

Article 9: Enforcement

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Division 9.1: Purpose

9.1.10 Purpose

This Article establishes procedures to ensure compliance with the provisions of this Development Code and obtain corrections for Code violations. It also sets forth the remedies and penalties that apply to violations of this Development Code. The provisions of this Article are intended to encourage the voluntary correction of violations, where possible.

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Division 9.2: Compliance Required

9.2.10 Compliance Required

Compliance with all the procedures and standards of this Development Code, and all terms and conditions of permits and development approvals is required by all persons owning, developing, managing, using, or occupying land, structures, or signs in the County.

9.2.20 Violations Generally

- A. Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this Development Code, or the terms or conditions of any permit or development approval granted in accordance with this Development Code shall constitute a violation of this Development Code punishable as provided in this Article.
- B. Permits or development approvals issued on the basis of applications approved by the County Council, Planning Commission, ZBOA, HRPC, DRB or the Director authorize only the use, arrangement, location, design, density/intensity, and development set forth in such permits or development approvals, and no other development.
- C. Violations of this Development Code shall run with the land where the violation occurred, and shall not be voided by sale or transfer.

9.2.30 Specific Violations

It shall be a violation of this Development Code to do any of the following:

- A. Develop land or a structure without first obtaining the appropriate permits or development approvals.
- B. Occupy or use land or a structure without first obtaining the appropriate permits or development approvals.
- C. Develop land or a structure without complying with the terms or conditions of the permits or development approvals required to engage in development.
- D. Occupy or use land or a structure in violation of the terms or conditions of the permits or development approvals.
- E. Subdivide land without first obtaining the appropriate permits or development approvals required to engage in subdivision.
- F. Subdivide land without complying with the terms or conditions of the permits or development approvals required to engage in development.
- G. Excavate, grade, cut, clear, or undertake any land disturbing activity without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions.
- H. Remove existing trees from a site or parcel of land without first obtaining the appropriate permits and development approvals, and complying with their terms and conditions.
- I. Clearcutting in anticipation of development. If an owner cuts all or any portion of his or her property under the claim of good faith forestry practice, and then seeks a

development permit for any portion of the property within two years of the cut, a rebuttable presumption shall arise that the cut was done in anticipation of future development and the permit denied. Any person seeking to rebut the presumptions shall have the burden of proving their claim by clear and convincing evidence.

- J. Install, create, erect, alter, or maintain any sign without first obtaining the appropriate permits or development approvals.
- K. Fail to remove any sign installed, created, erected, or maintained in violation of this Development Code, or for which the permits have lapsed.
- L. Create, expand, replace, or change any nonconformity except in compliance with this Development Code.
- M. Reduce or diminish the requirements for development, design, or dimensional standards below the minimum required by this Development Code.
- N. Increase the intensity or density of development, except in accordance with the standards of this Development Code.
- O. Through any act or omission, fail to comply with any other provisions, procedures, or standards as required by this Development Code.

Division 9.3: Responsible Persons

9.3.10 Responsible Persons

Any person who violates this Development Code shall be subject to the remedies and penalties set forth in this Article.

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Division 9.4: Enforcement Generally

Sections:

- 9.4.10 Responsibility for Enforcement
- 9.4.20 Complaints Regarding Violations
- 9.4.30 Inspections to Ensure Compliance
- 9.4.40 Notice of Violation
- 9.4.50 Failure to Correct Violation
- 9.4.60 Costs
- 9.4.70 Repeat Violations

9.4.10 Responsibility for Enforcement

The County Administrator or designee shall be responsible for enforcing the provisions of this Development Code.

9.4.20 Complaints Regarding Violations

Whenever a violation of this Development Code occurs, or is alleged to have occurred, any person may file a complaint. Such complaint shall state fully the alleged violation and the basis for the alleged violation, and shall be filed with the Code Enforcement Department, who shall maintain a record of the complaint. The complaint shall be investigated promptly by the Code Enforcement Department as provided in Section 9.4.30 (Inspections to Ensure Compliance), and action taken to abate or correct the violation. All complaints are subject to the Freedom of Information Act (FOIA) except such information that is exempt under SC Code 30-4-40.”

9.4.30 Inspections to Ensure Compliance

Upon presentation of proper credentials, a member of the Code Enforcement Department may enter any property to ensure compliance with the provisions of this Development Code. These inspections shall be carried out during normal business hours unless the Code Enforcement Department determines there is an emergency necessitating inspections at another time.

9.4.40 Notice of Violation

When the Code Enforcement Department finds and determines a violation of this Development Code exists, the Code Enforcement Department shall notify, in writing, the person violating the Code. Such notification shall serve as a warning notice of a violation. It shall be delivered via U.S. Mail or hand delivered to the last known address of to the owner and or any person occupying the land or structure where the violation occurs. The notice shall state the following:

- A. The address and legal description of the land, structure, or sign that is in violation of this Development Code;
- B. The nature of the violation, the provisions of this Development Code being violated, and the necessary action to remove or abate the violation;

- C. The date by which the violation should be removed or abated; and
- D. The penalty for failing to remove or abate the violation, stating that if the nuisance recurs, a notice to appear in the appropriate court in Beaufort County will be issued without further notice.

9.4.50 Failure to Correct Violation

- A. If the person(s) to whom a warning notice has been given in accordance with Section 9.4.40 (Notice of Violation), fails to remove or abate the violation in the time specified in the notice and severe conditions exist that affect health, welfare, or safety, or cause severe environmental degradation, the County through the Code Enforcement Department may lawfully enter upon the land where the violation remains unabated to remove or abate the violation, at the expense of the person(s) responsible for creating or maintaining the violation(s).
- B. Under all other circumstances, if the person(s) to whom a warning notice has been given in accordance with Section 9.4.40 (Notice of Violation), fails to remove or abate the violation in the time specified in the notice, the Code Enforcement Department shall fill out and sign, as the complainant, a Uniform Summons Ticket in the appropriate court of Beaufort County. The Uniform Summons Ticket shall include the following:
 - 1. Name of the owner of the land subject to the violation, any occupants, and any other person(s) responsible for the violation(s);
 - 2. The address or legal description of the land on which the violation is occurring;
 - 3. The nature of the violation;
 - 4. The provision(s) of this Development Code being violated;
 - 5. The date on which the case will be on the court docket for hearing; and
 - 6. Any other information deemed pertinent by the Code Enforcement Department.
- C. The original copy of the Uniform Summons Ticket shall be forwarded to the appropriate court of Beaufort County for inclusion on the court's docket for the date indicated on the notice.
- D. The Uniform Summons Ticket shall be provided to the owner or any person occupying the land or structure in violation of this Development Code. The notice shall be delivered by certified mail to the owner or any person occupying the land where the violation is occurring. In addition, the Code Enforcement Department shall fill out and sign the Uniform Summons Ticket as the complainant and deliver the original plus one copy to the Clerk of the Court. The Clerk shall verify or insert the date the case is set for hearing before the court. The Clerk shall mail a copy of the Uniform Summons Ticket, by certified mail, to all person(s) named in the Uniform Summons Ticket, at their last known address.

9.4.60 Costs

All costs and expenses incurred by the County in removing or abating any violation under this Development Code may be assessed against the land on which the violation occurs as a lien on the property. Alternatively, the cost of removing or abating the violation may be made part of the judgment by the appropriate court of jurisdiction, in addition to any other penalties and costs imposed if the person(s) charged either pleads or is found guilty of causing, creating, or maintaining a violation.

9.4.70 Repeat Violations

- A. In instances of repeat violations, the warning notice provisions of this Section need not be observed.
- B. Each day a violation continues after the expiration of the warning period to abate such violation may constitute a separate offense.

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Division 9.5: Remedies and Penalties

Sections:

- 9.5.10 General
- 9.5.20 Other Remedies and Penalties
- 9.5.30 Private Civil Relief
- 9.5.40 Remedies Cumulative

9.5.10 General

Any person violating this Development Code shall be guilty of a misdemeanor and, upon conviction, shall pay such penalties as the court may decide, as prescribed by State law, not to exceed \$500.00 or 30 days imprisonment for each violation. Each day during which such conduct shall continue shall subject the offender to the liability prescribed in this Article.

9.5.20 Other Remedies and Penalties

In addition, the County may use any combination of the following enforcement actions, remedies, and penalties in any particular order to correct, stop, abate or enjoin a violation of this Development Code:

- A. **Stop Order.** The County Administrator or designee or County Attorney may issue and serve upon a person violating this Development Code a stop order requiring that the person stop all actions in violation of this Development Code, including illegal occupation of a building or structure, illegal work being done, or any other action in violation of this Development Code.
- B. **Permit Revocation.** Any permit, development approval, or other form of authorization required under this Development Code may be revoked if the Code Enforcement Department determines that:
 - 1. There is a failure to comply with the approved permit, development approval, plans, specifications, or terms or conditions required under the permit or development approval;
 - 2. The permit or development approval was procured by false representation; or
 - 3. The permit or development approval was issued in error.

Written notice of revocation shall be served upon the landowner, the landowner's agent, or other person to whom the permit or development approval was issued, and such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice.

- C. **Civil Remedies.** In addition to all other remedies and penalties outlined in this Article, the County Attorney may institute an action or proceeding for injunction or mandamus or other appropriate action or proceeding to prevent, abate, or correct a violation of this Development Code or to prevent the occupancy of a structure or land that is in violation of this Development Code. Each day a person violates this Development Code shall be considered a separate offense.

9.5.30 Private Civil Relief

In case a structure or land is or is proposed to be developed or used in violation of this Development Code, an adjacent or neighboring landowner or tenant who would be specially damaged by the violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful development or use, to correct or abate the violation, or to prevent the occupancy of the structure or use of the land.

9.5.40 Remedies Cumulative

The remedies provided for violations of this Development Code, whether civil or criminal may be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.