adjacent or Neighboring Property**

In addition to the remedies of the local government hereunder, if any building or structure is erected, constructed, reconstructed, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, any other appropriate authority or any adjacent, nearby or neighboring property owner who would be affected by such violation may institute injunction, mandamus or other appropriate action or proceeding to prevent the occupancy of such building, structure or land, or the continuance of any construction whatsoever in violation of this Ordinance.

### **9-8.2 Land Purchaser**

In the event that a purchaser buys land for which there is a surety to secure performance of improvements, after a period of two (2) years has passed since the date of Final Plat recordation, the purchaser may bring action to enforce completion of the improvements. In such a case, the purchaser may seek specific performance.