

16.01 Authority

The *Zoning Administrator* of the *Town* is hereby designated to enforce the terms and provisions of this Ordinance in accordance with state law.

16.02 Alleged Violations

Whenever the *Zoning Administrator* of the *Town* receives a complaint or has reason to suspect that an alleged violation of the terms and provisions of this Ordinance are occurring, the *Zoning Administrator* shall investigate the complaint or suspicion and shall take whatever action is warranted in accordance with the provisions of this Article.

16.03 Responsibility for Violations

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this Ordinance, may be held responsible for the violation, suffer the penalties, and be subject to the remedies herein provided.

16.04 Responsibility for Violations

- (a) The *Zoning Administrator* may enter upon any building, structure or land or part thereof at any reasonable time for the purpose of inspecting all buildings, structures or lands located within the corporate limits of the *Town* for the purpose of carrying out their duties in the enforcement of this Ordinance. Prior to entering upon any premises, the *Zoning Administrator* shall furnish sufficient identification and information to enable the owner, tenant or occupant to determine the purpose of the inspection and that the person conducting the inspection is an authorized representative of the *Town*.
- (b) In the event that entry is denied by the owner, tenant or occupant of a premises, the *Zoning Administrator* may make application to any court of competent jurisdiction for the issuance of a search warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a condition which is in violation of this Ordinance exists on the premises, or that such a violation in fact exists and must be abated, and that the condition or violation is not a lawful nonconforming use to the best of the affiant's belief. Any warrant issued pursuant to such application shall order such owner, tenant or occupant to permit entry to the *Zoning Administrator* for the purposes stated therein.

16.05 Cease and Desist Order

The *Zoning Administrator* is empowered to issue a cease and desist order requiring the suspension of land improvement of any kind when any of the following circumstances exist:

- (A) A site improvement is occurring without an *improvement location permit* or any other permit required by this Ordinance having first been obtained; or,
- (B) A site improvement is occurring in violation of:
 - (1) The terms, conditions or provisions of this Ordinance;
 - (2) The terms and conditions of an *improvement location permit*;
 - (3) The terms and conditions of any other permit required as a pre-requisite to the issuance of an *improvement location permit*;
 - (4) The terms, provisions, conditions or commitments of a *variance* or *special exception use*;
 - (5) Other approval grant authorized by this Ordinance; or,
 - (6) Other applicable federal, state or local law or ordinance.
- (C) The cease and desist order shall be posted on the property in a conspicuous place, or personally delivered to the owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this Ordinance and state the conditions under which construction or other activity may be resumed. The *Zoning Administrator* shall meet with the recipient of a Cease and Desist Order upon request to explain the conditions under which construction or other activity may be resumed.
- (D) In addition to any other remedies available pursuant to any other applicable law and this Ordinance, the Town Attorney, *Zoning Administrator* or appropriate enforcement official may institute a lawsuit in a court of competent jurisdiction to enforce the provisions of a cease and desist order, including but not limited to injunctive relief.

16.06 Violations

Subject to the provisions of Article 3 Nonconforming Lots, Uses, Buildings, Structures or Signs, each of the following shall constitute a zoning violation which may be enforced by the *Town* or the *building department* in accordance with the provisions set forth in Section 16.07 Remedies or Penalties for Violation, below:

- (A) The location, erection, or maintenance of any sign not specifically permitted by this Ordinance;



- (B) The failure to obtain an *improvement location permit* when one is required by the terms and provisions of this Ordinance;
- (C) The outdoor storage of junk, trash or debris in any *district* the provisions of which do not specifically permit such a *use*;
- (D) The parking or storage, in any *district* the provisions of which do not specifically permit such a use, of any:
 - (1) Motor vehicle used or designed for use in pulling, towing, hauling, transporting; or
 - (2) Motor vehicle or separate trailer as a temporary or permanent base, platform or support for equipment, machinery, materials or other goods (including but not limited to stake body trucks, dump trucks, trucks or tractors having dual rear wheels or more than one axle or having an overall length of more than twelve (12) feet).
- (E) The outdoor storage or display of merchandise or goods in any *district* the provisions of which do not specifically permit such a *use* or in violation of the *district development standards* regulating such a *use*;
- (F) The conduct of any activity in any *district* that is not specifically enumerated as a permitted *primary* or *accessory use* in that *district*, and which activity has not been legally established by a currently valid *special exception use* or other approval grant;
- (G) Failure to comply with *district development standards*, including but not limited to landscaping, paving of parking areas, minimum parking space requirements, minimum loading space requirements, trash dumpster enclosure, fencing, landscaping or screening requirements;
- (H) The failure to comply with:
 - (1) the terms, provisions, conditions or commitments of a *variance* grant or *special exception use* grant;
 - (2) the terms of commitments made in connection with a zoning map change or the approval of a *development plan*;
 - (3) the terms, provisions or conditions of any other permit required as a pre-requisite to the issuance of a *improvement location permit*; or,
 - (4) other approval grant authorized by this Ordinance;
- (I) The violation of a cease and desist order issued pursuant to this Article 16; and,
- (J) Failure to comply with any other provisions of this Ordinance, or other applicable federal, state or local law or ordinance.

16.07 Remedies or Penalties for Violation

(A) Generally.

- (1) Any owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this Ordinance as defined in Section 16.06 Violations, above, may be issued a citation by the *Zoning Administrator*.
- (2) Subject to the provisions of sub-Sections 16.07 (B) and (C), below, each day a zoning violation remains uncorrected is a distinct and separate zoning violation subject to an additional citation and fine in the amount prescribed in this Ordinance.

(B) Procedures for Initial Notice of Zoning Violation or Citation.

- (1) The *Zoning Administrator* may issue a notice of zoning violation to a person (i.e., any owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person) who commits a zoning violation or allows a zoning violation to be committed on real estate in which the person has a possessory interest. The notice of zoning violation may be served by: personal service; certified mail, return receipt requested; registered mail; or, by posting such notice in a conspicuous place on the property where the violation occurs, and shall serve as notice that a zoning violation has been committed.
- (2) No citation shall be issued unless notice as required by sub-Section (B)(1), above, has been provided at least ten (10) days before the citation is issued, in order to allow the person receiving notice an opportunity to correct the violation and to come into compliance with the terms and provisions of this Ordinance, provided, however, the service of a notice of zoning violation and the provision of time to correct the zoning violation is not required before issuing a citation for:
 - (a) violation of a cease and desist order issued pursuant to Section 16.05 Cease and Desist Order, above; or
 - (b) violation of Section 6.03 (G) (g) or (i) regarding signs or lights located on a *wireless telecommunications facility*.

If upon re-inspection, the zoning violation remains unabated, a second notice of zoning violation may be served, or a citation accompanied by the fines as specified in Section 16.08 Fines, below, may be issued.

(C) Action after Second Notice or Citation.

A person (i.e., any owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person) who is served with a second notice of zoning violation or receives a citation shall have ten (10) days from service of a second notice of zoning violation or receipt of citation to take one of the following actions:



- (1) The person may elect to file a petition for zoning map change, *variance*, *special exception use* or development plan approval to correct such violation, in which case the person must indicate the intent to file such a petition on the served second notice or citation and return a copy to the *Zoning Administrator* or appropriate enforcement official. During the pendency of said petition the issuance of additional notices or citations and additional monetary fines as prescribed in Section 17.08 Fines, below, shall be stayed. A person who files the petition within said time period shall pursue the petition in an expeditious and diligent manner. If the petition is denied, withdrawn or dismissed and the zoning violation continues, then a lawsuit may be commenced by the Town Attorney, *Zoning Administrator* or appropriate enforcement official as provided by applicable laws.
 - (2) The person or any other interested party may elect to appeal the decision of the enforcement official pursuant to Article 15 Section 15.03(C) as an Administrative Appeal before the *Board of Zoning Appeals*.
- (D) Legal Action for Failure to Correct Violation.

If an owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who is served with a second notice of zoning violation or receives a citation fails to either correct the violation or take such actions to come into compliance within ten (10) days as set forth in sub-Section (B), above, then the Town Attorney, *Zoning Administrator* or appropriate enforcement official may institute legal action in a court of competent jurisdiction to enforce the terms and conditions of this Ordinance, including, but not limited to: enforcement of a Cease & Desist Order as provided in Section 17.05 Cease & Desist Order; assessment and collection of fines as provided in Section 17.08 Fines; or, the pursuit of injunctive and other equitable relief and remedies available under state law.

16.08 Fines

Monetary fines for zoning violations shall be assessed as set forth by the *Town*.

16.09 Additional Remedies

- (A) Seeking a penalty as authorized in this Article does not preclude the designated enforcement entity from seeking alternative and additional relief from the Court in the same action, or from seeking injunctive relief or any other remedy in a separate action for the enforcement of this Ordinance available under applicable state law.
- (B) In the event that a violation of this Ordinance is determined to exist by a court of competent jurisdiction, the owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this Ordinance shall be liable to the *Town* for the *Town's* reasonable attorney fees in accordance with state law.

