

Chapter 10
ADMINISTRATION AND ENFORCEMENT

SECTION:

XX-10-1: Administration

XX-10-2: Performance Security

XX-10-3: Enforcement

XX-10-1: ADMINISTRATION: This ordinance shall be administered and enforced by the zoning administrator. The zoning administrator's duties shall include, but not be limited to, the following:

- A. Periodically inspect buildings, structures, and uses of land to determine compliance with the terms of this ordinance.
- B. Notify, in writing, any person responsible for violating a provision of this ordinance, indicating the nature of the violation and ordering the action necessary to correct it.
- C. Order discontinuance of illegal use of land, buildings, or structures; order removal of illegal buildings, structures, additions or alterations; order discontinuance of illegal work being done; or take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions, including cooperation with the town attorney in the prosecution of complaints.
- D. Maintain permanent and current records of the zoning ordinance, including all maps, amendments, conditional uses, interim uses, variances, administrative permits, and site and building plans.
- E. Maintain permanent and current files of all permits, all certificates and all copies of notices of violation, discontinuance, or removal for such time as necessary to ensure a continuous compliance with the provisions of this ordinance and, on request, provide information to any person having a proprietary or tenancy interest in any specific property.
- F. Provide clerical and technical assistance to the planning commission, board of adjustments and appeals, and town board regarding zoning matters.
- G. Receive, file and forward as applicable to the board of adjustments and appeals, planning commission, or town board all applications for conditional use permits, variances, interim use permits, administrative permits, amendments or site plans as required herein. (Ord. 900, 18 Apr 22)

XX-10-2: PERFORMANCE SECURITY:

A. Financial Security Required:

- a. Upon approval of a development application as described in this ordinance, the town shall be provided with a financial guarantee in the form of a letter of credit or cash escrow approved prior to the issuing of building permits, initiation of work on the proposed improvements, or development, or the execution of a developer's agreement, whichever occurs first. Said security shall guarantee conformance and compliance with the conditions of the application approval and town ordinance provisions. The letter of credit or surety must meet the approval of the town as to form and issuing bank. The issuing bank must be an FDIC insured bank located within 100 miles of the town. The irrevocable letter of credit shall contain language requiring its automatic renewal prior to December 31 of each calendar year unless the town specifically approves cancellation of the letter of credit in writing.
- b. Specifically, the letter of credit shall contain language that it shall automatically renew for successive one-year terms unless, at 45 days prior to the next annual renewal date (which shall be December 31 of each calendar year), the financial institution issuing the letter of credit delivers written notice to the party requiring the security that it intends to modify the terms of, or cancel, this letter of credit. Written notice shall be considered effective if delivered to, or sent by certified mail, postage prepaid, and deposited in the U.S. mail, at least 45 days prior to the next annual renewal date addressed to, the party requiring the letter of credit as outlined in the notice section of the developer's agreement and is actually received by the town at least 30 days prior to the renewal date.

B. The security shall be in the amount equal to the 150 percent of the town's estimated cost of labor and materials for the proposed improvements or development.

C. The town shall hold the security until completion of the proposed improvements or development and a certificate of compliance with the application conditions and town ordinance provisions has been issued by the zoning administrator.

D. Failure to comply with the conditions of the application approval and town ordinances, provisions shall result in forfeiture of the security in whole or in part depending upon the degree of non-compliance and at the discretion of the zoning administrator.

- E. Whenever a performance guarantee is imposed by the town, the applicant shall be required to enter into a performance agreement with the town. This agreement is to provide authorization to the town to utilize the posted security for the enforcement of town ordinances and conditions of approval to mandate the completion of stipulated work should the applicant fail to meet the terms and conditions of the performance agreement. Said agreement shall hold harmless the town for completion of the work and address other matters as may be determined by the town attorney. (Ord. 900, 18 Apr 22)

XX-10-3: VIOLATION:

- A. The zoning administrator or their designee may institute in the name of the town any appropriate actions or proceedings against a violator as provided by statute, charter, or ordinance.
- B. Any person who violates any of the provisions of this ordinance shall, upon conviction thereof, be fined not more than the maximum penalty for a misdemeanor prescribed under state law plus the cost of prosecution. Each day that a violation is committed, or is permitted to exist, shall constitute a separate offense.
- C. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this ordinance and the town may pursue, by appropriate actions or proceedings, any additional remedies.
- D. Any violation of this ordinance for which a citation has been issued shall constitute sufficient grounds for denial of any application required by this ordinance or revocation of a permit that is related to the violation.
- E. In the event of a violation or the threatened violation of any provision of this ordinance, or any provision or condition of a permit issued pursuant to this ordinance, the town in addition to other remedies may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violation.
- F. Nothing in this section shall prevent the town from taking such other actions as are permitted under law, and the penalties provided here shall be cumulative.
- G. Any building or structure being erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or site hereafter erected or maintained, or land use made or permitted in violation of this ordinance, is hereby declared unlawful. (Ord. 900, 18 Apr 22)