

## ORDINANCE NUMBER 2021-



### ARTICLE 9. - ENFORCEMENT AND PENALTIES

#### Sec. 98-9.1. - General.

##### Sec. 98-9.1.1. - Responsibility for enforcement.

The Zoning Administrator shall have the authority and the duty to ensure that all buildings and structures and the uses of all land comply with the provisions of this Chapter. The Zoning Administrator shall have all necessary authority on behalf of the City Council to administer and enforce this Chapter.

##### Sec. 98-9.1.2. - Compliance required.

- A. Any building or structure erected contrary to any of the provisions of this Chapter and any use of any building or land which is conducted, operated or maintained contrary to the provisions of this Chapter shall be a violation of this Chapter and the same is hereby declared to be unlawful.
- B. Any person, firm or corporation, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this Chapter, or permits any such violation, or who fails to comply with any of the requirements hereof, or who erects any building or structure or uses any building, structure or land in violation of the provisions of this Chapter or the provisions of any approval granted under this Chapter shall be subject to the enforcement provisions of this article.

#### Sec. 98-9.2. - Enforcement procedure and penalties.

##### Sec. 98-9.2.1. - General.

- A. Except as provided below in Subsection B, violations of this Chapter shall carry civil penalties assessed as follows:

1. Schedule of penalties.

- a. The civil penalty shall be \$200 for the first Notice of Violation.
- b. The civil penalty shall be \$500 for each subsequent Notice of Violation.
- c. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$5,000.

2. Procedure.

- a. Upon becoming aware of a violation of this Chapter, the Zoning Administrator may charge the person committing or permitting such violation through the issuance of a Notice of Violation.

- b. The Notice of Violation shall be sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment records.
- c. Any person charged for such violation may waive trial, admit liability, and pay the penalty to the Department of Finance prior to the date set for trial in court. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- d. 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 general district court in the same manner and with the same right of appeal as provided by law.
- e. 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. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within a period of time as determined by the court, but not later than six months of the date of admission of liability or finding of liability. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

3. General.

- a. The existence of a civil penalty shall not preclude action by the Zoning Administrator or the City Council from seeking declaratory, injunctive or other relief as provided by Virginia law.
- b. The civil penalties provided by this subsection shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor, provided, however, that when such civil penalties total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor.

- B. Violations of this Chapter related to (1) activities related to land development activities or (2) the posting of signs on public property or public rights-of-way, shall be a misdemeanor punishable by a fine of not less than \$10 nor more than \$1000. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not more than \$1,000, and any such failure during a succeeding 10-day period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$100 nor more than \$1,500; and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not more than \$2,000.

The City reserves the right to remove unauthorized signs located within City rights-of-way without notice and without liability for the replacement cost of such signs.

Sec. 98-9.2.2 - Additional remedies.

In addition to the remedies provided in this article, the City Council or Zoning Administrator may bring legal action to ensure compliance with this Chapter, including injunction, mandamus, abatement or any other appropriate action or proceeding authorized by law, to prevent, enjoin, abate, or remove any unlawful building, structure or use.

**INTRODUCED:**

**ADOPTED:**

**EFFECTIVE:**

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CLERK

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MAYOR