

# CHAPTER 18. ENFORCEMENT & PENALTIES

## SECTION 18.1. PURPOSE AND INTENT

This section establishes procedures through which the County ensures compliance with the provisions of this Ordinance and obtains corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this section are intended to encourage the voluntary correction of violations, where possible.

## SECTION 18.2. APPLICABILITY

- A.** This Chapter applies to all provisions of this Ordinance unless another chapter has a separate enforcement section.
- B.** It is a violation to engage in the building or use of a building or land, the use or installation of a sign, the subdivision (including selling, transfer, or development) of land, or any other activity requiring one or more permits or approvals under this Ordinance without obtaining all such required permits or approvals.
- C.** Any property owner on which a violation occurs, tenant, or occupant, contractor, or any other person who participates in a situation that is contrary to the requirements of this Ordinance may be jointly or separately responsible and subject to enforcement.

## SECTION 18.3. ENFORCEMENT PROCEDURES

### A. INVESTIGATION

- 1. Upon receipt of a written or verbal complaint, the Administrator must investigate the complaint and determine whether a violation exists within 45 days.
- 2. The Administrator shall proactively enforce any violation existing after a permit approved by a review authority has been revoked.

### B. COURTESY LETTER

- 1. When a violation is discovered, the Administrator shall send an informal letter, by first class mail and certified mail return receipt request, to the property owner and other person(s) responsible for any violation, detailing the nature of the violation(s) and the actions necessary to correct the violation.
- 2. If the certified notice is returned, refused, or unclaimed, then the first-class mail to the same address is deemed proper notice.
- 3. Failure to remedy the situation voluntarily within 30 days, unless an extension is given, will result in a formal notice of violation.

### C. FORMAL NOTICE OF VIOLATION

- 1. A formal notice of violation shall be sent by personal delivery, electronic delivery, first class mail, certified mail return receipt requested, to the landowner, the person holding the development approval, the occupant, or any other person(s) responsible for any violation, detailing the nature of the violation(s) and the actions necessary to correct the violation. The notice of violation may also be posted in a conspicuous location on the property or site of the violation.
- 2. If the certified notice is returned, refused, or unclaimed, then the first-class mail to the same address is deemed proper notice.
- 3. The violation letter shall state that all violations must be corrected within 10 days of issuance of the violation letter.
- 4. This letter shall also include possible penalties and/or legal actions, deadlines for appeal, and method of appeal.
- 5. If the violation has not been corrected, and no appeal has been made to the Board of Adjustment within 10 days of the date of the letter, the Administrator shall pursue enforcement and penalties as outlined in the sections below.

6. Each day a violation continues following notice or failure to comply is considered a separate and distinct offense.

## **SECTION 18.4. ENFORCEMENT AND PENALTIES**

Pursuant to NCGS Sections 160D-404 and NCGS 153A-123(f), Moore County may utilize one or more of the following remedies and penalties to correct or abate a violation of this Ordinance:

### **A. CONDITIONED PERMIT OR CERTIFICATE**

1. A review authority may condition the authorization of any permit, certificate, or other approval for land, subdivision, building, structure, sign, use, or development activity with a violation or outstanding, but still authorized enforcement action, upon the correction of the violation, payment of civil penalties within a specified time, or the posting of a compliance guarantee approved by the appropriate governmental authority.
2. In no instance shall the authorization of any permit, certificate, or approval for one property with a violation or outstanding enforcement action be conditioned with the correction of a violation, payment of civil penalties within a specified time, or the posting of a compliance guarantee for a different property.

### **B. STOP WORK ORDERS**

#### **1. GENERAL**

Whenever the Administrator or a designee determines that a person is engaged in doing work that constitutes, creates, or results in a violation of this Ordinance and that irreparable injury will occur if the violation is not terminated immediately, that official may order the specific part of the work that constitutes, creates, or results in a violation of this Ordinance to be immediately stopped.

#### **2. ORDER IN WRITING**

- i. The stop work order shall be in writing and directed to the landowner, and the occupant or person doing the work.
- ii. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.
- iii. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail.
- iv. The County official delivering the notice shall certify that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud.

#### **3. APPEAL**

Any person aggrieved by the issuance of a stop work order may appeal the issuance of the order to the Board of Adjustment in accordance with Section 14.1, Appeals. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal.

#### **4. COMPLIANCE REQUIRED**

Neither the responsible person nor a landowner upon whom a stop work order is served shall continue with work in violation of the stop work order while it remains in effect, unless the order is stayed.

### **C. REVOCATION OF PERMITS**

1. The Administrator may revoke and require the return of a permit by notifying the permit holder in writing, stating the reason for the revocation.
2. Building permits may be revoked, in accordance with NCGS Section 160D-1115, for any of the following:
3. Any substantial departure from the approved application, plans, or specifications;
4. Refusal or failure to comply with the requirements of State or local laws; or
5. For making false statements or misrepresentations in securing the permit, certificate, or approval.

6. Any permit or certificate mistakenly issued in violation of an applicable State or County law may also be revoked.
7. Revocation of a permit or approval shall be processed in the same manner as the permit or approval was granted.

#### **D. CIVIL PENALTY**

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1. In accordance with NCGS Section 153A-123(c), the Administrator imposes a civil penalty by giving the violator a written citation, either in person or by certified mail return receipt request.
2. The citation must describe the violation, specify the amount of the civil penalty being imposed, and direct the violator to pay the civil penalty to the county within 10 days of the date the citation is received or presumed to have been received.
3. Violations of this Ordinance subject the violator to a civil penalty in the amount of one \$100 per day.
4. Each day's continued violation is a separate and distinct offense.
5. If the penalty is not paid timely, the County may recover the civil penalties through legal action.
6. In addition, the County may place of a lien on the property subject to the penalty.

#### **E. INJUNCTIVE RELIEF**

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##### **1. ACTION BY BOARD OF COMMISSIONERS**

Whenever the Board of Commissioners has reasonable cause to believe that any person is violating or threatening to violate this Ordinance, or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provision of an approved development plan, or soil erosion and sedimentation control plan, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the County, for injunctive relief to restrain, correct, abate, mandate, or enjoin the violation or threatened violation.

##### **2. SUPERIOR COURT**

The action shall be brought in the Superior Court of Moore County. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation.

##### **3. NO RELIEF FROM CRIMINAL PENALTIES**

The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

#### **F. ORDER OF ABATEMENT**

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In addition to an injunction, the County may apply for and the court may enter an Order of Abatement as part of the judgment in the case. An Order of Abatement may direct any of the following actions:

1. That buildings or other structures on the property be closed, demolished, or removed;
2. That fixtures, furniture, or other moveable property be moved or removed entirely;
3. That improvements, alterations, modifications, or repairs be made; or
4. That any other action be taken as necessary to bring the property into compliance with this Ordinance.

#### **G. EQUITABLE REMEDY**

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The County may apply to a court of law for any appropriate equitable remedy to enforce the provisions of this Ordinance. The fact that other remedies are provided under general law or this Ordinance shall not be used by a violator as a defense to the County's application for equitable relief.

#### **H. STATE AND COMMON LAW REMEDIES**

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In addition to other enforcement provisions contained in this section, the Board of County Commissioners may exercise any and all enforcement powers granted to it by state law or common law.

#### **I. PREVIOUS ENFORCEMENT**

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Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions.

**J. REMEDIES; CUMULATIVE AND CONTINUOUS**

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.

**SECTION 18.5. REPEAT VIOLATIONS**

Any violation that is corrected but subsequently reestablished within a period of one year (365 days) from the date of correction shall be considered a continuation of the violation and the Administrator shall continue issuing the civil penalty or pursue other equitable reliefs.

**SECTION 18.6. STATUTE OF LIMITATIONS**

Enforcement of violations of this Ordinance shall be in accordance with NCGS Section 1-49(3) and NCGS Section 1-51(5).

**SECTION 18.7. APPEAL**

- A.** A violator who has received a notice of violation may appeal the determination that a violation has occurred to the Board of Adjustment by making a written request as described in Chapter 14.
- B.** Citations that follow the original notice of violation may not be appealed to the Board of Adjustment.
- C.** If there is no appeal, the determination of the Administrator is final.