

## ARTICLE X. ENFORCEMENT

### Sec. 130-601. Specified.

- (a) An owner of property shall be responsible, and subject to prosecution and conviction, for any violation of this chapter found to exist on his property.
- (b) Any building erected and any alterations or improvements constructed contrary to any of the requirements of this chapter or the DCSM, and any use of any building or land which is conducted, operated, or maintained contrary to any of the requirements of this chapter, the DCSM, or any detailed statement or plan approved under the requirements of this chapter, shall be and the same is hereby declared to be unlawful.
- (c) Any person, whether owner, lessee, principal, agent, employee, or otherwise, who violates any of the requirements of this chapter, permits any such violation, fails to comply with any of the requirements hereof, or who erects or alters any building or structure or uses any building or land in violation of the requirements of this chapter, shall be subject to the enforcement requirements of this part.
- (d) Upon becoming aware of and making a determination of validity of any violation of any requirements of this chapter or the DCSM, the City may, if necessary and appropriate, serve a written notice of such violation on the person committing or permitting the same in accordance with the Code of Virginia, §15.2-2311.
  - (1) Such official notice shall require the violation to cease within reasonable time as is specified in the notice.
  - (2) After such notice is sent and the violation is not ceased within such reasonable time as is specified in the notice, then the City may proceed to remedy the violation as provided in §130-602.
  - (3) Unless otherwise specified in §130-601(d)(4), all notices of violation shall have a 30 calendar day right of appeal.
  - (4) For the following temporary uses or uses of recurring nature, an appeal must be filed within 15 calendar days of receipt of a notice of a violation involving the following:
    - a. Construction of a fence, structure, planting, or landscaping in violation of §130-56;
    - b. Installation of signage in violation of the requirements of Article IV of this chapter;
    - c. Failure to enclose a trash dumpster in accordance with §130-60;
    - d. Permitting a junkyard in any zone in violation of §130-5;
    - e. Vehicle storage in violation of §130-62; or
    - f. Failure to operate in accordance with the performance standards for any use listed under Article III, Division 2 of this chapter.

- (e) In addition to the remedies provided in §130-601(d), the City may initiate injunction, mandamus, or any other appropriate action to prevent, enjoin, abate, or remove any structure, construction, or use in violation of any provision of this chapter.
- (f) Except as provided in §130-602(b), the remedies provided for in this article are cumulative and not exclusive, and shall be in addition to any other remedies provided by law. The issuance of a notice of violation shall not be deemed a precondition to the issuance of a warrant or summons or the filing of any other enforcement pleading.

**Sec. 130-602. Criminal violations and penalties.**

- (a) Except as provided below, any violation of the requirements of this chapter or the DCSM shall be deemed a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than \$1,000.00. In the case of a continuing violation, further penalties and abatement orders are governed by the Code of Virginia §15.2-2286(A)(5).
- (b) The designation of a particular violation of the Zoning Ordinance as an infraction pursuant to §130-603(a) shall preclude criminal prosecution or sanctions, except for any infraction also resulting in injury to any person or persons or where such civil penalties exceed \$5,000.00.

**Sec. 130-603. Infractions and civil penalties.**

- (a) Any violation of the following requirements of this chapter, not resulting in injury to any persons, shall be punishable by a civil penalty of \$200.00 for the initial summons and \$500.00 for each additional summons. Before a civil penalty is imposed, however, the City shall issue a written warning providing a reasonable period of remediation not to exceed ten calendar days.
  - (1) Erecting or maintaining fences in violation of this chapter.
  - (2) Erecting or maintaining signs in violation of this chapter.
  - (3) Failure to enclose trash dumpsters in violation of this chapter.
  - (4) Failure to use parking and loading spaces in accordance with this chapter and/or the approved site plans.
  - (5) Obstructions that impair the vehicular sight distance at an intersection, such as structures, fences, plantings, or landscaping; and obstructions created by any structure or landscaping of any form along a street right-of-way that will impede the adjoining property owner's sight distance for access onto a street right-of-way.
  - (6) Conducting a home occupation, as defined in this chapter, without obtaining the approval of the City.
  - (7) Permitting, maintaining, or operating a Junkyard, as defined by §130-42, in violation of this chapter.
  - (8) Alteration of a structure within the historic district without a Certificate of Appropriateness.
  - (9) Parking and storing vehicles in violation of this chapter.
  - (10) Constructing accessory structures in violation of this chapter.

- (11) Failure to operate in accordance with the performance standards for any use listed under Article III, Division 2 in violation of this chapter.
- (b) Each day during which any violation of the requirements enumerated in §130-603(a) is found to have existed shall constitute a separate offense. However, in no event shall any such violation arising from the same set of operative facts be charged more frequently than once in any ten calendar day period, nor shall a series of such violations arising from the same set of operative facts result in civil penalties, which exceed a total of \$5,000.00. The existence of a civil penalty shall not preclude enforcement by the City under subdivision (A)(4) of the Code of Virginia §15.2-2286 or enforcement by the City Council under the Code of Virginia §15.2-2208.
- (c) After having served a notice of violation on any person committing or permitting a violation of the Zoning ordinance requirements enumerated in §130-603(a) and if such violation has not ceased within such reasonable time as is specified in such notice, then, upon the approval of the City Attorney, the City shall cause two copies of a summons to be personally served upon such person.
- (d) Such summons shall contain the following information:
- (1) The name and address of the person charged.
  - (2) The nature of the infraction and the ordinance requirements(s) of this chapter allegedly being violated.
  - (3) The location, date, and time that the infraction occurred or was observed.
  - (4) The amount of the civil penalty assessed for the infraction.
  - (5) The manner, location, and time in which the civil penalty may be paid to the City.
  - (6) The right of the recipient of the summons to elect to stand trial for the infraction and the date for such trial.
  - (7) A statement that a signature to an admission of liability will have the same force and effect as a judgment of court.
- (e) The summons 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 City Treasurer's office at least three business days 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.
- (f) 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 Court 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. 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.

(g) An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

**Secs. 130-604—130-650. Reserved.**