

# 15

## ENFORCEMENT

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**RECODE**  
**CHATHAM** | UNIFIED  
DEVELOPMENT  
ORDINANCE

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# CHAPTER 15 ENFORCEMENT

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## 15.1 PURPOSE

This Chapter establishes the:

- A. Procedures to enforce compliance with this UDO and to mandate corrections for violations of this UDO or conditions of a development approval issued under this UDO; and
- B. The remedies and penalties available to Chatham County to enforce compliance with this UDO.

## 15.2 VIOLATIONS

### 15.2.1 GENERALLY

Any person who violates the provisions of this UDO is subject to the remedies and penalties it provides.

### 15.2.2 TYPES OF VIOLATIONS

The following activities, acts, failures to act, and conditions are violations of this UDO and will be enforced using the penalties and remedies provided by this Chapter, the [Chatham County Code](#), and any requirements or limitations of North Carolina law:

- A. **Development or Use Without Permit or Approval.** Any activity not authorized by the acquisition of all required permits, approvals, certificates, and authorizations required by this UDO;
- B. **Development or Use of Land Inconsistent With This UDO.** Any activity inconsistent with any zoning, subdivision, development, landscaping, sign, or general regulation of this UDO or any amendment to it;
- C. **Development or Use Inconsistent With Conditions of Approval.** Any activity inconsistent with any term, condition, or qualification placed by the County upon a required permit, certificate, rezoning, plan or plat approval, or other form of authorization granted by the County to allow the use,

subdivision, development, placement of signs, or other activity upon land or improvements of land;<sup>1</sup>

- D. **Making a Lot or Yard Nonconforming.** Reducing or diminishing any lot area, lot width, or setback so the lot or yard is smaller than prescribed by the requirements of this UDO;<sup>2</sup>
- E. **Increasing the Intensity of Use.** Increasing the intensity or density of use of any land or structure, except in accordance with the procedural and substantive requirements of this UDO;
- F. **Deficient Landscaping and Site Improvements.** Failing to install or maintain any landscaping, screening, or site improvements required by this UDO;
- G. **Removal of Vegetation in Buffers.** The unauthorized removal or disturbance of vegetation from required buffers, except in accordance with [Section 4.4: Landscaping & Screening](#). This excludes riparian buffers, which are subject to the provisions in [Chapter 8: Watershed & Riparian Buffer Protection](#);  
**Disrupting Notice.** Removing, defacing, obscuring, or interfering with any notice posted or made pursuant to this UDO;
- H. **Failing to Comply with a Stop Work Order.** Continuing construction or other site work on any development, building, or structure on any land or site after service of a Stop Work Order issued by the County;
- I. **Displaying a Temporary Sign Longer Than Permitted.** Displaying a temporary sign for longer than allowed by the associated approval;
- J. **Unauthorized Changes to Zoning Map.** Any change in zoning district boundaries on the Zoning Map not made in conformance with the procedures set forth in [Chapter 12: Procedures](#);
- K. **Conveyance of Land Without Approved Plat.** The sale or transfer of land by reference to, exhibition of, or any other use of a plat showing a subdivision of land before the plat has been properly approved under these regulations and recorded in the office of the Register of Deeds. The description by metes and bounds in the instrument of transfer or other documents used in the process of conveying land does not exempt the transaction from these regulations;<sup>3</sup>

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<sup>1</sup> Carries forward and augments ZO Section 5.6 *Non-Compliance with [Conditional] District Conditions*, ZO Section 17.3 *Violations (SUPs)*, and ZO Section 23.3 *Violations of an Approved Special Use Permit*.

<sup>2</sup> Carries forward ZO Section 8.3 *Reduction of Lot and Yard Areas Prohibited*.

<sup>3</sup> Carries forward SR Section 1.14.A *Prohibited Acts, Enforcement, and Penalties*.

- L. **Recording of Unapproved Non-Exempt Plat.** The recording by the Register of Deeds of a plat of any subdivision when the County has not approved the plat in the manner prescribed by this UDO;<sup>4</sup>
- M. **Recording of Unapproved Exempt Plat.** The recording by the Register of Deeds of a plat of any subdivision or division of land when the Planning Department has not reviewed and confirmed the subdivision is exempt from these regulations and the owner has also certified the subdivision is exempt from this UDO;<sup>5</sup>
- N. **Issuance of Permits for Unapproved Lots.** The issuance of permits for the construction of any building or structure located on a lot or other division of land that was not properly created and approved, as provided by this UDO;<sup>6</sup>
- O. **Authorization to Extend, Connect, or Construct Utilities to Serve Unapproved Lots.** The authorization to extend, connect, or construct any public or private facilities or services to a lot or other division of land that was not properly created and approved, as provided by this UDO;<sup>7</sup>
- P. **Violation of County-Enforced State Law.** Failure to comply with any State law delegated to local governments for enforcement purposes in lieu of the State; and<sup>8</sup>
- Q. **Other Acts.** Any other act prohibited by this UDO or the failure to perform any act required by this UDO is a violation under this Section and is punishable under this UDO.

## 15.3 ENFORCEMENT PROCEDURES<sup>9</sup>

### 15.3.1 RESPONSIBILITY FOR ENFORCEMENT

- A. Except as provided in 15.3.1B, 15.3.1C, and 15.3.1D, below, the Zoning Administrator and Subdivision Administrator are responsible for enforcing all provisions of the UDO.

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<sup>4</sup> Carries forward a portion of SO Section 1.14.B [Prohibited Acts, Enforcement, and Penalties].

<sup>5</sup> Carries forward a portion of SO Section 1.14.B [Prohibited Acts, Enforcement, and Penalties].

<sup>6</sup> Carries forward a portion of SO Section 1.14.C [Prohibited Acts, Enforcement, and Penalties].

<sup>7</sup> Carries forward a portion of SO Section 1.14.C [Prohibited Acts, Enforcement, and Penalties].

<sup>8</sup> This Paragraph carries forward a portion of the first sentence in ZO Section 21 *Penalty for Violations*.

<sup>9</sup> This Section specifies responsibility for enforcement actions, notification, cure periods, and enforcement actions.

- B. The Fire Marshal is responsible for enforcing **Section 4.3: Fire Protection**. County Code **Chapter 93: Fire Prevention and Protection** specifies enforcement procedures.
- C. The Director of Public Utilities is responsible for enforcing **7.3.4: Utilities** and **7.3.6: Water Supply**.
- D. Enforcement procedures for the UDO chapters listed below is specified within the text of the respective chapter:
1. Chapter 8: *Watershed Protection* (see **Section 8.8: Enforcement**);
  2. Chapter 9: *Stormwater Management* (see **Section 9.9: Violations & Enforcement**);
  3. Chapter 10: *Soil Erosion & Sedimentation Control* (see **Section 10.15: Inspections & Investigations**); and
  4. Chapter 11: *Flood Damage Prevention* (see **Section 11.3: Administration**).

### 15.3.2 NOTICE OF VIOLATION<sup>10</sup>

- A. If the Zoning Administrator or Subdivision Administrator identifies a violation of any of the provisions of this UDO they are responsible for enforcing pursuant to 15.3.1: Responsibility for Enforcement, they must provide a written Notice of Violation to the person(s) specified in 15.3.2B, below. The notice must:<sup>11</sup>
1. Indicate the nature of the violation;
  2. Specify the UDO section(s) violated;
  3. Include the date(s) of the violation;
  4. Order the person to immediately cease the violation, or order the action necessary to correct the violation and establish the number of days within which the person must correct the violation;
  5. Specify that a second citation will incur a civil penalty, if applicable; and

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<sup>10</sup> Carries forward and consolidates SR Section 1.14.D, a portion of ZO Section 20.1 *Zoning Administrator*, and ZO Section 21 *Penalty for Violations*. Changes “Planning Department to “Subdivision Administrator.” This Paragraph is consistent with § 160D-404 *Enforcement*.

<sup>11</sup> Paragraph (1)(c) and (1)(d) incorporate JYCO Section 111.09(D)(1).

6. Advise the person of their right to appeal to the Board of Adjustment as provided in [Section 12.11: Appeals of Administrative Decisions](#).
- B. The Zoning Administrator or Subdivision Administrator shall provide the Notice of Violation to the holder of the development approval and the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail.
1. The Zoning Administrator or Subdivision Administrator may provide notice by similar means to the occupant of the property or to the person undertaking the work or activity.
  2. The person providing the Notice of Violation shall certify to the local government that the notice was provided, and the certification shall be deemed conclusive in the absence of fraud.<sup>12</sup>
- C. The Zoning Administrator or Subdivision Administrator may post a Notice of Violation on the subject property.

### 15.3.3 ACTION BY ZONING ADMINISTRATOR OR SUBDIVISION ADMINISTRATOR<sup>13</sup>

- A. The Zoning Administrator or Subdivision Administrator may:
1. Order discontinuance of illegal use of land, buildings, or structures;
  2. Order removal of illegal buildings or structures or additions, alterations, or structural changes thereto;
  3. Take any action authorized by 15.4: Remedies & Penalties; or
  4. Take any other action authorized by this UDO and governing law to ensure compliance with or prevent violations of its provisions.

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<sup>12</sup> This new sentence is from § 160D-404(a).

<sup>13</sup> Carries forward a portion of ZO Section 20.1 *Zoning Administrator*, adds “Subdivision Administrator” to reflect the consolidation of zoning and subdivision regulations into a UDO and changes “shall” to “may” since these actions are optional based on the type of violation.

### 15.3.4 INSPECTIONS AUTHORIZED<sup>14</sup>

- A. In accordance with N.C.G.S. [§ 160D-403\(e\)](#), Chatham County staff may inspect work undertaken pursuant to a development approval to ensure the work is being completed in accordance with applicable State and local laws and the terms of the approval.
- B. In exercising this power, staff are authorized to enter any premises within Chatham County's jurisdiction at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. The holder of the development approval or the current landowner of the property must provide the appropriate consent for inspection of areas not open to the public. If the holder of the development approval or the current landowner does not consent, staff must secure an appropriate inspection warrant.

### 15.3.5 IMMEDIATE ENFORCEMENT

If the Zoning Administrator or Subdivision Administrator determines that a delay would seriously threaten the effective enforcement of this UDO or pose a danger to the public health, safety, or welfare, the Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in this Chapter.<sup>15</sup>

## 15.4 REMEDIES & PENALTIES

### 15.4.1 GENERALLY<sup>16</sup>

The County may use one, all, or any combination of the following remedies and penalties to enforce compliance with this UDO.

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<sup>14</sup> Carries forward a portion of ZO Section 20.1 *Zoning Administrator* and changes "administrative staff" to "Chatham County staff." Minor revisions in C.2. to limit the use of passive voice.

<sup>15</sup> Carries forward last paragraph of ZO Section 21 *Penalty for Violations* and JYCO Section 111.09(D)(2). This language is from N.C.G.S. [§ 160D-403\(f\)](#), with minor revisions to limit passive voice and additions as noted in the footnotes.

<sup>16</sup> Carries forward the last sentence of the eighth paragraph of ZO Section 21 *Penalty for Violations* with minor revisions.



### 15.4.2 ISSUANCE OF A STOP WORK ORDER

- A. When ongoing development violates this UDO in a manner specified in 15.2: Violations, the Zoning Administrator or Subdivision Administrator may issue a written Stop Work Order to the person conducting the work.
- B. The Stop Work Order must describe the work that must cease, the reason the work must cease, and the action(s) necessary to lawfully resume work.
- C. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the County that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud.
- D. The issuance of a Stop Work Order by a staff member may be appealed to the Board of Adjustment as provided in Section 12.11: *Appeals of Administrative Decisions*. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal.
- E. If the person conducting the work violates the Stop Work Order, the County may immediately assess a fine of \$500 per day for each day the work continues.<sup>17</sup>

### 15.4.3 WITHHOLDING ACCEPTANCE OF APPLICATIONS<sup>18</sup>

- A. The County may decline to accept any application specified in **Chapter 12: Procedures** or other chapter of the UDO until the lot owner resolves all UDO violations related to the lot and pays all related fines. In instances where the action proposed in the application would resolve the violation, the County may accept and process the application.
- B. The County may decline to accept any application specified in **Chapter 12: Procedures** or other chapter of the UDO when the subject property was timbered in violation of development regulations, and the timber harvest results in the removal of all or substantially all of the trees that were protected under County regulations governing development of the property. The County may decline to accept the application for:

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<sup>17</sup> Last sentence of SR Section 1.14.F [*Prohibited Acts, Enforcement, and Penalties*]

<sup>18</sup> These provisions are new.

1. Up to three years after the completion of the timber harvest; or
2. Up to five years after the completion of the timber harvest if the harvest was a willful violation of County regulations.

#### 15.4.4 WITHHOLDING OF A DEVELOPMENT APPROVAL<sup>19</sup>

- A. The County may deny or withhold all development approvals or other forms of authorization on any building, structure, land, or improvements upon land on which there is an uncorrected UDO violation. The County shall not issue the development approval until all violations are resolved and any fines levied are paid.
- B. In instances where the issuance of the authorization would resolve the violation, the County may, instead of withholding or denying an authorization, grant the authorization.
- C. In instances where evidence of a violation is noted after the acceptance, processing, and/or issuance of a permit or other authorization, all activity with regards to the processing of the application, including inspections, shall cease until the lot is brought into compliance and all fines levied are paid.
- D. In situations where a property for which any development approval is sought was timbered in violation of development regulations, and the timber harvest results in the removal of all or substantially all of the trees that were protected under County regulations governing development of that tract, the County may withhold the development approval for:
  1. Up to three years after the completion of the timber harvest; or
  2. Up to five years after the completion of the timber harvest if the harvest was a willful violation of County regulations.
- E. This Section applies regardless of whether the current owner or applicant is responsible for the violation in question.

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<sup>19</sup> Carries forward SR Section 1.14.G [*Prohibited Acts, Enforcement, and Penalties*] in Paragraph D; other paragraphs are new provisions.

### 15.4.5 REVOCATION OF DEVELOPMENT APPROVAL<sup>20</sup>

#### A. **Generally.**

1. The Zoning Administrator or Subdivision Administrator may, in accordance with this Section, revoke a development approval issued by staff.
2. When an appointed or elected body issued the development approval, review and approval of any revocation of that development approval must follow the same review process required for issuance of the development approval, including any required notice or hearing. [See [Chapter 12: Procedures](#)]

#### B. **Basis for Revocation.** The decision-making body may revoke a development approval at any time prior to the completion of the use, building, structure, development, site improvement, or subdivision for which the development approval was issued, when the decision-making body determines one or more of the following conditions is present:

1. The development substantially departs from the approved application, plans, specifications, or conditions required under the terms of the permit;<sup>21</sup>
2. The applicant or their agent refuses or fails to comply with the requirements of any applicable local development regulation or any State law delegated to the County for enforcement purposes in lieu of the State;
3. The applicant secured the approval using false statements, misrepresentations, or materially incorrect information;<sup>22</sup> or
4. The County mistakenly issued the development approval in violation of an applicable State or local law.

#### C. **Notice of Revocation.**

1. The County must notify the applicant in writing of the revocation or the intent to consider revocation of the development approval. The notice

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<sup>20</sup> This Section allows revocation of a permit if the applicant provided materially incorrect information, if the applicant fails to comply with a condition, or if the County issued the permit or approval in error.

<sup>21</sup> Adds “conditions required under the terms of the permit” to the statutory language.

<sup>22</sup> Adds “materially incorrect information” to the statutory language.

must specify the reason for the revocation or the intent to consider revocation.

2. If an appointed or elected body issued the development approval, the notice must also specify the date, time, and location of the meeting at which the appointed or elected body will consider revocation.
3. When notice of revocation or the intent to consider revocation is served, all further construction, use, or development of the lot must cease.

#### D. **Appeal of Revocation.**

1. The revocation of a development approval by a staff member may be appealed to the Board of Adjustment as provided in [Section 12.11: Appeals of Administrative Decisions](#).
2. The revocation of a development approval by an appointed or elected body may be appealed as provided in [Chapter 12: Procedures](#) for the particular type of development approval.
3. If an appeal is filed regarding a UDO development regulation adopted pursuant to N.C.G.S. Chapter 160D, the provisions of [§ 160D-405\(f\)](#) regarding stays applies.

### 15.4.6 CIVIL CITATIONS<sup>23</sup>

A. **Generally.** If the holder of the development approval or the landowner of the property involved, as applicable, fails to obey a Notice of Violation, the Zoning Administrator or Subdivision Administrator may issue a civil citation.

#### B. **Service of Citation.**

1. The Zoning Administrator or Subdivision Administrator must serve this citation:

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<sup>23</sup> Carries forward and consolidates JYCO 111.99(B) [*Penalty*], SR Section 1.14.F [*Prohibited Acts, Enforcement, and Penalties*] and the third, fourth, and fifth paragraphs of ZO Section 21 *Penalty for Violations* with minor revisions to limit the use of passive voice. Replaces the term “violator” with “the holder of the development approval or the landowner of the property involved” and “the person who received the Notice of Violation” for consistency with [15.3.2: Notice of Violation](#).

- (a) Directly on the person who received the Notice of Violation, their duly designated agent, or their registered agent if the violator is a corporation; and
    - (b) Either in person or posted in the United States mail service by first class mail addressed to the last known address of the person who received the Notice of Violation as contained in the records of the County or obtained from the person at the time of issuance of the Notice of Violation.
  2. The person who received the Notice of Violation is deemed to have been served upon the mailing of the civil citation.
- C. **Payment of Citation.** The civil citation shall direct the recipient to pay the citation to the Chatham County Planning Department within 15 days of the date of the citation, or alternatively to pay the citation by mail.
- D. **Additional Citations.** The violation for which the citation is issued must have been corrected by the time the citation is paid, otherwise the County may issue further citations.
1. Citations may be issued for each day the offense continues until the violation is corrected.
  2. Each day's continuing violation of any provision of this UDO is a separate and distinct offense. This means that on the 16th day of non-compliance, civil penalties will accrue on a daily basis as long as the violation continues.
- E. **Civil Penalties.** The civil penalty, if not paid to the Planning Department within 15 days of the issuance of a citation, may be recovered by the County in a civil action in the nature of debt.
1. Civil penalties will be assessed in the amount of \$50.00 per day for the first violation.
  2. If the same violation occurs on the same property within six years after the initial violation is remedied, a civil penalty in the amount of \$100.00 per day automatically applies.
  3. If the same violation occurs on the same property within six years after the second occurrence of the violation is remedied, a civil penalty in the amount of \$200.00 per day automatically applies.

4. If the same violation occurs on the same property within six years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of \$500.00 per day automatically applies.
5. Civil penalties will continue to accrue until compliance has been met on the property.
6. The Zoning Administrator and Subdivision Administrator may waive the escalation of the penalty if the violator is working to correct the violation in good faith and has made tangible progress during the grace period.

### 15.4.7 INJUNCTIONS & ORDERS OF ABATEMENT

#### A. **Injunctions.**<sup>24</sup>

1. The County may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction ordering the defendant to correct the unlawful condition upon or cease the unlawful use of the property.
2. The County may enjoin illegal subdivision, transfer, or sale of land by action of injunction. The illegal subdivision, transfer, or sale of land is a misdemeanor punishable by a fine or by imprisonment for a term not exceeding 30 days, as provided in N.C.G.S. [§ 160D-807](#).<sup>25</sup>
3. 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.

#### B. **Orders of Abatement.**<sup>26</sup> The County may seek an order of abatement as a part of the judgment in the case. An order of abatement may direct that:

1. Buildings or other structures on the property are closed, demolished, or removed;
2. Fixtures, furniture, or other movable property is removed from buildings on the property;

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<sup>24</sup> Carries forward the seventh paragraph of ZO Section 21 *Penalty for Violations* with minor revisions to streamline the language.

<sup>25</sup> Carries forward SR Section 1.14.E [*Prohibited Acts, Enforcement, and Penalties*].

<sup>26</sup> Carries forward the eighth paragraph of ZO Section 21 *Penalty for Violations*.

3. Junk is removed from illegal junk yards;<sup>27</sup>
4. Improvements or repairs are made; or
5. Any other action necessary to bring the property into compliance with this UDO.

C. **Failure to Comply.**

1. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, they may be cited for contempt, and the County may execute the order of abatement.
2. If the County executes an order of abatement, the County shall place a lien on the property for the cost of executing the order of abatement in the nature of a mechanic's and material man's lien.
3. 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.
  - (a) 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.
  - (b) Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction therewith.

### 15.4.8 OTHER REMEDIES<sup>28</sup>

- A. In addition to the penalties set out above, any provision of this UDO may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- B. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the County for equitable relief that there is an adequate remedy at law.

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<sup>27</sup> Carries forward a portion of JYCO Section 111.99(C) [*Penalty*].

<sup>28</sup> Carries forward the sixth paragraph of ZO Section 21 *Penalty for Violations*.