

ARTICLE 9 Enforcement and Penalties

ARTICLE 1

10.19.1 PURPOSE

- A. This Article sets forth the procedures by which the County seeks to ensure compliance with the provisions of this Ordinance and to obtain correction for Ordinance of violations of this Ordinance. It also sets forth the remedies and penalties the County may apply where necessary to ensure correction of violations. The provisions in this Article Section are intended to encourage the voluntary correction of violations, where possible.
- B. Compliance with all the procedures, standards, and other provisions of this Ordinance is required by all persons owning, developing, managing, using, or occupying land or structures in the county.

10.29.2 APPLICABILITY

- A. This Ordinance shall be enforceable in accordance with the provisions of G.S.153A-1213. The Administrator may revoke any permit or other authorization granted under this Ordinance for failure to comply with the provisions of this Ordinance or the terms and conditions of the permit or authorization, or for false statements or misrepresentations made in securing the permit or authorization, or if the permit or authorization was mistakenly granted in violation of applicable State or local law.
- B. If the Administrator determines an imminent hazard exists, he may summarily revoke this permit.

10.39.3 VIOLATIONS

9.3.1 General Violations

- A. **Failure to Comply with Ordinance, Term, or Condition of Approval**
Any failure to comply with a requirement, prohibition, or limitation imposed by the provisions of this Ordinance, or the terms and conditions of any permit or other authorization granted pursuant to this Ordinance, shall constitute a violation of this Ordinance.
- B. **Permits or Approvals only Authorize Development Approved**
Permits or development approvals issued by a decision-making body or county staff authorize only the use, arrangement, location, design, density, and development set forth in such permits or development approvals.

~~10.3.1 One or more of the following responsible parties may be held responsible for a violation of this Ordinance and be subject to the remedies and penalties provided in this Section:~~

~~10.3.2 A contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Ordinance, and~~

~~10.3.3 An owner of the property, on which a violation of this Ordinance occurs, or any tenant or occupant of that property who has control over, or responsibility for, its use or development.~~

9.3.2 Specific Violations

It shall be a violation of this Ordinance to undertake any activity contrary to the provisions of this Ordinance, including but not limited to any of the following:

- A. Occupy, develop, or use any land or structure without first obtaining all appropriate permits or development approvals and complying with their terms and conditions.
- B. Subdivide land without first obtaining all appropriate permits or development approvals required to engage in subdivision and complying with their terms and conditions.
- C. Excavate, grade, cut, clear, or undertake any land disturbing activity without first obtaining all appropriate permits and development approvals, and complying with their terms and conditions.

- D. Install, create, erect, alter, or maintain any sign without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions.
- E. Fail to remove any sign installed, created, erected, or maintained in violation of this Ordinance, or for which the permit has expired.
- F. Create, expand, replace, or alter any nonconformity except in compliance with this Ordinance.
- A-G. Reduce or diminish the requirements for development, use, design, or dimensional standards below the standards required by this Ordinance.
- B-H. Increase the intensity or density of development, except in accordance with the standards of this Ordinance.
- C-I. Through any act or omission, fail to comply with any other provisions, procedures, or standards as required by this Ordinance.

10.3.49.3.3 Temporary Sign Violations

When a temporary sign has been installed without a permit or is a prohibited sign, the Administrator shall notify the responsible person as listed in Section 9.3.4 to remove the sign immediately. If the sign is not removed in the time specified in the notice, the Administrator shall issue a civil citation subject to the penalties outlined in this Section.

10.3.59.3.4 Responsible Persons for Violations

The owner, tenant or occupant of any land or structure, and an architect, engineer, builder, contractor, agent or any other person who participates in, assists, directs, creates or maintains a situation that constitutes a violation of this Ordinance may be held responsible for the violation and subject to the remedies and penalties set forth in this ordinance.

10.49.4 ENFORCEMENT PROCEDURES

10.4.19.4.1 Investigation and Inspection

- A. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. The complaint, stating fully the cause and basis of the alleged violation shall be filed with the Administrator who shall properly record such complaint.
- B. On receiving a complaints or other information suggesting a violation of this Ordinance, the Administrator, or other official(s) designated by the Board of County Commissioners their designated agent shall investigate the situation and determine whether a violation exists.
- A-C. The Administrator or their designated agent shall have the right to enter upon private property at any reasonable time necessary to carry out their duties. All questions arising in connection with enforcement and interpretation shall be presented first to the Administrator. Appeal from their decision may be made to the Board of Adjustment.

10.4.29.4.2 Initial Notice of Violation

- A. On determining that a violation exists, the Administrator shall give the responsible person(s) written notice of the violation by personal delivery, first class mail, or certified or registered mail, return receipt requested. The notice shall describe the nature of the violation, state the actions necessary to correct the violation, and invite the alleged violator to meet with contact or meet with the Administrator within ten days to discuss the violation and how it may be corrected. The Administrator may provide the alleged violator additional written notices of violation.
- B. If reasonable attempts have been made to effect service of the written notice upon the responsible person(s) by personal delivery, first class mail, or certified or registered mail by the methods described in this Section have been unsuccessful, then notice may be provided by posting the written notice upon the property in a conspicuous place for a period of not less than at least ten working days.
- C. Before revoking a permit or other authorization, the Administrator shall give the holder of the permit or authorization ten working days notice of intent to revoke the permit or authorization. The notice shall state the reasons for the intended revocation and state that the holder may

have an informal hearing on the intended revocation before the Administrator. On revoking a permit or authorization, the Administrator shall give the holder of the permit or authorization a written notice of the revocation and the reasons for it.

9.4.3 Permit Revocation

In accordance with the provisions of this Ordinance and the provisions of N.C.G.S. 153A-362, the Administrator or Building Inspector may revoke any permit or other authorization granted under this Ordinance for failure to comply with the provisions of this Ordinance or the terms and conditions of a permit or authorization granted under this Ordinance.

10.4.39.4.4 Final Notice of Violation; Correction Order

The Administrator's final written notice of violation (which may be the initial notice) shall be served upon the responsible person(s) in the same manner as the Initial Notice of Violation and shall order correction of the violation not to exceed thirty 30 days, state which of the remedies and penalties authorized in this Article~~Section 12.4.9~~ the Administrator may pursue if the violation is not corrected within the specified time limit, and state that the correction order may be appealed to the Board of Adjustment.

10.4.49.4.5 Reinstatement of Permit by ~~Zoning~~ Administrator

The holder of a revoked permit or authorization may, within 90 days after the revocation, submit to the Administrator a written request to reinstate the revoked permit or authorization. On determining that the conditions justifying the revocation have been eliminated and that the ~~development proposed~~ action fully complies with all applicable requirements of this Ordinance, the Administrator may reinstate the permit or authorization.

10.4.59.4.6 Appeal to the Board of Adjustment.

- A. Any person aggrieved by the Administrator's determination of a violation or correction order may appeal that determination or order to the Board of Adjustment in accordance with the provisions of Section 3.15, Appeal of Administrative Decision. As provided by that section, an appeal generally stays all further actions to enforce a correction order until the Board of Adjustment has decided the appeal.
- B. If the recipient of a correction order does not appeal the order to the Board of Adjustment within the time limit specified in Section 3.15, Appeal of Administrative Decision, that person may not later appeal to the Board of Adjustment the subsequent imposition of any remedy or penalty specified in the order.

10.4.69.4.7 Appeal of Temporary Sign Violation

- A. Any person aggrieved by the ~~Administrator's Zoning Code Enforcement's~~ determination of a violation may appeal that determination to the Administrator.
- B. Appeals to the Administrator must be taken within ten (10) business days of the receipt of violation.
 - 1) The Administrator shall review all pertinent evidence to the case and make a determination within five (5) business days of the appeal hearing.
 - 2) If the recipient of a correction order or determination of a violation does not appeal within the allotted time limit specified ~~in Section 11.4.6.A.~~, that person may not later appeal to the Administrator and will become liable to all civil penalties incurred, per this Article.

10.4.79.4.8 Extension of Time Limit to Correct Violation

The recipient of a correction order, or the owner of the property on which the violation occurs, may submit to the Administrator or designated agent, a written request for extension of the order's specified time limit for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit, the Administrator may extend the time limit as reasonably necessary to allow timely correction of the violation.

10.4.89.4.9 Enforcement Action after Time Limit to Correct Violation

Following the time limit for correction of the violation, including any stay or extension thereof, the Administrator shall determine whether the violation has been corrected. If the violation has been

corrected, the Administrator shall take no further action against the alleged violator. If the violation has not been corrected, the Administrator may act to impose one or more of the remedies and penalties specified in the correction order.

10.4.99.4.10 Emergency Enforcement without Notice

If delay in correcting a violation would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety, or welfare, the Administrator may seek immediate enforcement without prior written notice through any of the remedies or penalties authorized in this ArticleSection 12.4.9, below.

10.4.109.4.11 Remedies and Penalties

A. The Administrator may pursue one or more of the following remedies and penalties to prevent, correct, or abate a violation of this Ordinance. Use of one of the authorized remedies and penalties does not preclude the Administrator from using any other authorized remedies or penalties, nor does it relieve any party to the imposition of one (remedy or penalty) from imposition of any other authorized remedies or penalties.

A.B. Stop Work Order Permit Revocation

Whenever a building, ~~or~~ structure or site is being constructed, demolished, renovated, altered, or repaired in violation of any applicable provision of this Ordinance, the Administrator or Building Inspector may issue a Stop Work Order. The Stop Work Order shall be in writing, directed to the responsible party(ies) or the property owner, and shall state the specific work to be stopped, the specific reasons for cessation, and the action(s) necessary to lawfully resume work.

~~**B.C.** In accordance with the provisions of Section 12.2 of this Ordinance and the provisions of N.C.G.S. 153A-362, the Administrator or Building Inspector may revoke any permit or other authorization granted under this Ordinance for failure to comply with the provisions of this Ordinance or the terms and conditions of a permit or authorization granted under this Ordinance.~~
Permit Denial

As long as a violation of this Ordinance remains uncorrected, the Administrator may deny or withhold approval of any permit or other authorization provided for in this Ordinance that is sought for the property on which the violation occurs.

C.D. Civil Penalty

- 1) Violation of this Ordinance subjects the violator to a civil penaltyiesy as outlined in the county's adopted fee in the amount of One Hundred (\$100.00) Dollars for schedule for each offense. If the offender fails to remedy the violation and pay any civil penalty within ten working days after being cited for said violation (or within the time prescribed by a citation if it provides for a longer period of time than ten days), the civil penalty may be recovered in a civil action in the nature of a debt, as provided in G.S. 153A-123(c). The Administrator shall make written or ~~in-in~~ person demand for payment, delivered by certified mail, return receipt requested, upon the person or persons responsible or their agents and assigns, and shall set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is received, the County may refer the matter to the County Attorney for the institution of a civil action in the nature of debt in the name of Pender County in the appropriate division of the General CouErt of Justice in Pender County, for recovery of the penalty, and any equitable remedy available to the County.
- 2) Each day a violation continues, shall constitute a separate and distinct offense, punishable as set forth herein and described above.
- 3) The violator shall be responsible for any and all related legal or administrative fees associated with an offense.

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3) ~~Violations of Section 9.7.2, Temporary Signs, shall in all cases be deemed a civil penalty in accordance with Section 12.4.9.~~

D.E. **Criminal Penalty**

- 1) As provided in Section 14-4 of the North Carolina General Statutes, violation of this Ordinance constitutes a misdemeanor, punishable by a fine up to \$500.00 or imprisoned not more than thirty (30) days.

E.F. **Injunction and Abatement Order**

If a building or structure is erected, constructed, reconstructed, or altered, repaired, converted, or maintained, or any building, structure or land is occupied or used in violation of the General Statutes of North Carolina, this Ordinance, or other regulation made under authority conferred thereby, ~~the~~ ~~The~~ Administrator may institute action in the district Court, Civil Division, or any other court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement commanding the violator to correct or cease a violation of this Ordinance. In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the case. An order of abatement may direct that buildings or other structures on the property be closed, and demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the ~~county~~ County may execute the order of abatement. The county shall have a lien on the property for the cost of executing an order of abatement, including all associated legal or administrative fees.

F.G. **Other Equitable Relief**

In addition to the above remedies and penalties, the Administrator may institute any other appropriate equitable action or proceeding in a court of competent jurisdiction to prevent, correct, or abate a violation of this Ordinance.

~~10.4.11~~ 9.4.12 **Statute of Limitations**

In accordance with the provisions of N.C.G.S. 1-51 and N.C.G.S. 1-49, the Administrator shall enforce violations within the mandated applicable timeframe. ~~The statute of limitations is effective October 1, 2018 and applies to actions commenced on or after that date.~~

9.4.13 **Repeat Violations**

In addressing repeat violations by the same offender over any two-year period, the County may commence the application of remedies or penalties at the stage in the process where the previous violation was resolved.

