

Article 21 Enforcement

Section 21.1 Zoning Enforcement and Appeals

21.1.1 *Violations, penalties and remedies; generally*

21.1.2 Whenever a violation of these ordinances is identified or is alleged to have occurred, any person aggrieved may file a complaint. Such complaint shall fully state the cause and basis thereof, and shall be filed with the Planning and Zoning Director at his/her office at the Planning and Zoning Department in Bay Minette, Alabama.

Whenever the Planning and Zoning Director or his/her designee has knowledge of a violation or an alleged violation, a thorough investigation may be initiated. After such investigation, and upon the finding of a violation, the violation procedures contained in this Article shall be initiated.

21.1.3 Violation of the provisions of these ordinances, including violation of conditions and safeguards established in connection with a grant of a variance, special exception, conditional use, land use certificate or appeal, shall be addressed and punishable in accordance with sections contained herein.

21.1.4 In the event that any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or in the event that any building, structure, or land is used in violation of these ordinances, the Planning and Zoning Director may institute or cause the institution of any appropriate action or proceeding to:

- (a) Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of the building, structure, or land.
- (b) Prevent the occupancy of the building, structure, or land.
- (c) Prevent any illegal act, conduct, business, or use in or about the premises.
- (d) Restrain, correct, or abate the violation.

Section 21.2 Violations

21.2.1 *Persons in violation.* Any person(s), whether owner, lessee, principal, agent, employee, or occupant of any land or part thereof, and any architect, engineer, builder, contractor, agent or other person who: (a) violates any provision of these ordinances, (b) permits, participates, assists, directs, creates

or maintains any such violation, (c) fails to comply with any of the requirements hereof, including conditions, stipulations, or safeguards attached to any approval, permit, variance, Commission Site Plan Approval or the like, or (d) who erects, constructs or reconstructs any building or structure, or uses any building, structure or land in violation of any written statement or plan submitted and approved pursuant to these ordinances, shall be in violation.

21.2.2 Any person(s) in violation of these ordinances shall be held responsible for such violation and be subject to the penalties and remedies as provided herein and as provided by law.

21.2.3 *Separate violation.* Each and every person who commits, permits, participates in, assists, directs, creates or maintains a violation may be found individually in violation of a separate offense. Each day that any violation continues to exist shall constitute an additional and separate violation.

21.2.4 *Structures and uses in violation.* Any structure or lot erected, constructed, altered, occupied or used contrary to any provision(s) of these ordinances or other applicable ordinances, stipulation, condition, approvals and variance shall be declared to be unlawful.

Section 21.3 Notice of Violation

21.3.1 *Issuance.* The Planning and Zoning Director or his/her designee shall issue a written notice of violation upon receipt of a complaint or knowledge of violation, to all persons in violation. The Notice of Violation may be served by certified mail, return receipt requested, or pursuant to Alabama Rules of Civil Procedure. The Notice of Violation shall allow a reasonable time to correct or abate such violation.

21.3.2 *Notice requirements.* The Notice of Violation shall ("Notice") clearly identify the property and particular alleged violation involved, the action necessary to correct it, the time permitted for such correction, and penalties for failure to comply. The Notice shall include but not be limited to:

- (a) A description of the location of the property involved, either by street address or by legal description.
- (b) A statement indicating the nature of the violation.
- (c) A statement showing the time within which all necessary remedial action must be accomplished, which time may not be less than 10 days nor more than 90 days from the date of such written Notice.
- (d) The name of the person(s) upon whom the Notice of Violation is served.

(e) A statement advising that upon the failure to comply with requirements of the Notice, such enforcement procedure as may be required under these zoning ordinances shall be taken.

21.3.3 *Violations threatening health, safety and welfare.* The Planning and Zoning Director may shorten or eliminate the time period to correct a violation if he/she determines that the alleged violation presents an imminent and serious threat to the public health, safety, or welfare, or the violation is irreparable or irreversible. The Notice of Violation shall, in such case, state that an immanent and serious threat to public health, safety, or welfare exists or the violation is irreparable or irreversible, along with the allowed time period for correction if any.

21.3.4 *Noncompliance.* When the Planning and Zoning Director or his/her designee determines that the violation has not been corrected or abated by end of the prescribed time period, he/she shall issue a written notice forwarding the matter to the County Legal Department and/or the Baldwin County District Attorneys office for further action.

21.3.5 *Compliance.* Upon the submission by the violator of evidence of compliance deemed adequate by the Planning and Zoning Director, the Director may deem the violation to be resolved and compliance achieved.

21.3.6 *Diligent efforts to comply.* When, after issuance of a Notice of Violation but prior to commencement of any judicial proceedings, the Planning and Zoning Director determines that the person in violation is making a diligent effort to comply with the requirements of the Notice, the Planning and Zoning Director may issue a written stay of further enforcement actions pending full compliance. The stay shall list the diligent efforts to comply and should be provided to the violator(s). No enforcement actions shall be stayed longer than ninety (90) days.

21.3.7 *Repeat violations.* When any Notice of Violation is issued to any person for substantially the same violation for which a previous Notice of Violation has been issued to such person, no period shall be allowed for correction or abatement of the violation. Rather, in such event, the Planning and Zoning Director shall immediately cause the matter to be forwarded to the County Legal Department and/or the Baldwin County District Attorneys Office for further action.

21.3.8 *Fines.* Any person(s) violating any of the provisions herein shall be fined not more than \$150.00 for each separate violation, plus all costs of court, with each day such violation continues constituting a separate violation (see 21.2.3, above). The fines provided for herein shall commence and accrue upon receipt of the Notice of Violation or the expiration of the allowed period for correction, whichever is later. Said fines shall continue to accrue until paid, but shall not accrue on days during which the violation is properly on appeal.

Section 21.4 Additional Penalties

21.4.1 *Stop work order.* The Planning and Zoning Director may issue, or cause to be issued, a Stop Work Order on a premises, lot or parcel that is in alleged violation of any provision of these ordinances, or is being maintained in a dangerous or unsafe manner. A Stop Work Order may be issued in place of or in conjunction with any other actions and procedures identified in these ordinances. Such Order shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state conditions under which work may be resumed. Upon receipt of a Stop Work Order, all work associated with the violation shall immediately cease. Any person who continues to work shall be in violation of these ordinances and subject to penalties and remedies contained herein. The Stop Work Order may be appealed to the respective Board of Adjustment for which the activity is located.

21.4.2 *Cease and abate orders.* The Planning and Zoning Director may issue, or cause to be issued, a Cease and Abate Order to any person(s) maintaining any condition, or engaged in any activity or operation, which violates these ordinances. Such Order shall be in writing and shall be given to the owner of the property, or to the person maintaining such condition or engaged in such activity and operation. Upon receipt of a Cease and Abate Order, all conditions, activities and operations associated with the violation shall immediately cease and be abated. Any person who continues or fails to abate such condition, activity or operation shall be subject to penalties and remedies contained herein.

21.4.3 *Revocation of permits.* The Planning and Zoning Director may revoke, or cause the revocation of, permits or approvals in those cases where an administrative determination has been duly made that false statements or misrepresentations of material fact(s) were made in the application or plans upon which the permit or approval was based.

Section 21.5 Appeals

21.5.1 *Appeal of administrative enforcement decision.* Any person(s) aggrieved by a decision of the Planning and Zoning Director or his or her designee in regards to zoning enforcement may file an appeal, made on forms provided by the County, to the respective Board of Adjustment where the alleged violation has occurred. An appeal must be filed within fifteen (15) days of the date of the Notice of Violation. An appeal is deemed filed with a Board of Adjustment when received by the respective Board Chairman.

21.5.2 *Appeal of Board of Adjustment decision.* In exercising its authority, the Board of Adjustment may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as the Board deems proper and, to that end, shall have all the powers of the officer from whom the appeal is taken. The

concurring vote of a majority of the Board of Adjustment shall be necessary to reverse, affirm or modify any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to act.

21.5.3 Appeal to Circuit Court from final decision of Board of Adjustment. Any party aggrieved by a final judgment or decision of a board of adjustment may within 15 days thereafter, appeal there from to the Circuit Court of Baldwin County, Alabama, by filing with the circuit court and the board of adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken and specifying in sufficient detail the grounds for appeal so that the non-appealing party may reasonably frame a responsive pleading. For purposes of this section, an appeal shall be filed with the board of adjustment at the Baldwin County Planning and Zoning Department at its office in Robertsdale, Alabama, and shall be deemed filed when received at the Baldwin County Planning and Zoning Department regardless of the method of delivery.