

## **ARTICLE VII. ENFORCEMENT AND REVIEW**

### **Section 77: General Provisions**

Any building erected or improvements constructed contrary to any provision of this ordinance or any use of any building or land which is conducted, operated or maintained contrary to any provision of this ordinance or plan approved under the provisions of this ordinance shall be unlawful.

### **Section 78: Complaints Regarding Violations**

Whenever the administrator receives a written, signed complaint alleging a violation of this ordinance, he shall investigate the complaint, take action as he deems warranted, and inform the complainant in writing what, if any, action has been or will be taken.

### **Section 79: Persons Liable**

The owner, tenant, or occupant of any building or land or part thereof or other person who participates in, assists, directs, creates, or maintains a violation of this ordinance shall be subject to the penalties and remedies contained in this ordinance.

### **Section 80: Procedures Upon Discovery of Violations**

- (a) If the administrator finds that any provision of this ordinance is being violated, he shall send a written notice to the person responsible for the 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 notice may state what action the administrator intends to take if the violation is not corrected and shall advise the violator that the administrator's decision may be appealed to the board of zoning appeals in accordance with Section 43.
- (c) The administrator may seek enforcement by invoking any of the penalties or remedies authorized in Section 81 without prior written notice notwithstanding the provisions of subsections (a) and (b), above.

### **Section 81: Penalties and Remedies for Violations**

- (a) Criminal penalties

The violation of any provision of this ordinance or failure to comply with any of its requirements, including violations of any conditions enacted with grants of variances, special use permits or proffers, shall constitute a misdemeanor, punishable by a fine of not less than \$10.00 and not more than \$1,000.00.

(b) Infractions and Civil Penalties

- (1) Except for any violation resulting in injury to any person or persons, the violation of any of the provisions scheduled in subsection (7) below, shall subject the offender to a civil penalty of \$100.00 for the first violation and \$150.00 for each subsequent violation.
- (2) The designation of a particular violation of this ordinance as an infraction shall be in lieu of criminal sanctions and, except for any violation resulting in injury to any person or persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor, but shall not preclude other remedies available under this ordinance.
- (3) The administrator shall cause a summons to be served upon the violator in any manner authorized by law for service of process after serving notice of violation in accordance with Section 80 and if such violation has not ceased within the time specified in such notice.
- (4) The summons shall contain the following information:
  - (i) The name and address of the person charged.
  - (ii) The nature of the infraction and the ordinance provision(s) being violated.
  - (iii) The location, date and time that the infraction occurred or was observed.
  - (iv) The amount of the civil penalty assessed for the infraction.
  - (v) The manner, location and time in which the civil penalty may be paid to the town.
  - (vi) The right of the recipient of the summons to elect to stand trial for the infraction and the date of the trial.
- (5) The summons shall provide that any person summoned for an infraction may elect to pay the civil penalty by making an appearance in person or in writing by mail to the town treasurer prior to the date fixed for trial. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- (6) If a person charged with an infraction does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for an infraction authorized by this ordinance, it shall be the burden of the Town of Middleburg 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.

- (7) Any violation of the following provisions of this ordinance shall be deemed an infraction and shall be punishable by a civil penalty as provided in subsection (1), above.
- (i) Article XIV: Signs
  - (ii) Uses not permitted in district
  - (iii) Article V: Section 55, Zoning Permits
  - (iv) Non-conformance with approved plans
  - (v) Violation of permit conditions
- (c) This ordinance may also be enforced by any appropriate equitable or legal action.
- (d) Each day that any violation continues shall be considered a separate offense for purposes of the penalties and remedies specified in this section. However, in no event shall any violation arising from the same set of operative facts resulting in civil penalties be charged more frequently than once in any ten-day period and in no event shall a series of such specified violations result in penalties which exceed a total of \$3,000.

**Section 82: Permit Revocation**

- (a) A zoning, sign or special 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 approved, the requirements of this ordinance, or any additional requirements lawfully imposed by the permit-issuing authority.
- (b) All notice and hearing requirements of Article VI applicable to granting a special use permit shall be complied with before the special use permit may be revoked. The notice shall inform the permit recipient of the alleged grounds for the revocation.
- (1) The burden of presenting evidence sufficient to authorize the revocation of the permit shall be upon the party advocating revocation.
  - (2) A motion to revoke a permit shall include 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 10 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. The administrator shall provide a written statement of the decision and the reasons therefore to the permittee if the permit is revoked.

- (d) No person may continue to use land or buildings in the manner authorized by any zoning, sign, or special use permit after the permit has been revoked in accordance with this Section.

**Sections 83 through 86: Reserved**