

ARTICLE XII
ENFORCEMENT, VIOLATIONS, AND APPEALS

§200A-344. Duties Regarding Enforcement

The *Zoning Administrator, Communication Facilities Administrator, Floodplain Administrator, Manufactured Home Park Administrator, Watershed Administrator, Planning Director, and Subdivision Administrator* are hereby authorized to enforce the provisions of this Chapter. These approving officials may enter any *building, structure* or premises as provided by law, to perform any duty imposed upon them by this Chapter.

§200A-345. Violations

Notices concerning *violations* of the provisions of this Chapter shall be provided to the *person(s)* alleged to be in *violation* in accordance with Chapter I, *General Provisions*, Article II, *Penalties and Enforcement* of the Henderson County Code.

- A. Notification. Upon making a determination that a *person* is in *violation* of this Chapter, the County shall issue a compliance order to the *person* in *violation* of this Chapter which shall notify the violator of the *violation* in writing. Such compliance order (notification of *violation*) shall:
 - (1) Identify the circumstances giving rise to the *violation*, including the times, dates and places of the *violation*;
 - (2) Identify the action(s) necessary to comply with this Chapter;
 - (3) State that the violator shall comply within a reasonable time, not to exceed 15 days, or be subjected to a civil penalty (except where circumstances exist such that the violator cannot come into compliance within 15 days, and at which time the County may grant an extension of time commensurate with the magnitude of the *violation*);
 - (4) State that failure to comply with the terms of the compliance order will subject the violator to a civil penalty; and
 - (5) State the amount of applicable civil penalty.
- B. Failure to Comply. Failure to comply with the terms of a compliance order within the time stated in the order shall subject the violator to a civil penalty of 50 dollars. Each day that the *violation* continues shall be considered a separate offense and the violator may be subject to an additional civil penalty for each such separate offense.
- C. Penalties and Remedies. Penalties and remedies for *persons* found to be in *violation* of this Chapter shall be as set forth in Chapter I, *General Provisions*, Article II, *Penalties and Enforcement* of the Henderson County Code. Such penalties and remedies shall include:
 - (1) Civil Action. When necessary to collect any civil penalty or accrued civil penalties, a civil action may be instituted against an individual for the collection of all accrued penalties.

- (2) Equitable Remedies. This Chapter may be enforced by equitable remedies, and any unlawful condition existing in *violation* of this Chapter may be enforced by injunction and order of abatement in accordance with *NCGS* §153A-123.
- (3) Injunction. Where necessary to effect compliance with this Chapter, the County may institute an action in a court of competent jurisdiction seeking an injunction against the further *violation* of this Chapter. Such action may be joined with a civil action instituted to collect accrued civil penalties in accordance with the provisions above.
- (4) Order of Abatement. Where necessary to abate a condition existing upon land in *violation* of this Chapter or a *use* made of land in *violation* of this Chapter, the County may institute an action in a court of competent jurisdiction seeking an order of abatement of the *use* or condition of land in *violation* of this Chapter. Such action may be joined to an action for an injunction and/or an action to recover civil penalties accrued against an individual for the *use* or condition of land in *violation* of this Chapter.
- (5) Stop-Work Order. If any *building* or *structure* is erected, constructed, repaired, converted, or maintained or any *building*, *structure* or land is used in violation of the Henderson County Code, the *Zoning Administrator* or any other appropriate authority may institute a stop-work order if further action by the violator would cause irreparable harm or damage. Once a stop-work order has been issued, no work may be done on the *structure* or property until authorized by Henderson County Code Enforcement Services or a court of appropriate jurisdiction.
- (6) Other Equitable Remedies. This Chapter may be enforced by any other equitable remedy which a court of competent jurisdiction deems just and proper.

§200A-346. Violations of Article VIII (Natural Resources) Subpart A (Flood Damage Prevention)

- A. Violations to be Corrected. When the *Floodplain Administrator* finds *violations* of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the *structure* of the *violation*. The owner or occupant shall immediately remedy each of the *violations* of law cited in such notification.
- B. Actions in the Event of Failure to Take Corrective Action. If the owner of a *structure* or property shall fail to take prompt corrective action, the *Floodplain Administrator* shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating that:
 - (1) The *structure* or property is in *violation* of the *floodplain management regulations* of Article VIII (Natural Resources) Subpart A (Flood Damage Prevention);
 - (2) An informal hearing will be held before the *Floodplain Administrator* at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in *person* or by counsel and to present arguments and evidence pertaining to the matter; and,
 - (3) Following the hearing, the *Floodplain Administrator* may issue such order to alter, vacate, or demolish the *structure*; or to remove fill as applicable.

- C. Order to Take Corrective Action. If, upon a hearing held pursuant to the notice prescribed above, the *Floodplain Administrator* shall find that the *structure* or development is in *violation* of Subpart A, he or she shall issue an order in writing to the owner, requiring the owner to remedy the *violation* within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the *Floodplain Administrator* finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- D. Appeal. Any owner who has received an order to take corrective action may *appeal* the order to the Henderson County Flood Damage Prevention Board by giving notice of *appeal* in writing to the *Floodplain Administrator* and the clerk within ten (10) days following issuance of the final order. In the absence of an *appeal*, the order of the *Floodplain Administrator* shall be final. The Henderson County Flood Damage Prevention Board shall hear an *appeal* within a reasonable time and may affirm, modify and affirm, or revoke the order.
- E. Failure to Comply with Order. If the owner of a *structure* or property fails to comply with an order to take corrective action from which no *appeal* has been made, or fails to comply with an order of the Flood Damage Prevention Board following an *appeal*, the owner shall be guilty of a misdemeanor and shall be punished at the discretion a court of competent jurisdiction.

§200A-347. Appeals

Questions arising in connection with the enforcement of this Chapter shall be presented first to the approving official or agency and shall be presented to the appellate agency only on *appeal* from the approving official or agency (See Table 12.1). *Appeals* must be filed 30 days from the date of the decision with the approving official or agency. Where the appellate agency is the Zoning Board of Adjustment (*ZBA*), the *ZBA* shall hold a public hearing on the *appeal* in accordance with §200A-338 (Quasi-Judicial Process Standards).

| Table 12.1 Approving Agency and Associated Appellate Body | | |
|--|---|-------------------------------------|
| Type of Agency | Approving Official or Agency for the Application or Appeal | Appellate Body |
| Staff | <i>Communication Facilities Administrator</i> | Zoning Board of Adjustment |
| | <i>Floodplain Administrator</i> | Flood Damage Prevention Board |
| | <i>Manufactured Home Park Administrator</i> | Zoning Board of Adjustment |
| | <i>Planning Director</i> | Zoning Board of Adjustment |
| | <i>Soil Erosion and Sedimentation Control Administrator</i> | Zoning Board of Adjustment |
| | <i>Subdivision Administrator</i> | Zoning Board of Adjustment |
| | <i>Watershed Administrator</i> | Water Supply Watershed Review Board |
| Committee | Technical Review Committee | Zoning Board of Adjustment |
| Board | Board of Commissioners | Appellate Court |
| | Flood Damage Prevention Board | Appellate Court |
| | Planning Board | Zoning Board of Adjustment |
| | Water Supply Watershed Review Board | Appellate Court |
| | Zoning Board of Adjustment | Appellate Court |

§200A-348. Interrelation of County Permits

- A. Suspension of any *County Permit*. The suspension of any *county permit* shall act to suspend, during the period of such suspension, all *county permits* granted to the *disqualified party* prior to such suspension.
- B. Revocation of any *County Permit*. The revocation of any *county permit* shall act to revoke all *county permits* granted to the *disqualified party* prior to such revocation.
- C. Disqualification for *County Permits* During Period of Suspension of *County Permit*. Any *disqualified party*, and all *related parties* regarding such *disqualified party*, may not be granted any *county permit* during the period of suspension.
- D. Disqualification for *County Permits* During and After Revocation of *County Permit*. Any *disqualified party*, and all *related parties* regarding such *disqualified party*, may not be granted any *county permit* for a period of two (2) years following such revocation.

- E. Grounds for revocation or suspension of *County Permit*. Any *county permit* may be revoked, modified, or suspended, in whole or in part, during its term for cause, including, but not limited to, the following:
- (1) The violation of any condition of the permit; or
 - (2) That the permit was obtained by misrepresenting or failing to disclose fully all relevant facts.
- F. Notification of Revocation or Suspension. *Disqualified parties* shall be notified by the *Zoning Administrator* or the department issuing the permit that their permit is in danger of being suspended or revoked. This notice shall be sent to the *disqualified party's* last known address by registered or certified mail, or by personal service. This notice must include that:
- (1) An informal hearing shall be held before the department issuing the permit or the *Zoning Administrator* within ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (2) Following that hearing, the *issuing party* may suspend, revoke, or leave in place the permit(s).
- G. Informal Hearing. Within ten (10) days of providing written notice to the *disqualified party*, the *issuing party* shall hold an informal hearing regarding the matter. In the absence of an *issuing party*, the *Zoning Administrator* shall be permitted to revoke or suspend any and all *county permit* following an informal hearing with the *disqualified party*. The *issuing party* must provide the *disqualified party* with a written order after the hearing including the following information:
- (1) Whether the permit(s) in question have been suspended or revoked;
 - (2) If the permit(s) have been suspended, the duration of the suspension;
 - (3) The grounds for the suspension or revocation; and
 - (4) Any possible remedies the *disqualified party* may take to have the permits reinstated.
- H. Reinstatement of Suspended Permits. Suspended permits may be reinstated after the assigned period of time or once the *disqualified party* has taken the necessary remedial action. To reinstate the permit(s), the *disqualified party* must re-apply to the *issuing party* or the *Zoning Administrator*. At this time, the *disqualified party* must present evidence to the *issuing party* that the condition causing the suspension has been rectified.
- I. New Applications for Revoked Permits. Revoked permits cannot be reinstated. *Disqualified parties* must submit new applications for revoked permits.
- J. Enforcement Remedies. *Disqualified parties* who continue to act under revoked or suspended permits will be guilty of a misdemeanor and shall be punished at the discretion of a court of competent jurisdiction. Subject to the discretion of the *issuing party*, a *stop-work order*, injunctive relief, and civil damages may also be instituted by Henderson County.

K. Right to Appeal. Any *disqualified party*, and all *related parties* may appeal the disqualification of *county permits* to the Zoning Board of Adjustment (*ZBA*) in a quasi-judicial hearing. Notices of these appeals must be received by the *Zoning Administrator* in writing within 15 days of mailing of the notice of permit suspension or revocation. Appeals from the decision of the *ZBA* shall be taken to the court of appropriate jurisdiction as provided by law. Appeals from the decision of the *ZBA* must be filed within 30 days from the date when the *ZBA* issued its final decision.

§200A-349. Reserved

§200A-350. Reserved