

Article 7: Enforcement

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Division 7.1: Compliance Required

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7.1.10 Compliance Required

Compliance with all the procedures and standards of this Development Code, and all terms and conditions of permits and development approvals is required by all persons owning, developing, managing, using, or occupying land, structures, or signs in the Town.

7.1.20 Violations Generally

- A. Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this Development Code, or the terms or conditions of any permit or development approval granted in accordance with this Code shall constitute a violation of this Development Code punishable as provided in this Article.
- B. Permits or development approvals issued on the basis of applications approved by the Town Council, Planning Commission, Zoning Board of Appeals, HPC, DRB, or the Administrator authorize only the use, arrangement, location, design, density/intensity, and development set forth in such permits or development approvals, and no other development.
- C. Violations of this Development Code shall run with the land where the violation occurred, and shall not be voided by sale or transfer.

7.1.30 Specific Violations

It shall be a violation of this Development Code to do any of the following:

- A. Develop land or a structure without first obtaining the appropriate permits or development approvals.
- B. Occupy or use land or a structure without first obtaining the appropriate permits or development approvals.
- C. Develop land or a structure without complying with the terms or conditions of the permits or development approvals required to engage in development.
- D. Occupy or use land or a structure in violation of the terms or conditions of the permits or development approvals.
- E. Subdivide land without first obtaining the appropriate permits or development approvals required to engage in subdivision.
- F. Subdivide land without complying with the terms or conditions of the permits or development approvals required to engage in development.

- G. Excavate, grade, cut, clear, or undertake any land disturbing activity without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions.
- H. Remove existing trees from a site or parcel of land without first obtaining the appropriate permits and development approvals, and complying with their terms and conditions. **Clearcutting in anticipation of development.** If an owner cuts all or any portion of his or her property under the claim of good faith forestry practice, and then seeks a development permit for any portion of the property within two years of the cut, a rebuttable presumption shall arise that the cut was done in anticipation of future development and the permit denied. Any person seeking to rebut the presumptions shall have the burden of proving their claim by clear and convincing evidence.
- I. Install, erect, alter, or maintain any sign without first obtaining the appropriate permits or development approvals.
- J. Fail to remove any sign installed, erected, or maintained in violation of this Development Code, or for which the permits have lapsed.
- K. Fail to maintain signs in accordance with 5.9.180 (Sign Maintenance and Enforcement).
- L. Fail to make alterations and/or construction in compliance with approved plans when a Certificate of Appropriateness has been issued by the Historic Preservation Commission. See 3.3.50 (Historic Preservation Overlay (HPO) Zone Standards).
- M. Create, expand, replace, or change any nonconformity except in compliance with this Development Code.
- N. Reduce or diminish the requirements for development, design, or dimensional standards below the minimum required by this Development Code.
- O. Increase the intensity or density of development, except in accordance with the standards of this Development Code.
- P. Through any act or omission, fail to comply with any other provisions, procedures, or standards as required by this Development Code.

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7.2.10 Responsibility for Enforcement

The Administrator shall be responsible for enforcing the provisions of this Development Code.

7.2.20 Complaints Regarding Violations

Whenever a violation of this Development Code occurs, or is alleged to have occurred, any person may file a complaint. Such complaint shall state fully the alleged violation and the basis for the alleged violation, and shall be filed with the Administrator, who shall maintain a record of the complaint. The complaint shall be investigated promptly by the Administrator as provided in Section 7.2.30 (Inspections to Ensure Compliance), and action taken to abate or correct the violation.

7.2.30 Inspections to Ensure Compliance

Upon presentation of proper credentials, the Administrator may enter upon land or inspect any structure to ensure compliance with the provisions of this Development Code. These inspections shall be carried out during normal business hours unless the Administrator determines there is an emergency necessitating inspections at another time.

7.2.40 Notice of Violation

- A. When the Administrator finds and determines a violation of this Development Code exists, the Administrator shall notify, in writing, the person violating the Development Code. Such notification shall serve as a warning notice of a violation. It shall be delivered to the owner and any person occupying the land or structure where the violation occurs. The notice shall state the following:
1. The address and legal description of the land, structure, or sign that is in violation of this Development Code;
 2. The nature of the violation, the provisions of this Development Code being violated, and the necessary action to remove or abate the violation;
 3. The date by which the violation should be removed or abated (The time period shall be no less than three or no more than ten days, except in emergency cases); and

4. The penalty for failing to remove or abate the violation, stating that if the nuisance recurs, a notice to appear in Municipal Court will be issued without further notice.
- B. If no one is present or refuses to accept the notice of violation, the Administrator shall post the warning notice on the residence or building entrance. If the land is unimproved, the notice may be placed on a tree or other similar object on the land subject to the violation.
- C. A written notice containing the same information as the notice delivered or posted on the land shall be mailed to the owner or the owner's authorized agent, and any other person's responsible for the violation, by certified mail.

7.2.50 Failure to Correct Violation

- A. If the person(s) to whom a warning notice has been given in accordance with Section 7.2.40 (Notice of Violation), fails to remove or abate the violation in the time specified in the notice and severe conditions exist that affect health, welfare, or safety, or cause severe environmental degradation, the Town through the Administrator may lawfully enter upon the land where the violation remains unabated to remove or abate the violation, at the expense of the person(s) responsible for creating or maintaining the violation(s).
- B. Under all other circumstances, if the person(s) to whom a warning notice has been given in accordance with Section 7.2.40 (Notice of Violation), fails to remove or abate the violation in the time specified in the notice, the Administrator shall fill out and sign, as the complainant, a complaint and information form and a Notice to Appear in the appropriate court of Beaufort County. The Notice to Appear shall include the following:
 1. Name of the owner of the land subject to the violation, any occupants, and any other person(s) responsible for the violation(s);
 2. The address or legal description of the land on which the violation is occurring;
 3. The nature of the violation;
 4. The provision(s) of this Development Code being violated;
 5. The date on which the case will be on the court docket for hearing; and
 6. Any other information deemed pertinent by the Administrator.
- C. The original copy of the Notice to Appear shall be forwarded to the Clerk of the Court for inclusion on the court's docket for the date indicated on the notice.
- D. The Notice to Appear shall be provided to all persons in violation of this Development Code. The notice shall be hand delivered to any occupants of the land where the violation is occurring. In addition, the Administrator shall fill out and sign the Notice to Appear as the complainant and deliver the original plus one copy to the Clerk of the Court. The Clerk shall verify or insert the date the case is set for hearing before the court. The Clerk shall mail a copy of the Notice to Appear, by certified mail, to all person(s) named in the Notice to Appear, at their last known address.

7.2.60 Costs

All costs and expenses incurred by the Town in removing or abating any violation under this Development Code may be assessed against the land on which the violation occurs as a lien on the property. Alternatively, the cost of removing or abating the violation may be made part of the judgment by the Judge, in addition to any other penalties and costs imposed if the person(s) charged either pleads or is found guilty of causing, creating, or maintaining a violation.

7.2.70 Repeat Violations

- A. In instances of repeat violations, the warning notice provisions of this Section need not be observed.
- B. Each day a violation continues after the expiration of the warning period to abate such violation shall constitute a separate offense.

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Division 7.3: Remedies and Penalties

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7.3.10 General

Any person violating this Development Code shall be guilty of a misdemeanor and, upon conviction, shall pay such penalties as the court may decide, as prescribed by State law, not to exceed \$500.00 or 30 days imprisonment for each violation. Each day during which such conduct shall continue shall subject the offender to the liability prescribed in this Article.

7.3.20 Other Remedies and Penalties

In addition, the Town may use any combination of the following enforcement actions, remedies, and penalties in any particular order to correct, stop, abate or enjoin a violation of this Development Code:

- A. **Stop Order.** The Administrator or Town Attorney may issue and serve upon a person violating this Development Code a stop order requiring that the person stop all actions in violation of this Development Code, including illegal occupation of a building or structure, illegal work being done, or any other action in violation of this Development Code.
- B. **Permit Revocation.** Any permit, development approval, or other form of authorization required under this Development Code may be revoked if the Administrator determines that:
 1. There is a failure to comply with the approved permit, development approval, plans, specifications, or terms or conditions required under the permit or development approval;
 2. The permit or development approval was procured by false representation; or
 3. The permit or development approval was issued in error.

Written notice of revocation shall be served upon the landowner, the landowner's agent, or other person to whom the permit or development approval was issued, and such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice.

- C. **Civil Remedies.** In addition to all other remedies and penalties outlined in this Article, the Town Attorney may institute an action or proceeding for injunction or mandamus or other appropriate action or proceeding to prevent, abate, or correct a violation of this Development Code or to prevent the occupancy of a structure or land that is in violation of this Development Code. Each day a person violates this Development Code shall be considered a separate offense.

7.3.30 Private Civil Relief

In case a structure or land is or is proposed to be developed or used in violation of this Development Code, an adjacent or neighboring landowner or tenant who would be specially damaged by the violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful development or use, to correct or abate the violation, or to prevent the occupancy of the structure or use of the land.

7.3.40 Remedies Cumulative

The remedies provided for violations of this Development Code, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.