

SECTION 37. VIOLATIONS AND PENALTIES

- A. Any building erected or improvements constructed contrary to any of the provisions of this Ordinance and any use of any building or land which is conducted, operated or maintained in a manner that is not in compliance with any of the provisions of the Ordinance or in a manner not in compliance with any permit, detailed statement or plan approved under the provisions of this Ordinance shall be and the same is hereby declared to be unlawful.
- 1.B. It shall constitute a violation of this ordinance for any person, firm or corporation, either owner, agent or occupant, to do any of the things for which a permit is required by this ordinance without having first obtained the said permit; and any permit issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established to the satisfaction of the Zoning Administrator, he shall forthwith revoke the same, by notice in writing to be delivered to the holder of the void permit upon the premises where the violation has occurred, or, if such holder be not found there, by posting the said notice of revocation in some conspicuous place upon the said premises. Any such person, firm or corporation who shall proceed thereafter with such work or use without having obtained a new permit in accordance with this ordinance shall be deemed guilty of violation thereof.
- 2.C. It shall constitute a violation of this ordinance for any person, firm or corporation, either owner, agent or occupant, to disobey, neglect or refuse to comply with or resist the enforcement of any of the provisions of this ordinance. Each day upon which the said violation shall continue shall constitute a separate violation.
- 3.D. 1. *Civil Penalties.* Except in ~~in~~ case of the violation of any provisions of the Zoning Ordinance listed in section 37.5G below, any violation of the provisions of this Ordinance shall be deemed a civil violation and, upon an admission of liability or finding of liability, the owner, lessee, tenant and/or agent shall be subject to a civil penalty of ~~one two~~ two hundred dollars (~~\$100.00~~) (\$200.00) for the first violation. ~~This penalty shall be imposed after a warning has been issued that gives the owner, lessee, tenant or agent a specified time within which to comply with the ordinance.~~ Any person who continues to violate such provision of this ordinance after the imposition of the first penalty, shall be subject to a civil penalty of not more than ~~one~~ five hundred ~~five~~ dollars (~~\$150.00~~) (\$500.00), or such lesser amount so that the total amount of fines imposed will not to exceed a total of five thousand dollars (\$5,000.00) arising out of the same set of facts, for each subsequent violation. No person shall be cited for a violation more than once in any ten (10) day period, and no person shall be fined more than a total of ~~three~~ five thousand dollars (~~\$3,000.00~~) (\$5,000.00) for all violations arising out of the same set of facts.

Civil penalties shall be assessed only after a written Violation Notice has been issued to the owner shown in the property tax records, which Violation Notice has provided a reasonable period of time to correct, or in instances where corrective measures will take time to complete, to commence and diligently pursue correction of the violation. Except for good cause shown, a reasonable period of time shall be a minimum of ten (10) days. Civil penalties shall be imposed by the issuance of a civil summons/ticket by the Zoning Administrator or deputy. Any person served with a summons/ticket shall be informed of his/her right to stand trial and of his/her responsibility to request within 30 days, said trial in General District Court. Any person may waive his/her right to trial by appearing in person or by mail and executing a Waiver of Trial and Admission of Liability and paying the fine have thirty (30) days in which either to pay a fine to the Treasurer of Arlington County, Virginia, or Aggrieved persons also have the right to appeal the Violation Notice to the Board of Zoning Appeals within 30 days of the date of the Violation Notice. An aggrieved person may elect instead, at his/her option, to appeal a ticket/summons to the Board of Zoning Appeals within 30 days of issuance, or within 10 days for those violations

listed in Section 37.D.2 below. In the event a person served with a Violation Notice and/or summons/ticket has, within 30 days of the date of Violation Notice and/or summons/ticket, or within 10 days for those violations listed in Section 37.D.2, neither:

- a) Requested a hearing date in General District Court; nor
- b) Admitted liability and paid the fine; nor
- c) Filed an appeal of the Violation Notice with the Board of Zoning Appeals,

then the determination of a violation shall be final and not subject to further appeal and the amount of the ticket/summons shall be a debt owed to the County.

2. As provided for in the Code of Virginia the following violations shall have the right to appeal a Violation Notice within ten (10) days of the date of issuance:

- a) Parking of commercial trucks in residential zoning districts.
- b) Maximum occupancy limitation of a residential dwelling unit.

4. E. The demolition, razing or moving of a building or structure which is located in an Historic Overlay District without the prior approval of the Historical Affairs and Landmark Review Board (review board) and/or the County Board as provided in Section 31.A shall be punishable by civil penalty.

1. Such civil penalty shall not exceed twice the market value of the property as determined by the assessed value of the property at the time of destruction or removal of the building or structure, and shall include the value of any structure and the value of the real property upon which any such structure was located.

2. Enforcement under this Section shall be by bringing an action in the name of the County in Circuit Court by the county Attorney, upon request of the Zoning Administrator, and such action shall be brought against the party or parties deemed responsible for such violation.

3. The remedies provided for in this Section are not exclusive and shall be in addition to any other remedies provided by law.

5. F. Criminal Penalties. It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this ordinance, referenced in subsection 37.G below. Any person who is convicted of a violation of any of the provisions of this ordinance shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00). If the violation is uncorrected at the time of 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 less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00), and any such failure during any succeeding ~~thirty~~ 10-day period shall constitute a separate misdemeanor offense for each ~~thirty~~ 10-day period punishable by a fine of not less than ~~ten~~ one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500).

5. G. The following violations that will shall be treated as a ~~civil~~ criminal penaltyies: are:

- 1 a. Any sign posted on public property or in public rights-of-way in contravention of this Ordinance; ~~on private property erected, altered, refaced or enlarged without a permit;~~
- b. ~~Erection of any prohibited sign on private property;~~
- c. ~~Parking a commercial vehicle in an "R" or "RA" District (includes the type of vehicle, the number of commercial vehicles, the weight, and where they are parked on the lot);~~
- d. ~~Commercial auto repair in a residential zone;~~

- e. ~~Business establishments that have merchandise in the setback or on display outside.~~
- f. ~~The placing on private property of any inoperative, or any unlicensed and/or uninspected vehicle, except as permitted by subsection 5.A.8.c. of the Zoning Ordinance.~~
 - 2. Any land development activity without applicable permit;
 - 3. Any violation of the provisions of the Ordinance that results in physical harm or injury to any person.

When civil penalties total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor, as provided within the Code of Virginia. Treatment as criminal penalties shall not preclude the Zoning Administrator from pursuing injunctive action.

H. The Zoning Administrator or his/her agent shall have all necessary authority to present sworn testimony to a magistrate or court of competent jurisdiction and if such sworn testimony establishes probable cause that a zoning ordinance violation has occurred, request that the magistrate or court grant the Zoning Administrator or his/her agent an inspection warrant to enable the Zoning Administrator or his/her agent to enter the a property and/or building for the purpose of determining whether violations of the zoning ordinance exist. The Zoning Administrator or his/her agent shall make a reasonable effort to obtain consent from the owner or tenant of the property and/or building prior to pursuing the issuance of an inspection warrant.

(Ord. No. 97-16, 7-19-97; Ord. No. 98-12, 4-18-98; Ord. No. 99-23, 11-13-99, _____)

FROM SECTION 31A

N. Penalties. Penalties shall be as provided in Section 37.

- 1. ~~Any person who violates any provision of this Section 31A shall be guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000.00) and not less than one hundred dollars (\$100.00).~~
- 2. ~~For the purpose of this Section 31A, each day during which there exists any violation of any provision herein shall constitute a separate violation of such provision.~~
- 3. ~~In addition to any other penalties allowed by law, there is hereby established, pursuant to Section 15.1-687.22 of the Code of Virginia, a civil penalty for the wrongful demolition, razing, or moving of part or all of a building or structure when such building or structure has been designated as an historic structure or landmark or is part of an historic district. This civil penalty shall be imposed on the party deemed by the circuit court to be responsible for the violation and shall not exceed the fair market value of the property as determined by the County real estate tax assessment at the time of the demolition, razing, or moving.~~

~~An action seeking the imposition of such a penalty shall be instituted by petition filed by the County in Circuit Court, which shall be tried in the same manner as any action at law. It shall be the burden of the County to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose. The filing of any action pursuant to this section shall preclude a criminal prosecution for the same offense.~~

~~The defendant, within twenty one (21) days after the filing of the petition, shall file an answer and may, without admitting liability, agree to restore the building or~~