

# Article 12.0 Violations, Penalties and Enforcement

## Sec. 12.1 Generally

This Article establishes provisions which are intended to ensure compliance with the requirements of this Ordinance, and any conditions of certificates, entitlements, permits, licenses or other approvals granted relative to this Ordinance, in order to promote the zoning efforts of the County and City, and for the protection of the public health, safety and welfare. This Article applies to all provisions of this Ordinance.

## Sec. 12.2 Certificates, Entitlements, Permits, Licenses and Other Authorizations

### a. Compliance with this Ordinance

All persons empowered by either the County Code or City Code to grant certificates, entitlements, permits, licenses or other authorizations shall comply with the provisions of this Ordinance.

### b. Conflict with this Ordinance

Any certificate, entitlement, permit, license or other authorization that would be in conflict with the provisions of this Ordinance shall not be granted or issued.

### c. Certificates, Entitlements, Permits, Licenses and Other Approvals Authorizations Deemed Void

Any certificate, entitlement, permit, license or other authorization granted or issued in conflict with the provisions of this Ordinance shall be deemed void.

### d. Actions Deemed Void

An action taken by an official or public employee of the County or City in conflict with the provisions of this Ordinance shall be deemed void.

## Sec. 12.3 Responsibility for Enforcement

The Governing Body Building Official is responsible for enforcing this Ordinance.

## Sec. 12.4 Responsibility for Correcting Violations

The following persons or entities shall be responsible for correcting violations of this Ordinance and subject to enforcement pursuant to this section:

### a. Any owner of property on which a violation of this Ordinance occurs;

### b. Any agent, architect, builder, contractor, engineer or any other person or entity who participates in, assists, directs, creates or maintains a violation of this Ordinance; and

### c. Any tenant or occupant who has control over property, or responsibility for its use, maintenance or development.

## Sec. 12.5 Violations

Unless lawfully exempted, uses or actions listed below are violations of this Ordinance or any approval, authorization or order pursuant to this Ordinance. Approvals and authorizations include, but are not limited to building permits, certificates of appropriateness, sign permits, site development plans, special use permits, variances, and conditions of such certificates, permits, plans and variances. Such uses and actions include:

- a. to use land or buildings that violates any of the requirements of this Ordinance;
- b. to alter, construct, convert, enlarge, erect, establish, install, move, operate or set up a building that violates any of the requirements of this Ordinance;
- c. to develop land that violates any of the standards of this Ordinance;
- d. to alter, construct, erect, install, move or otherwise use a sign that violates the requirements of this Ordinance;
- e. to engage in the use of land or of a building, the use or installation of a sign, the 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;
- f. to engage in the use of a building or land, the use or installation of a sign, the development of land or any other activity requiring one or more permits under this Ordinance in any way that violates such permit or approval or any conditions imposed thereon;
- g. to violate the terms of any permit or approval granted under this Ordinance or any condition imposed on such permit or approval;
- h. to obscure, obstruct or destroy any notice required to be posted or otherwise given under this Ordinance;
- i. to violate any lawful order issued under this Ordinance; or
- j. to continue any violation of this Ordinance.

## Sec. 12.6 Inspection

### a. Pre-approval Inspections

The property owner seeking a permit, certificate or any other action in compliance with this Ordinance shall allow the County or City officials processing the application reasonable access to any premises or property which is the subject of the application.

### b. Post-approval Inspections

If the permit, certificate or other action in compliance with this Ordinance is approved, the property owner shall allow appropriate County or City officials reasonable access to the premises in order to determine continued compliance with the approved permit or certificate or other authorization and any conditions of approval imposed on the permit or certificate or other authorization.

## Sec. 12.7 Enforcement Procedures

This sub-section describes the procedures for initiating enforcement action in cases where the Governing Body Building Official has determined that real property is being used, maintained or allowed to exist in violation of the provisions of this Ordinance and/or any conditions required by a permit or certificate approval or other authorization. It is the intent of these provisions to encourage the voluntary cooperation of responsible parties in the prompt correction of violations, so that the other enforcement measures provided by this Article may be avoided.

## a. Investigation

When a potential violation is discovered or a complaint received, the Governing Body Building Official shall investigate and determine whether a violation exists. A determination as to whether a violation exists shall be made following the investigation.

## b. Notice of Violation

When a violation is verified, the Governing Body Building Official shall notify the responsible parties, including the property owner as shown on the most recently available Chatham County Tax Digest or as shown on the application for a certificate, permit or other authorization. Notice shall be by certified mail, return receipt requested. If the certified notice is returned, refused or unclaimed, then first-class mail to the same address will be deemed proper notice (3) days after mailing. The Notice of Violation shall describe the following:

- i. A description of the violation(s) and citations of applicable provisions of this Ordinance being violated;
- ii. A time limit for correcting the violation(s) in compliance with Sec. 12.7.c below;
- iii. A statement that the County or City intends to charge the property owner for all administrative costs associated with abatement of the violation(s) and/or initiate any of the remedies or a combination of the remedies as described in Sec. 12.8 below; and,
- iv. A statement that the property owner may request and be provided a meeting with the Governing Body Building Official to discuss methods and time limits for the correction of the violation(s). Such meeting must be held within 30 days of receipt of the Notice of Violation.

## c. Time Limit for Correction

- i. The Notice of Violation shall state that the violation(s) shall be corrected within 30 days from the date of the notice to avoid further enforcement action by the County or City. If a violation is not corrected within 30 days and no extension for correction of a violation is granted, the Governing Body Building Official may prosecute such violations as provided for in this Article.
- ii. The Notice of Violation shall also state that the 30-day time limit may be extended by the Governing Body Building Official upon determining that an extension is appropriate to allow a reasonable time to correct a violation. If an extension is granted, the Governing Body Building Official shall set a date certain upon which the violation shall be corrected after which enforcement of the violation under this Ordinance may proceed.
- iii. The Governing Body Building Official may also require through the Notice of Violation that the correction occur within less than 30 days if the Governing Body Building Official determines that the violation(s) constitutes a hazard to public health, safety or welfare.

## d. Enforcement Action after Time Limit to Correct Violation

If the violation has not been abated as directed by the Governing Body Building Official in the time frame established, the County or City may proceed to prosecute the violator(s) in the Recorder's Court of Chatham County as provided by this Article or to enforce any remedy or a combination of remedies described in Sec. 12.9 below.

## e. Enforcement without Notice

If delay in abating a violation would pose a danger to the public health, safety or welfare, the Governing Body Building Official may require immediate abatement without prior written notice.

## Sec. 12.8 Remedies are Cumulative

### a. New and Separate Offense

Each day a violation of this Ordinance or of any conditions of any certificate, permit or other authorization continues after the time permitted for correction of a violation as provided by this Article shall be a new and separate offense.

### b. Cumulative, Not Exclusive

All remedies contained in this Ordinance for the correction of violations or enforcement of the provisions of this Ordinance shall be cumulative and not be exclusive of any other applicable provisions of county, city, state and federal law.

### c. Other Remedies

Should a person be found guilty and convicted of violating any provision of this Ordinance, and any conditions of a certificate, permit or other authorization, the conviction shall not prevent the County or City from pursuing any other available remedy to correct the violation(s).

## Sec. 12.9 Penalties, Remedies and Enforcement Powers

The County and City may utilize any, or a combination of the below penalties or remedies to prevent, correct or abate a violation of this Ordinance. These remedies and penalties are not mutually exclusive.

### a. Denial of a Certificate, Permit or Other Authorization

The Governing Body Building Official may deny or withhold approval of any certificate, permit or other authorization provided for in this Ordinance that is sought for the property on which the violation exists. Any certificate, permit or other authorization provided for in other ordinances may be denied or withheld if a violation of this Ordinance has not been corrected.

### b. Stop Work Order

Any violation of this Ordinance or any violation of any condition(s) imposed upon a certificate, permit or other authorization shall be subject to the issuance of a "Stop Work Order." Stop work orders shall affect all work being done on a project or development (including work done on other lots in the subdivision owned by the same violator). Stop work orders stop not only the work in violation, but all other work by contractors or sub-contractors on the same property. Only work to remedy the deficiency shall be allowed until the stop work order is lifted. A stop work order shall be in writing and shall be given to the owner of the property, his authorized agent or the person or persons in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where emergency or other exigent circumstances exist, no written notice shall be required, and a verbal stop work order may be issued, with a written order to be provided within three (3) working days.

### c. Circumstances which May Cause a Certificate, Permit or Other Authorization to be Revoked

i. Any certificate, permit or other authorization granted under this Ordinance may be revoked by the Governing Body Building Official for any of the following:

- (1) Failure to comply with the provisions of this Ordinance or one or more of the terms or conditions of the certificate, permit or authorization;
- (2) For false statements or misrepresentations made in securing the certificate, permit or authorization, or,

- (3) If the certificate, permit or authorization was mistakenly granted in violation of any applicable county, city, state or federal regulation or law.
  - (4) Circumstances under which the certificate, permit or other authorization was granted have been changed by the applicant to a degree that one or more of the requirements contained in the original certificate, permit or authorization can no longer be made.
  - (5) The exercise of rights granted by the certificate, permit or other authorization has been discontinued for a continuous period of at least 12 months;
  - (6) Any improvement and/or use allowed by the certificate, permit or other authorization has become detrimental to public health, safety or welfare, or the manner of operation constitutes or is creating a public nuisance.
- d. Circumstances which May Cause a Variance to be Revoked  
A variance may be revoked if any one of the following findings of fact can be made :
- i. Circumstances under which the variance was granted have been changed by the applicant to a degree that one or more of the requirements contained in the original variance can no longer be met, or
  - ii. One or more of the conditions of the variance have not been met, or have been violated.
- e. Process for Revoking a Certificate, Permit, Other Authorization or Variance
- i. Before revoking a certificate, permit other authorization or variance, the Governing Body Building Official shall give the holder written notice by first class mail of the intent to revoke the certificate, permit or authorization. The notice shall state the reasons for the intended revocation.
  - ii. Notice shall be deemed delivered three (3) days after being mailed, first class mail through the U.S. Mail, to the owner as shown on the most recently available Chatham County Tax Digest or the owner as shown on the application for a certificate, permit or other authorization and to the holder of the certificate, permit or authorization, if not the owner of the subject property.
  - iii. The owner or holder of the certificate, permit or other authorization, if not the owner, shall have 14 days from the date of mailing to correct a violation of a certificate, permit or other authorization as provided under this section or to request an extension of time to make such correction which shall be granted to a date certain if the Governing Body Building Official finds that additional time is reasonable under the circumstances. If a violation is not corrected within the time allowed by this section, the Governing Body Building Official may proceed to revoke the certificate, permit or other authorization. The effective date of a decision to revoke or modify a certificate, permit or other authorization shall be the date the decision is rendered.
  - iv. On determining that the conditions justifying the revocation have been eliminated and that the development fully complies with all applicable requirements of this Ordinance, the Governing Body Building Official may reinstate the certificate, permit or authorization.
- f. Enforcement of this Ordinance and Penalties for Violations  
Enforcement of this Ordinance may be through criminal prosecution in the Recorder's Court of Chatham County. Violations of this Ordinance shall be punishable as a misdemeanor. Any person, firm, partnership, corporation or other legal entity who shall do anything prohibited by this Ordinance as the same exists or as it may hereafter be amended or

which shall fail to do anything required by this Ordinance as the same exists or as it may hereafter be amended shall be subject to an enforcement action.

- i. The Governing Body Building Official shall have the power to conduct such investigations as may reasonably be deemed necessary to assure or compel compliance with the requirements and provisions of this ordinance, and for this purpose to enter at reasonable times upon any property for the purpose of investigation and inspection, as permitted by law. Officers and officials may seek inspection warrants or search warrants on probable cause of a violation occurring inside a structure. No warrant shall be required to investigate visible and open violations or uses.
- ii. No person shall obstruct, hamper or interfere with any government official while in the process of carrying out his official duties in the enforcement of this Ordinance.
- iii. Owners are ultimately responsible for the condition of their property and ensuring that their property and all activity occurring on such property are in compliance with this ordinance. For any violation, both the owner of the property and/or the individual agent, tenant or invitee of the owner responsible for the violation may be cited, where appropriate. Agents of the owner would include, but not be limited to, developers, builders, contractors and sub-contractors. Tenants and invitees would include, but not be limited to, any renter, leaseholder, owner of any vehicle or structure on the property, or other person conducting an activity on the property who is not a trespasser. Corporations and companies responsible for the work may be cited in lieu of or in addition to citations issued to the actual individuals on-site committing violations.
- iv. Each day during which the violation or failure or refusal to comply continues shall constitute a separate violation, subjecting the offender to a new citation, or other civil or criminal proceeding.
- v. Each separate action, omission, or occurrence relating to any specific provision of this Ordinance shall be a separate violation, subjecting the offender to a separate citation.
- vi. The Governing Body Building Official or other authorized personnel may issue criminal citations for violations of this ordinance, or violation of any stop-work order.
- vii. Criminal prosecutions for violation of this Ordinance shall be commenced by the completion, signing, and service of a citation by the Governing Body Building Official or designated official. No warning need be issued prior to a citation being issued, except as otherwise provided in this Article. The original of the citation shall be personally served upon the accused, his or her authorized representative or, if a corporation, an officer of the corporation or its on-site representative or the person or persons in charge of the activity on the property; a copy shall be promptly filed with the Recorder's court. A stop-work order may be issued in conjunction with a citation.
- viii. Each citation shall state the time and place at which the accused is to appear for trial in Recorder's Court, shall identify the offense with which the accused is charged, shall have an identifying number by which it shall be filed with the court, shall indicate the identity of the accused and the date of service, and shall be signed by the authorized officer who completes and serves it.
- ix. Any defendant who fails to appear for trial may thereafter be arrested on the warrant of the Recorder's Court and required to post a bond for his or her future appearance.
- x. Fines shall be assessed in accordance with the applicable city or county ordinances and the rules of the Recorder's Court of Chatham County.
- xi. Persons cited criminally are also subject to the other penalties within the jurisdiction of the Recorder's Court, including incarceration, community service and probation.

e. Injunction and Abatement Order

The County or City may institute a civil action for mandatory and prohibitory injunctions and order of abatement commanding the violator to correct or cease a violation of this Ordinance. If the violator fails to comply with a court order and the County or City has to abate the violation, then the County or City shall place a lien on the property on which the violation occurred to cover the costs of abatement for the County or City.

f. Forfeiture and Confiscation of Signs

Any illegal sign installed or placed on public property shall be subject to forfeiture and confiscation. In addition to other remedies and penalties of this Section, the County and City shall have the right to recover from the sign owner, or person who placed the sign, the full costs of sign removal and disposal.

g. Other Equitable Relief

In addition to the above remedies and penalties, the County and City may institute any other appropriate equitable action or proceeding in a court of competent jurisdiction to abate, correct, prohibit, prevent or restrain any violation of this Ordinance.

## Sec. 12.10 Certificate of Occupancy

No Certificate of Occupancy or compliance may be issued until applicable standards of this Ordinance have been met.