

## Chapter 425, Article XI

### § 425-61. Violations and penalties.

1. Any building erected or improvements constructed contrary to any provision of this chapter or any use of any building or land which is constructed, operated or maintained contrary to any provisions of this chapter or contrary to any plan approved under the provisions of this chapter shall be unlawful.
2. Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this chapter, permits any such violations, fails to comply with any of the requirements hereof or who erects any building or uses any building or land in violation of the provisions of this chapter shall be subject to the enforcement provisions of this section. In acting to enforce this chapter, the Zoning Administrator, or other authorized employee or official of the Town shall act in the name of the Town. The Zoning Administrator shall have all necessary authority on behalf of the Town Council to administer and enforce this chapter, including the ordering in writing of the remedying of any condition found in violation of this chapter, and the bringing of legal action to ensure compliance with this chapter, including injunction, abatement or other appropriate action or proceeding.
3. Criminal violations and sanctions. Any violation of the provisions of this chapter that results in physical harm or injury to any person shall be deemed a criminal misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than \$1,000.00 for each separate offense. Failure to remove or abate a zoning violation within the time specified in an order by the zoning administrator shall constitute a separate violation, and any such failure during any succeeding ten-day period shall constitute a separate offense punishable by a fine of not less than \$100.00 and not more than \$1,000.00.
4. Civil violations and penalties. Any violations of the provisions of this chapter other than those set forth in subsection (3) of this section shall be deemed a civil violation and upon an admission of liability or finding of liability shall be punishable by a fine of \$200.00 for the first charge and \$500.00 for each additional charge.
  - a. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations resulting from the same operative set of facts shall not be charged more frequently than once in any ten-day period, and a series of violations arising from the same operative set of facts shall not result in civil penalties which exceed \$5,000.00.
  - b. After such civil penalties total \$5,000.00, violations rising from the same operative set of facts may be prosecuted as a criminal misdemeanor under § 425-61(3).

- c. Nothing in this section shall be construed as to prohibit the Town Council or the Zoning Administrator from bringing legal action to remedy any violation by injunction, abatement or other appropriate action or proceeding, as authorized by law. The existence of a civil penalty shall not preclude action by the Zoning Administrator under subdivision A 4 of Va. Code § 15.2-2286 or action by the Town Council under Va. Code § 15.2-2208.
  - d. The provisions of Code of Virginia, § 15.2-2209, regarding issuance of civil summons, the opportunity to make all appearances in person or by mail, waiver or trial and admission of liability, right of trial and appeal, are hereby adopted by reference, mutatis mutandis.
  - e. Such penalties levied will become liens upon the real property pursuant to Va. Code § 15.2-104 and will accumulate interest at the judgment rate of interest.
5. After having served a notice of violation to any person committing or permitting a violation of the Zoning Ordinance provisions as listed in this section, and if such violation is not ceased within such reasonable time as is specified in such notice, the Zoning Administrator may issue a summons and/or ticket to be served upon such person or posted in a conspicuous location at the site of the violation. If a person agrees, in writing, to comply with a notice of violation, and agrees to cease said violation, no further fines or penalties shall be levied after the date of such agreement, provided such agreement is complied with.
  6. The summons or ticket shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the Town at least 72 hours prior to the time and 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 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 of liability or finding of liability shall not be deemed a criminal conviction for any purpose.
  7. 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 courts 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. A finding of liability will not be deemed a criminal conviction for any purpose unless the violation is prosecuted as a criminal misdemeanor pursuant to this Section.
  8. The remedies provided for in this section are cumulative and not exclusive and may be in addition to any other remedies provided by law.