

**TABLE OF CONTENTS**

<b>SECTION NUMBER</b>	<b>NAME</b>	<b>STARTS AT PAGE</b>
16.1	Violations	16-1
16.2	Continuing Violations	16-2
16.3	Enforcement Powers	16-3
16.4	Remedies	16-4
16.5	Notice of Violation Procedures	16-4
16.6	Penalties for Violation	16-6
16.7	Other Powers	16-7
16.8	Remedies Cumulative	16-7

**SECTION 16.1 VIOLATIONS**

- A. It shall be deemed unlawful to erect, construct, reconstruct, alter, maintain, expand, move or use any building, structure or sign or engage in development or subdivision of land contrary to the provisions of this Ordinance. Whenever, by the provisions of this Ordinance, the performance of any act is required, or the performance of any act is prohibited, or whenever any regulation or limitation is imposed on the use of land and water, or on the erection of a structure, a failure to comply with such provision(s) shall constitute a violation of this Ordinance.
- B. Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided for in this Ordinance:
1. To place any use, structure, or sign upon land that is subject to this Ordinance without all of the approvals required by this Ordinance.
  2. To subdivide land in violation of this Ordinance or transfer or sell land by reference to, exhibition of, or any other use of an unapproved plat. 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 being deemed as a violation.
  3. To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure or sign, or to engage in development or subdivision of any land contrary to any zoning, subdivision, sign or other regulation contained in this Ordinance.
  4. To engage in any subdividing, development, construction, remodeling or other activity of any nature upon land that is subject

to this Ordinance without all of the approvals required by this Ordinance.

5. To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate or other form of authorization required in order to engage in such activity.
6. To violate, by act or omission or otherwise, any term, condition, or qualification placed by a decision-making body upon any permit or other form of authorization.
7. To reduce or diminish any lot area so that the setbacks or open spaces shall be smaller than prescribed by this Ordinance.
8. To increase the intensity of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this Ordinance.
9. To remove, deface, obscure or otherwise interfere with any notice required by this Ordinance.
10. To otherwise undertake any development or to establish any use in a manner which does not comply with this Ordinance.

## **SECTION 16.2 CONTINUING VIOLATIONS**

Each day that a violation remains uncorrected after receiving proper notice shall constitute a separate violation of this Ordinance. Any violation of the zoning, subdivision, or other provisions as contained in this Ordinance that were in effect prior to the adoption of this Ordinance shall continue to be a violation under this Ordinance, and shall be subject to the penalties and enforcement procedures described in Section 16.4 of this Ordinance, unless the use, development, construction, or other activity complies with the provisions of this Ordinance. Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions, undertaken by a local government pursuant to previous and valid ordinances and laws.

**SECTION 16.3 ENFORCEMENT POWERS**

- A. The Administrator shall enforce this Ordinance as shall any other persons so designated by the governing board to enforce the provisions of this Ordinance. Any and all persons so designated to enforce this Ordinance shall be referred to as the “Administrator.”
  
- B. Failure to comply with any provision of this Ordinance is hereby declared unlawful. The following remedies and enforcement powers may be used to administer and enforce this Ordinance:
  - 1. The Administrator may withhold all permits or approvals if there is:
    - a. A violation of this Ordinance; or
    - b. There is a condition or qualification of approval granted by a permit issuing body that has not been met.
  
  - 2. The Administrator may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements owned or being developed by a person who owns, developed or otherwise caused an uncorrected violation of this Ordinance. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.
  
  - 3. Any zoning permit or other form of authorization stipulated under this Ordinance may be revoked for any reason set forth in NCGS 160A-422.
  
  - 4. With or without revoking permits, the Administrator may order that work be stopped on any land or structure on any land on which there is an uncorrected violation of a provision of this Ordinance or of a permit or other form of authorization issued hereunder, in accordance with the power to stop work pursuant to NCGS 160A-421. The stop work order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons thereof, and the conditions under which the work may be resumed.
  
  - 5. Where a violation of this Ordinance involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the Administrator may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected), revoke the plan approval pursuant to NCGS 160A-422. Any permit mistakenly issued in violation of an

applicable State or local law may also be revoked.

6. The Administrator may impose remedies as called for in Sections 16.4-16.8 of this Ordinance.

#### **SECTION 16.4 REMEDIES**

- A. This Ordinance may be enforced by any means or any remedy provided for in NCGS 160A-175 and 160-19. An action for injunction of any illegal subdivision, transfer, conveyance, or sale of land may be prosecuted by the Administrator pursuant to NCGS 160A-375.
- B. Moreover, the Administrator and the Board of Commission shall have such other remedies as are, and as may be from time to time, provided by North Carolina law for the violation of this Ordinance and / or Ordinance provisions.

#### **SECTION 16.5 NOTICE OF VIOLATION PROCEDURES**

The following notice procedures shall be used to enforce the provisions of this Ordinance. The Administrator shall have the authority to bypass the ensuing “notice of violation” provisions and immediately serve the alleged violator or property owner with a penalty, as called for in Section 16.6. In the case of stop work orders, violations shall be subject the violator to immediate imposition of a penalty. In the case of a sign illegally placed in a public street right-of-way, the Administrator shall be authorized to remove such sign immediately without notice. Nothing herein is intended to prohibit the Town from taking any other course of action for a violation of this Ordinance. Additional provisions for addressing violations may be found elsewhere in this Ordinance.

- A. Whenever the Administrator has reason to believe that a person is violating any of the provisions of this Ordinance or any plan, order, or condition that has been approved, issued, or imposed pursuant to this Ordinance, the Administrator shall notify that person of this violation. Notice of violation shall normally be provided to the property owner, but the Town reserves the right to send a notice of violation to any other person who can be contacted and has an identifiable relationship to the violation and/or owner.
- B. The notice of violation shall describe the violation, shall identify the provision(s) of this Ordinance that are alleged as having been violated, shall specify what actions must be taken to correct the violation, shall

*Town of McAdenville, North Carolina*  
*Chapter 16 – Violations and Remedies*

direct the person to correct the violation within a specified period of time, and shall warn that more severe measures may be brought against the person if he/she fails to take appropriate and timely actions to cure or correct the violation. The notice shall also state that the alleged violator or property owner shall have a period of up to fifteen (15) days from the date the notice was received to either correct the situation or appeal the Administrator's decision to the Board of Adjustment in accordance with Section 5.13 of this Ordinance. Depending on the nature of the violation, the Administrator may grant one (1) or more extension of time to cure or correct said violation. Such extension of time shall not be granted unless the alleged violator or property owner can demonstrate to the Administrator that the violation cannot be cured or corrected within the time period specified in the notice of violation due to extraordinary circumstances or to circumstances beyond the control of the alleged violator or property owner.

- C. If the violation is corrected or cured within the time period specified by the Administrator, the Town shall take no further action against the alleged violator.
- D. Unless otherwise provided, once the warning period has expired, the Administrator may issue civil citations pursuant to Section 16.6.
- E. The Administrator may deny or withhold all permits, certificates, or other form of authorization to use or develop any land, structure, or improvement until an alleged violation and, where applicable, associated civil penalty associated with that violation are properly corrected and/or addressed. This provision shall apply whether or not the current owner applicant for the permit or other approval is responsible for the violation.
- F. Any development permit, certificate or other form of authorization required under this Ordinance may be revoked by the Administrator if it is determined that:
  - 1. There is a departure from the approved plans, specifications, or conditions as required under such permit.
  - 2. The development permits was procured by false representation.
  - 3. The development permit was issued in error.
  - 4. There is a violation of any provision of this Ordinance as it relates to such permit.
- G. The Administrator shall serve written notice of such revocation upon the alleged violator or property owner.

## **SECTION 16.6 PENALTIES FOR VIOLATION**

If following the issue of a “notice of violation” as called for in Section 16.5, the Administrator determines that the alleged violation has not been cured or corrected during the stated “warning period”, he shall have the authority to issue a penalty as outlined herein.

### **16.6.1 FIRST OFFENSE**

Any violation occurring once within a twelve (12) month period shall be considered a first offense. A notice of violation shall be issued by the Administrator and shall provide for a warning period as provided for in Section 16.5(C) to correct the violation. Upon the expiration of the warning period, the violator shall be subject to a civil penalty of one hundred (100.00) dollars for each day that the violation remains on the property. Should a violation continue to exist by the twenty-first (21<sup>st</sup>) day past the date of original notification, the Town may seek to recover the penalty together with all costs by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. The collection of a penalty pursuant hereto shall not foreclose further proceedings for penalties coming due subsequent to the date of the filing of a prior proceeding. The provisions of this section may also be enforced through any other appropriate remedies as prescribed in Section 16.4 herein.

### **16.6.2 REPEAT OFFENSE**

Any violation of reoccurring on the same property by the same violator more than once within a twelve (12) month period shall be considered a repeat offense provided the reoccurrence is a violation of the same Section of this Ordinance. A notice of violation shall be issued by the Administrator and shall have an immediate civil penalty of three hundred (300.00) dollars. No warning period shall be granted since this provision applies only to violations that occur more than once in a twelve (12) month period and proper notice was given for the initial violation as prescribed under Section 16.5. For each day the repeat violation remains, the violator shall be subject to a civil penalty of three hundred (300.00) dollars. Should a violation continue to exist by the seventh (7<sup>th</sup>) day after such notification, the Town may seek to recover the penalty together with all costs by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. The collection of a penalty pursuant hereto shall not foreclose further proceedings for penalties coming due subsequent to the date of the filing of a prior proceeding. The provisions of this section may also be enforced through any other appropriate remedies as prescribed in Section 16.4 herein.

**SECTION 16.7      OTHER POWERS**

In addition to the enforcement powers specified in this Section, the Town Council may exercise any and all enforcement powers granted by North Carolina law.

**SECTION 16.8      REMEDIES CUMULATIVE**

The remedies and enforcement powers established in this Chapter shall be cumulative, and the Town may exercise them in any order.