

CHAPTER 16 - LAND USE ORDINANCE

Article VII - Enforcement and Review

Section 16-111 Complaints Regarding Violations.

Whenever the administrator receives a written, signed complaint alleging a violation of this chapter, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

Section 16-112 Persons Liable.

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

Section 16-113 Procedures Upon Discovery of Violations.

(A) If the administrator finds that any provision of this chapter is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the administrator's discretion.

(B) The final written notice (and the initial written notice may be the final notice) shall state what action the administrator intends to take if the violation is not corrected and shall advise that the administrator's decision or order may be appealed to the board of adjustment as provided in Section 16-91.

(C) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety, or welfare, the administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 16-114.

Section 16-114 Penalties and Remedies for Violations.

(A) Violations of the provisions of this chapter or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use or conditional use permits, shall constitute a misdemeanor, punishable as provided in G.S. 14-4.

(B) Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special use or conditional use permits, shall also subject the offender to a civil penalty of at least \$100.00 but not to exceed \$500.00_dollars. If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of debt. A civil penalty may not be appealed to the board of adjustment if the offender was sent a final notice of violation in accordance with Section 16-113 and did not take an appeal to the board of adjustment within the prescribed time. *[Amended November 12, 2002]*

(C) This chapter may also be enforced by any appropriate equitable action.

(D) Each day that any violation continues after notification that such violation exists by the administrator shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

(E) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this chapter.

Section 16-115 Permit Revocation.

(A) A zoning, sign, special use, or conditional use permit may be revoked by the permit issuing authority in accordance with the provisions of this section if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter, or any additional requirements lawfully imposed by the permit issuing board.

(B) Before a conditional use or special use permit may be revoked, all of the notice and hearing and other requirements of Article VI shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

(1) The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth in subsection (A) shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.

(2) A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

(C) Before a zoning or sign permit may be revoked, the administrator shall give the permit recipient ten days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the administrator shall provide to the permittee a written statement of the decision and the reasons therefor.

(D) No person may continue to make use of land or buildings in the manner authorized by any zoning, sign, special use or conditional use permit after such permit has been revoked in accordance with this section.

Section 16-116 Judicial Review.

(A) Every decision of the board of commissioners granting or denying a conditional use permit and every final decision of the board of adjustment shall be subject to review by the Superior Court of Watauga or Caldwell County, as appropriate, by proceedings in the nature of certiorari.

(B) The petition for the writ of certiorari must be filed with the appropriate clerk of superior court within 30 days after the later of the following occurrences:

(1) A written copy of the board's decision (see Section 16-106) has been filed in the office of the inspections department; and

(2) A written copy of the board's decision (see Section 16-106) has been delivered, by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

(C) A copy of the petition for the writ of certiorari and the writ of certiorari shall be served upon the Town of Blowing Rock.

Section 16-117 Schedule of Civil Penalties

Illegal signs and banners	\$100.00
Itinerant merchant sales	\$100.00
Storage of junked cars outside of enclosed structure	\$100.00
Filling in the designated floodway	\$250.00
Using a travel trailer as a residence	\$250.00
Removing a protected tree	See Section 16-318.02
Removal of required buffer	See Section 16-318.02
Short-term rental violation	\$500.00
Working without a permit (single-family)	\$100.00 plus double permit fees
Working without a permit (commercial)	\$500.00 plus double permit fees
Any other violation of Land Use Ordinance	\$100.00
First repeat violation(s) after initial compliance	250% of original penalty
Second repeat violation(s) after initial compliance	500% of original penalty

Each day the violation continues is considered a separate offense [*Adopted November 12, 2002*]

Sections 16-118 through 16-120 Reserved.