

ARTICLE IX
ENFORCEMENT

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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.

9-2.2 Reporting zoning violations and nuisance complaints

When a citizen's quality of life is negatively impacted by the actions of others, it may become necessary to lodge a complaint. The complaints may come from adjacent, neighboring, or directly-affected individuals.

Complainants will be asked to give enough information to allow the Town Enforcement Officer to assess the complaint, and effectively address the concern. As such, the Town of Whitsett will not respond to anonymous "tips" left on voicemails or passed along through other channels.

Complainants may remain anonymous, but must speak to the Enforcement Officer on the phone or in person. To verify that the complainant is either adjacent, neighboring, or directly affected, they must give name and address which will remain anonymous.

Residents who file a formal complaint, not anonymous, must do so by either the complaint form or letter; and provide contact information. Formal complaints will receive priority status, and complainants will be advised on actions regarding their complaint.

[Registering complaints procedure adopted by Town Council on June 13, 2017.]

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; \$100.00 for the second violation; \$250.00 for the third and succeeding violations thereafter. [New penalty fees adopted by the Town Council on June 13, 2017.]

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.