

**ARTICLE N
WATERSHED PROTECTION**

9-3151 Authority and Enactment

The Legislature of the State of North Carolina has, in Chapter 160A, Article 19, Planning and Regulation of Development; and in Chapter 143, Article 21, Watershed Protection Rules, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Town of Valdese, North Carolina ("the Town"), does hereby ordain and enact into law the following articles as the Watershed Protection Ordinance of Valdese, North Carolina.

9-3152 Jurisdiction

The provisions of this Ordinance shall apply within the overlay zones designated as a Public Water Supply Watershed as defined and established on the "Official Zoning Map of Valdese, North Carolina" ("the Zoning Map"), such overlay zones being adopted simultaneously herewith. The Zoning Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Article.

9-3153 Exceptions to Applicability

- (A) Development activities that do not require a Sedimentation/Erosion Control Plan are exempt from the requirements of this Article.
- (B) Existing development, as defined in this Article, is not subject to the requirements of this Article. Existing development is defined as those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this Ordinance based on at least one of the following criteria:
 - (1) having expended substantial resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;
 - (2) having an outstanding valid building permit as authorized by NCGS 153A-344.1 and NCGS 160A-385.1; or
 - (3) having an approved site specific or phased development plan as authorized by NCGS 153A-344.1 and NCGS 160A-385.1.
- (C) Expansions to structures classified as existing development must meet the requirements of this Ordinance; however, the built-upon area of the existing development is not required to be included in the density calculations.

- (D) Reconstruction of Buildings or Built-Upon Areas. Any existing building or built-upon area not in conformance with the restrictions of this Ordinance that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single-family residential redevelopment, provided:
- (1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
 - (2) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.
- (E) If a non-conforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this ordinance if it is developed for single family purposes (and zoned for this use).

9-3154 Cluster or Planned Unit Development

Cluster or Planned Unit Development is allowed in all Watershed Areas under the following conditions:

- (A) Development activities shall comply with the respective requirements of Article D and Article I of this Ordinance.
- (B) All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- (C) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the deeds.

9-3155 Buffer Areas Required

- (A) A minimum one hundred (100) foot vegetative buffer is required for all new development activities that exceed the low density option; otherwise a minimum thirty (30) foot vegetative buffer for development activities in the protected area is required along all perennial waters, and a minimum fifty (50) foot vegetative buffer for development activities in the critical area is required along all perennial waters indicated in the most recent versions of USGS 1:24,000 (7.5 minute) scale

topographic maps or as determined by local studies. Artificial streambank stabilization is permitted.

- (B) No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways and their appurtenances where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

9-3156 Watershed Administrator and Duties thereof

The Watershed Administrator shall be the same as the Zoning Enforcement Officer as described in this Ordinance. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this Article as follows:

- (A) The Watershed Administrator shall issue Zoning Permits and Certificates of Occupancy as provided in this Ordinance. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.
- (B) The Watershed Administrator shall serve as staff to the Planning Board, Board of Adjustment, and Town Council.
- (C) The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Division of Water Quality.
- (D) The Watershed Administrator is granted the authority to administer and enforce the provisions of this Article, exercising in the fulfillment of his responsibility the full zoning and police power of the Town of Valdese. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Article.
- (E) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted each calendar year to the Division of Water Quality on or before January 1st of the following calendar year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

9-3157 Appeal from the Watershed Administrator

- (A) Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Board of Adjustment.

- (B) An appeal from a decision of the Watershed Administrator must be submitted to the Board of Adjustment within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- (C) An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.
- (D) The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

9-3158 Establishment of a Watershed Review Board

There shall be and hereby is created the Watershed Review Board consisting of the same membership as the Valdese Town Council. Terms for members of the Watershed Review Board shall coincide with the membership terms for the Town Council.

9-3159 Powers and Duties of the Watershed Review Board and Board of Adjustment

- (A) The Board of Adjustment shall be responsible for reviewing and hearing all major and minor watershed variance cases, and shall proceed as provided in Article XI of the Zoning Ordinance for zoning variances when reviewing all watershed variance cases.
- (B) If the application calls for the granting of a **major watershed variance**, and if the Board of Adjustment decides in favor of granting the major watershed variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
 - (1) The variance applications;
 - (2) The hearing notices;
 - (3) The evidence presented;
 - (4) Motions, offers of proof, objections to evidence, and rulings on them;
 - (5) Proposed findings and exceptions;

- (6) The proposed decision, including all conditions proposed to be added to the permit.
- (C) The preliminary record shall be sent to the Environmental Management Commission (EMC) for its review as follows:
 - (1) If the EMC concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the EMC shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The EMC shall prepare a decision and send it to the Board of Adjustment. If the EMC approves the variance as proposed, the Board of Adjustment shall prepare a final decision granting the proposed variance. If the EMC approves the variance with conditions and stipulations, the Board of Adjustment shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.
 - (2) If the EMC concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the EMC shall deny approval of the variance as proposed. The EMC shall prepare a commission decision and send it to the Board of Adjustment. The Board of Adjustment shall prepare a final decision denying the variance as proposed.
- (D) Written notification shall be given to local governments having jurisdiction and any entity using the water supply for consumption where a variance is being considered. The local government and entity shall have a reasonable comment period prior to review by the Board of Adjustment.
- (E) Approval of all development with densities greater than that specified in Article E of this Ordinance shall be the authority of the Town Council/Watershed Review Board.

9-3160 Appeals from the Town Council or Board of Adjustment

Appeals from the Town Council or Board of Adjustment must be filed with the Superior Court within 30 days from the date of the decision. The decisions by the Superior Court will be in the manner of certiorari.

9-3161 High Density Development Standards

- (A) The Town Council may approve high density development proposals consistent with the following standards:

WS-IV-Critical Areas - Where new development requires a Sedimentation/Erosion Control Plan and exceeds either 2 dwelling units per acre, or 24% built-upon area, **engineered stormwater controls** shall be used to control runoff from the first inch of rainfall and development shall not exceed 50% built-upon area.

WS-IV-Protected Areas - Where new development requires a Sedimentation/Erosion Control Plan and exceeds either 2 dwelling units per acre, or 24% built-upon area (or 3 dwelling units per acre or 36% built-upon area for projects without curb and gutter street system), **engineered stormwater controls** shall be used to control runoff from the first inch of rainfall and development shall not exceed 70% built-upon area.

9-3162 High Density Development Permit Application

- (A) A High Density Development Permit shall be required for new development exceeding the density requirements specified in Article E of this Ordinance.
- (B) Application for a High Density Development Permit shall be addressed and submitted to the Town Council through the Watershed Administrator. Application for a High Density Development Permit shall be made on the proper form and shall include the following information:
- (1) A completed High Density Development Permit Application signed by the owner of the property. The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization;
 - (2) Ten (10) reproducible copies of the development plan including detailed information concerning built-upon area;
 - (3) Ten (10) reproducible copies of the plans and specifications of the stormwater control structure consistent with Section 9-3163;
 - (4) When required by law, written verification that a soil erosion and sedimentation control plan has been approved by the appropriate State or local agency;
 - (5) Permit Application Fees consistent with Section 9-3165;

- (C) Prior to taking final action on any application, the Board or the Watershed Administrator may provide an opportunity to public agencies affected by the development proposal to review and make recommendations on the application. However, failure of the agencies to submit their comments and recommendations shall not delay the Board's action within the prescribed time limit.
- (D) Public Hearing. Upon receipt of a completed application, the Town Council shall hold a public hearing. Notice of the hearing shall be published in a newspaper of general circulation at least seven days prior to the date of the hearing. The notice shall state the location of the building, lot or tract in question, the intended use of the property, the need for engineered stormwater controls and the time and place of the hearing. At the hearing, the applicant or designated representative thereof shall appear for the purposes of offering testimony and recommendations concerning the application. The Board shall also allot reasonable time for the expression of views by any member of the public attending the meeting in person or represented by an attorney provided the testimony bears on the findings the Board must make.
- (E) The Town Council shall issue a High Density Development Permit within sixty-five (65) days of its first consideration upon finding that the proposal is consistent with the applicable standards set forth in the Watershed Protection Ordinance and the following conditions are met:
 - (1) The use will not endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
 - (2) The use minimizes impacts to water quality through the Best Management Practices, cluster development, and/or maximum setbacks from perennial waters;
 - (3) The use is vital to the continued growth and economic development of the Town of Valdese.
 - (4) The use is consistent with the officially adopted land development plans for the Town of Valdese.

If the Town Council finds that any one of the above conditions is not met, the Board shall deny the application.

- (F) In addition to any other requirements provided by this Ordinance, the Board may designate additional permit conditions and requirements to assure that the use will be harmonious with the area in which it is proposed to be located and with the spirit of this Ordinance. All additional conditions shall be entered in the minutes of the meeting, at which the permit is granted, on all plans and on the permit

certificate. All conditions so imposed shall run with the land and shall be binding upon the applicant and the applicant's heirs, successors or assigns during the continuation of the permitted use.

- (G) The Board shall issue a written ruling and make copies available at the office of the Watershed Administrator and the Town Clerk. If the Board approves the application based on its findings, such approval shall be indicated on the permit and all copies of the site plan and all copies of the plans and specifications of the stormwater control structure(s). A High Density Development Permit shall be issued after the applicant posts a performance bond or other acceptable security as required in Section 9-3164(B)(1) and executes an Operation and Maintenance Agreement as required in Section 9-3164(C). A copy of the permit and one copy of each set of plans shall be kept on file at the Watershed Administrator's office. The original permit and one copy of each set of plans shall be delivered to the applicant either by personal service or registered mail, return receipt requested.

9-3163 Stormwater Control Structures

- (A) All stormwater control structures shall be designed by a North Carolina registered professional engineer.
- (B) All stormwater controls shall use wet detention ponds as a primary treatment system unless alternative stormwater management measures, as outlined in Section 9-3163(G), are used. Wet detention ponds shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Environmental Management. Specific requirements for these systems shall be in accordance with the following design criteria:
 - (1) Wet detention ponds shall be designed to remove 85% of total suspended solids in the permanent pool and storage run-off from a one-inch rainfall from the site above the permanent pool;
 - (2) The designed run-off storage volume shall be above the permanent pool;
 - (3) The discharge rate from these systems following the one-inch rainfall design storm shall be such that the run-off does not draw down to the permanent pool level in less than two (2) days and that the pond is drawn down to the permanent pool level within at least five (5) days;
 - (4) The mean permanent pool depth shall be a minimum of three (3) feet;
 - (5) The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features;
 - (6) Vegetative filters shall be constructed for the overflow and discharge of all stormwater wet detention ponds and shall be at least thirty feet in length.

The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow through the filter for a ten-year, 24-hour storm with a ten-year, one-hour intensity with a slope of 5% or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics; and

- (7) All stormwater control structures shall be enclosed by a fence with a minimum height of six (6) feet.
- (C) In addition to the vegetative filters required in Section 9-3163(B)(6), all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within thirty (30) days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement described in Section 9-3164(C).
- (D) An easement in the property containing the stormwater control structure allowing the Town of Valdese to perform inspections, maintenance, repairs, reconstruction, and any other acts which may be required in order for the Town of Valdese to carry out the provisions of this Article, along with any easements necessary for general access to the stormwater control structure shall be prepared consistent with Section 9-3167(A and B) and recorded in the office of the Register of Deeds of Burke County. The area in which this easement is granted shall include the detention pond, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs and reconstruction.
- (E) Qualifying areas of the stormwater control structure may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area.

9-3164 Posting of Financial Security Required

- (A) All new stormwater control structures shall be conditioned on the posting of adequate financial assurance for the purpose of maintenance, reconstruction, or repairs necessary for adequate performance of the stormwater control structures.
- (B) Financial assurance shall be in the form of the following:
 - (1) Security Performance Bond or other security. The permit applicant shall obtain either a performance bond from a surety bonding company authorized to do business in North Carolina, an irrevocable letter of credit or other instrument readily convertible into cash at face value payable to the Town of Valdese or placed in escrow with a financial institution

designated as an official depository of the Town of Valdese. The bond or other instrument shall be in an amount equal to 1.25 times the total cost of the stormwater control structure, as estimated by the applicant and approved by the Town. The total cost of the stormwater control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and, grading, excavation, fill, etc. The costs shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization.

- (2) Cash or Equivalent Security Deposited After the Release of the Performance Bond. Consistent with Section 9-3167(C)(1), the permit applicant shall deposit with the Town of Valdese either cash or other instrument approved by the Town Attorney that is readily convertible into cash at face value. The cash or security shall be in an amount equal to fifteen percent (15%) of the total cost of the stormwater control structure or the estimated cost of maintaining the stormwater control structure over a ten (10) year period, whichever is greater. The estimated cost of maintaining the stormwater control structure shall be consistent with the approved operation and maintenance plan or manual provided by the developer under Section 9-3165(A).
- (C) Consistent with Section 141(G), the permit applicant shall enter into a binding Operation and Maintenance Agreement between the Town of Valdese and all interests in the development. Said Agreement shall require the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and management plan or manual provided by the developer. The Operation and Maintenance Agreement shall be filed with the County Register of Deeds by the Watershed Administrator.
- (D) Default under the performance bond or other security. Upon default of the permit applicant to complete and/or maintain the stormwater control structure as specifically provided in the performance bond or other security, the Town of Valdese may obtain and use all or any portion of the funds necessary to complete the improvements based on an engineering estimate. The Town of Valdese shall return any funds not spent in completing the improvements to the owning entity.
- (E) Default under the cash security. Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the Operation and Maintenance Agreement, the Town of Valdese shall obtain and use all or any portion of the cash security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after exhausting all other reasonable remedies seeking the owning entity to comply with the terms and conditions of the Operation and Maintenance Agreement. The Town of Valdese shall not return any of the deposited cash funds.

9-3165 Maintenance and Upkeep

- (A) An operation and maintenance plan or manual shall be provided by the developer for each stormwater control structure, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken and, consistent with the Operation and Maintenance Agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a stormwater control structure to design specifications if a failure occurs.
- (B) Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the control structure is diminished or threatened, or to the extent of interfering with any easement to the stormwater control structure.
- (C) Except for general landscaping and grounds management, the owning entity shall notify the Watershed Administrator prior to any repair or reconstruction of the stormwater control structure. All improvements shall be made consistent with the approved plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Town Engineer shall inspect the completed improvements and shall inform the owning entity of any required additions, changes or modifications and of the time period to complete said improvements.
- (D) Amendments to the plans and specifications of the stormwater control structure and/or the operation and maintenance plan or manual shall be approved by the Town Council. Proposed changes shall be prepared by a North Carolina registered professional engineer and submitted to and reviewed by the Watershed Administrator prior to consideration by the Town Council.
 - (1) If the Town Council approve the proposed changes, the owning entity of the stormwater control structure shall file sealed copies of the revisions with the Office of the Watershed Administrator.
 - (2) If the Town Council disapprove the changes, the proposal may be revised and resubmitted to the Town Council as a new proposal. If the proposal has not been revised and is essentially the same as that already reviewed, it shall be returned to the applicant.
- (E) If the Town Council finds that the operation and maintenance plan or manual is inadequate for any reason, the Board shall notify the owning entity of any required changes and shall prepare and file copies of the revised agreement with the County Register of Deeds, the Office of the Watershed Administrator and the owning entity.

9-3166 Application and Inspection Fees

- (A) Processing and inspection fees shall be submitted in the form of a check or money order made payable to the Town of Valdese. Applications shall be returned if not accompanied by the required fee.
- (B) A permit and inspection fee schedule, as approved by the Town of Valdese, shall be posted in the Office of the Watershed Administrator.
- (C) Inspection fees shall be valid for sixty (60) days. An inspection fee shall be required when improvements are made to the stormwater control structure consistent with Section 9-3165(C), except in the case when a similar fee has been paid within the last sixty (60) days.

9-3167 Inspections and Release of the Performance Bond

- (A) The stormwater control structure shall be inspected by the Town, after the owning entity notifies the Watershed Administrator that all work has been completed. At this inspection, the owning entity shall provide:
 - (1) The survey plat showing the stormwater control structure and related easement(s), and the signed easement(s) ready for filing with the Burke County Register of Deeds;
 - (2) A certification sealed by an engineer or landscape architect (to the extent that General Statutes allow) stating that the stormwater control structure is complete and consistent with the approved plans and specifications.
- (B) The Watershed Administrator shall present the materials submitted by the developer and the inspection report and recommendations to the Valdese Town Council at its next regularly scheduled meeting.
 - (1) If the Town Council approve the inspection report and accepts the certification and deed of easement, the Town shall file the easement with the Burke County Register of Deeds, release up to seventy-five percent (75%) of the value of the performance bond or other security and direct the Burke County Buildings Inspections Department to issue a Certificate of Occupancy for the stormwater control structure.
 - (2) If deficiencies are found, the Town shall direct that improvements and inspections be made and documents corrected and submitted to the Town.
- (C) No sooner than one year after date of filing of the deed of easement, and maintenance agreement, the developer may petition the Town to release the remaining value of the performance bond or other security. Upon receipt of said

petition, the Town shall inspect the stormwater control structure to determine whether the controls are performing as designed and intended. The Watershed Administrator shall present the petition and findings to the Town Council.

- (1) If the Town Council approve the report and accepts the petition, the developer shall deposit with the Town of Valdese a cash amount equal to that described in Section 9-3164(B)(2), after which the Town Council shall release the performance bond or other security.
 - (2) If the Town Council does not accept the report and rejects the petition, the Town shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release of the performance bond or other security.
- (D) A Certificate of Occupancy from the Burke County Buildings Inspections Department shall not be issued for any building within the permitted development until the Town Council has approved the stormwater control structure, as provided in Section 9-3167(B).
- (E) All stormwater control structures shall be inspected at least on an annual basis to determine whether the controls are performing as designed and intended. Records of inspection shall be maintained on forms approved or supplied by the North Carolina Division of Environmental Management. Annual inspections shall begin within one year of filing date of the deed for the stormwater control structure.
- (F) In the event the Watershed Administrator discovers the need for corrective action or improvements, the Watershed Administrator shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Town shall inspect and approve the completed improvements.

9-3168 Remedies

- (A) If any subdivision, development and/or land use is found to be in violation of this Article, the Town may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$50, institute actions or proceedings to restrain, correct, or abate the violations; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. 143 - 215.6(a). Each day the violation continues shall constitute a separate offense.

- (B) If the Watershed Administrator finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

9-3169 Sanctions

In addition to the remedies described in Section 9-3168 of this Ordinance and consistent with G.S. 160A-175, the Valdese Town Council may seek enforcement of this Ordinance by assessing a civil penalty to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty in a prescribed period of time after being cited for violation of the Ordinance. Such violation may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. The court may issue an injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the rules of Civil Procedure in general and Rule 65 in particular. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith. Enforcement of this Ordinance may be by any one, all or a combination of the remedies authorized in this Ordinance. Each day's continuing violation shall be a separate and distinct offense.

9-3170 Criminal Penalties

Any person violating any provisions of this Article shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with NCGS 14-4. The maximum fine for each offense shall not exceed five hundred dollars (\$500). Each day that the violation continues shall constitute a separate offense.

Sections 9-3171 through 9-3180 reserved.