Chapter 84

ARTICLE XIII. – VIOLATIONS, INFRACTIONS, AND PENALTIES

PART 1300. – **ENFORCEMENT**

Sec. 84-1300.01. - **General provisions.**

1. The owner of property shall be responsible for; and subject to civil and criminal liability for any violation of this chapter found to exist on his property.
2. Any building erected or improvements constructed contrary to any of the provisions of this chapter and any use of any building or land which is conducted, operated or maintained contrary to any of the provisions of this chapter or contrary to any detailed statement or plan approved under the provisions of this chapter shall be and the same is hereby declared to be unlawful.
3. Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this chapter, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any building or structure or uses any building or land in violation of the provisions of this chapter shall be subject to the enforcement provisions of this part.
4. Upon becoming aware of any violation of any provisions of this chapter, the Zoning Administrator may bring legal action, including injunction, abatement, or other appropriate action or proceeding subject to appeal pursuant to Virginia Code Section 15.2-2311. The Zoning Administrator may also revoke any zoning approval(s) to terminate the violation.
5. The Zoning Administrator or his/her agent may present sworn testimony to a magistrate or court of competent jurisdiction and if such sworn testimony establishes probable cause that a zoning ordinance violation has occurred, request that the magistrate or court grant the Zoning Administrator or his/her agent an inspection warrant to enable the Zoning Administrator or his/her agent to enter the subject dwelling for the purpose of determining whether violations of the zoning ordinance exist. The Zoning Administrator or his/her agent shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant.

Sec. 84-1300.02. – **Criminal violations and penalties.**

1. In the event that the Zoning Administrator determines that there has been any violation of this chapter, the Zoning Administrator may order in writing the remedying of the violation. The written order may be done through a violation notice and correction order. Failure to comply with a violation notice and correction order or any violation resulting in injury to any persons shall be a misdemeanor and, upon conviction thereof, the penalty for such violation shall be a fine of not more than $1,000.00. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not more than $1,000.00 and any failure during a succeeding ten-day period shall constitute a separate misdemeanor offense punishable by a fine of not more than $1,500.00; and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not more than $2,000.00.
2. The issuance of a violation notice and correction order shall be a precondition to the issuance of a warrant or summons for all criminal violations of the Zoning Ordinance provided in subsection 1 of this section. The remedies provided by this chapter shall be cumulative. In addition, the Zoning Administrator may seek immediate relief from the court regardless of other actions that have been or will be taken.
3. The remedy provided for in this section shall be in addition to any other remedies provided by law.

Sec. 84-1300.03. – **Infractions and civil penalties.**

1. All violations of the Zoning Ordinance other than Section 84-1300.02(1) (failure to comply with a violation notice and correction order) and those that result in injury to any persons, shall be deemed civil infractions. A violation shall be punishable by a civil penalty of $200.00 for the first summons, and a fine of not more than $500.00 for each additional summons.
2. Each day during which any violation is found to have existed shall constitute a separate offense. However, in no event shall any such violation arising from the same set of operative facts be charged more frequently than once in any ten-day period, nor shall a series of such violations arising from the same set of operative facts result in civil penalties which exceed a total of $5,000.00.
3. All violations of the Zoning Ordinance designated as civil infractions in subsection 1 above shall be in lieu of criminal sanctions, such designation shall preclude the prosecution of a violation as a criminal misdemeanor, provided, however, that when such civil penalties total $5,000.00 or more, the violation may be prosecuted as a criminal misdemeanor.
4. The Zoning Administrator may cause a summons or an order to be issued for any violation and served upon any person responsible for that violation in any manner of service authorized by law.
5. Such summons or order shall contain the following information:
6. The name and address of the person charged.
7. The nature of the infraction, the subsection of this section and the ordinance provision(s) being violated.
8. The location, date and time that the infraction occurred or was observed.
9. The manner in which the infraction shall be deemed abated (if applicable).
10. The date in which the infraction shall be abated before submitted to the Town Attorney for civil penalty (if applicable).
11. The summons or order shall provide that any person summoned for a violation may elect to pay any imposed civil penalty by making an appearance in person or in writing by mail to the Zoning Administrator prior to the date fixed for trial and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such summons or order shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court, however, an admission shall not be deemed a criminal conviction for any purpose.
12. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law. If the violation remains uncorrected at the time of the admission of liability or finding of liability, the court may order the violator to abate or remedy the violation in order to comply with the zoning ordinance. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within a period of time as determined by the court, but not later than six months of the date of admission of liability or finding of liability. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. A finding of liability shall not be deemed a criminal conviction for any purpose, except for the provisions of subsection 3., above.
13. The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Sec. 84-1300.04. - **Service of notice, etc.**

Whenever any notice or order is authorized or required to be served by the Zoning Administrator, then in addition to any manner of delivering process authorized by law, it shall be sufficient if such notice or order shall be sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records.

Sec. 84-1300.07. – **Appeal**

Any owner who has received an order to take corrective action may appeal in writing to the Zoning Administrator within ten (10) days following issuance of the order. In the absence of an appeal, the order by the Zoning Administrator shall be final. The Board of Zoning Appeals shall hear an appeal within 30 days and may affirm, modify and affirm or revoke the order. Any order issued that has been properly appealed shall effectively stay any action until the appeal process has completed. If the appeal is not granted, the timeframe to abate identified within the order will begin from the next business day following the appeal hearing.