

8. ENFORCEMENT

8.1 PURPOSE AND APPLICABILITY

- 8.1.1 This section establishes procedures the Town may use to enforce the provisions of this Ordinance, and penalties for use in its enforcement.
- 8.1.2 This section applies to any matter deemed a violation of this Ordinance.

8.2 VIOLATIONS

Each of the following is a violation of this Ordinance and subject to the remedies and penalties provided by this section and state law.

8.2.1 Development without Permit

Engaging in any development, use, construction, remodeling, or other activity of any nature regulated by this Ordinance without first obtaining all required permits, certificates or other forms of authorization required by this Ordinance.

8.2.2 Development Inconsistent with Permit

Engaging in any development, use, construction, remodeling, alteration of a site or landscape features, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity. This includes non-performance of routine and regular maintenance that does not sustain an approved development to the standards set forth in the development or permit approval.

8.2.3 Violation by Act or Omission

Violation by act or omission of any term, variance, modification, condition, or qualification placed by the Town Board, its agent boards or staff upon any required permit, certificate, or other form of authorization for the use, development or other activity upon land or improvements thereon.

8.2.4 Use in Violation

The erection, construction, reconstruction, alteration, repair, conversion, maintenance or use of any building or structure, or the use of any land in violation or contravention of this Ordinance, or any other regulation made under this Ordinance.

8.2.5 Subdivide in Violation

Subdivision of land in violation of this Ordinance, or transferring or selling land by reference to, exhibition of or any other use of a plat or map showing a subdivision of land before the plat or map has been approved under this Ordinance and recorded in the Orange County Register of Deeds office. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this Ordinance.

8.2.6 Violations of Referenced Manuals

Violation of any adopted manuals, standards, or other documents for which this Ordinance

requires compliance.

8.2.7 Violations of Conditions of Approval

Violation of any conditions attached to a variance, Special Use Permit or other development approval authorized or required by this Ordinance.

8.2.8 Continue a Violation

Continuing any of the above violations is a separate and distinct offense. Each day that a violation continues constitutes a new and separate violation.

8.3 RESPONSIBLE PERSONS

The owner, tenant, or occupant of any land or structure, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains (actively or passively) any situation contrary to the requirements of this Ordinance, may be held responsible for the violation and be subject to the penalties provided herein.

8.4 INSPECTIONS AND INVESTIGATIONS

8.4.1 Inspections

Staff may upon presentation of proper credentials or inspection warrant, if necessary, enter onto any public or private property or premises within the Town’s planning jurisdiction at any reasonable hour for purposes of inspection, determination of plan compliance, investigation of any complaints or violations, or other enforcement action. No person may obstruct, hamper, or interfere with staff while they carry out their duties.

8.4.2 Supporting Documentation

Staff may require written statements, certificates, certifications, or the filing of reports with respect to pertinent questions relating to complaints or alleged violations.

8.4.3 Failure to Comply

Staff’s failure to observe or recognize conditions that violate this Ordinance does not relieve the responsible person(s) from responsibility for the resulting conditions or damages, if any, and does not result in staff liability for such conditions or damages.

8.5 ENFORCEMENT PROCEDURE

8.5.1 Enforcement Procedure

Staff, after inspecting/investigating an alleged violation and determining a violation exists, will notify the responsible person(s) of the violation.

8.5.2 Notice of Violation

- (a) Staff will give the responsible person(s) written notice by either certified or registered mail, first class mail, personal delivery, electronic delivery, or posting a notice conspicuously on the property, of the following:

- (1) that the land, building, structure, sign, or use is in violation of this Ordinance;
- (2) the nature of the violation including citation of the Ordinance provision or permit condition violated;
- (3) necessary measures required to correct the violation;
- (4) the date in which the violation must be corrected;
- (5) that penalties may be assessed, or other corrective remedies pursued; and
- (6) that the responsible person(s) has the right to appeal the Notice to the Board of Adjustment as specified in subsection 3.11, Appeal, of this Ordinance.

- (b) If the notice by first class mail is not returned within 10 days of its mailing, and the registered or certified mail is returned, refused or unclaimed, service by first class mail shall be deemed sufficient. If only the notice by first class mail is used, a notice of violation shall also be posted in a conspicuous place on the premises in violation.

8.5.3 Failure to Comply with Notice

Responsible persons failing to comply with a Notice of Violation where no appeal was taken, or the Board of Adjustment's final decision following an appeal are upheld, are subject to the remedies and penalties provided by state law and subsection 8.6, Remedies, of this Ordinance.

8.6 REMEDIES

8.6.1 Cumulative

All available remedies for violations of this Ordinance are cumulative. To the extent North Carolina law may limit the availability of a particular remedy for a certain violation, that remedy remains available for other violations or parts of the same violation.

8.6.2 Repeat Violations

Responsible person(s) who repeat the same violation within a two-year period from the initial violation date will be considered in continued violation of the initial violation and subject to additional penalties and remedies.

8.6.3 Referral to Town Attorney

In addition to other remedies provided by law, whenever the Planning Director has reasonable cause to believe that any person is violating this Ordinance, the matter may be referred to the Town Attorney.

8.6.4 Available Remedies

Any or all the following penalties and remedies may be used in enforcing this Ordinance.

8.6.4.1 Injunction or Other Relief

Violations of this Ordinance or of any permit condition, order, requirement, or remedy adopted pursuant to this Ordinance may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law. Institution of an action for injunctive relief does not relieve any party to such proceedings from issuance of civil penalties.

8.6.4.2 Civil Penalties

Responsible persons violating any provision of this Ordinance may be subject to the assessment of a civil penalty in accordance with subsection 8.7, Civil Penalty Assessment.

8.6.4.3 Conditional Permit or Temporary Certificate

Staff may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security in an amount using the calculation method specified by paragraph 3.14.12, Authorizing Occupancy Before Completion of Development.

8.6.4.4 Stop Work Orders

Whenever a building, structure, sign, or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, staff may order the work to be immediately stopped. The stop work order must be directed to the owner, occupant, or person doing the work and state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Delivery shall be by personal delivery, electronic delivery, or first-class mail.

8.6.4.5 Revocation of Permits or Certificates

- (a) Zoning Compliance Permits: Staff may revoke and require the return of a permit by notifying the permit holder in writing stating the reason for the revocation. Permits or certificates may be revoked for any substantial departure from the approved application, plans, or specifications, the refusal or failure to comply with the requirements of state or local laws, or false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of an applicable state or local law may also be revoked.
- (b) Special Use Permits: Before a Special Use Permit may be revoked, all the notice, hearing, and other applicable requirements of subsection 3.8, Special Use Permit, shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation. In hearing cases involving Special Use Permit

revocation:

- 1. The burden of presenting evidence sufficient to authorize the Board of Adjustment to conclude that a Special Use Permit should be revoked shall be upon the party advocating that position.
- 2. The burden of persuasion shall also be upon that party. A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

8.6.4.6 Denial of Permits or Certificates

Staff may deny issuance of a Zoning Compliance Permit or refuse to sign off on a Certificate of Occupancy/Compliance relative to property on which a violation exists. Additionally, staff may recommend denial of any permit, certificate or approval sought from a Town-appointed board charged with issuing permits, certificates, and approvals by this Ordinance if there are ongoing violations on the property for which such permit is sought.

8.6.4.7 Abatement

- (a) The Planning Director is authorized to summarily abate any violation that continues to exist after the expiration of the correction period provided in subsection 8.7, Civil Penalty Assessment.
- (b) The expense of the action shall be paid by the responsible person(s) in default.
- (c) If the expense is not paid, it is a lien on the land or premises where the abatement action occurred. The lien shall have the same priority and be collected as unpaid ad valorem taxes.
- (d) The expense of the action is also a lien on any other real property within the Town’s planning jurisdiction owned by the responsible person(s) in default, except for the responsible person's primary residence. This secondary lien is inferior to all prior liens and shall be collected as a money judgment.
- (e) The provisions of this sub-paragraph do not apply if the responsible person(s) in default can show that the violation was created solely by the actions of another.

8.6.4.8 State and Common Law Remedies

In addition to other enforcement provisions contained in this subsection, the Town may exercise all enforcement powers granted to it by state law or common law.

8.6.4.9 Previous Enforcement

Nothing in this Ordinance prohibits continuation of previous enforcement actions.

8.7 CIVIL PENALTY ASSESSMENT

8.7.1 Notice

Civil penalties may not be assessed until the responsible person(s) alleged to be in violation has been notified in accordance with paragraph 8.5.2, Notice of Violation. If the responsible person(s) fails to take corrective action or file an appeal after receiving notice, then a civil penalty may be imposed in the form of a citation. The citation shall be served in the same manner as a notice of violation. The citation shall state the nature of the violation, the civil penalty to be imposed, and direct the responsible person(s) to pay the civil penalty within 15 days of the citation’s issuance date.

8.7.2 Continuing Violations

The responsible person(s) will be guilty of an additional and separate offense, and subject to an additional civil penalty, for each day the violation remains uncorrected.

8.7.3 Penalty Amounts

8.7.3.1 Civil Penalties for Violations Excepting Stormwater Management Violations: The following table contains the schedule for civil penalty assessments that may be levied for violations of all sections of this Ordinance excepting subsection 6.20, Stormwater Management (see item 8.7.3.2, Civil Penalties for Stormwater Management Violations, below):

Notice	Civil Penalty Amount
1 st Violation	\$200.00
2 nd Violation	\$300.00
3 rd Violation	\$400.00
4 th and Subsequent Violations	\$500.00

8.7.3.2 Civil Penalties for Stormwater Management Violations: Civil penalties for violations of subsection 6.20, Stormwater Management, are set by NCGS 143-215.6A. The statutory civil penalty limit is \$25,000.00 per violation and, for continuous violations, \$25,000.00 per violation per day.

8.7.4 Demand for Payment

8.7.4.1 Notice

Staff will determine the civil penalty amount to be assessed and make written demand for payment upon the responsible person(s). The demand must include a description of the violation. Separate notices must be provided for the first, second, third and fourth violation. Penalties may be assessed and accrue daily, without further notice to the responsible person(s) after the fourth notice is sent.

8.7.4.2 Referral to Town Attorney

If payment is not received within 30 days after written demand for payment is made, the Planning Director may refer the matter to the Town Attorney who is authorized to institute a civil action in the name of the Town in the appropriate division of the General Court of Justice for recovery of the penalty.

8.7.4.3 Adjustment

Staff may reduce the assessed penalties based on criteria set forth in 8.7.4.5. Modification of penalties is at the sole discretion of the Planning Director.

8.7.4.4 Nonpayment

If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to the Town Attorney to institute a civil action for recovery of the penalty.

8.7.4.5 Factors to Consider in Assessing Penalties

Civil penalties shall be assessed where new and continuing violations of this ordinance exist. Adjustments may be granted when requested in writing by the responsible person(s) outlining the justifications of such adjustments. Situations involving adjustments may include performance-based progress made on violations. No adjustments shall be issued for a lack of timely action by responsible person(s).

8.8 PREVENTION OF DEMOLITION BY NEGLECT**8.8.1 INTENT**

The purpose of this Ordinance is to permit the Town of Hillsborough, through its Historic District Commission and its Planning Department, to protect the Town's historic architectural resources by intervening when a significant resource is undergoing demolition by neglect.

Demolition by neglect occurs when the condition of an improved property located in the Historic District is deteriorating in such a way as to threaten the structural integrity or the relevant, significant architectural detail of the structure such that the structure or its character may be lost to current and future generations.

A significant resource, as the term is used in this Ordinance, is defined as any property, structure or architectural resource designated as an historic landmark, or designated as "contributing" in the Hillsborough Historic District's nomination to the National Register of Historic Places, or in the Hillsborough Historic District Architectural Inventory of 1996, or which has gained significance through amendments to the 1996 Inventory prepared by an architectural historian.

8.8.2 STANDARDS

The exterior features of the building or structure found to have significance (the term is defined above) located within the Historic District shall be preserved by the owner, or such other person as may have legal possession, custody, and control thereof, against decay and deterioration and kept free from structural defects. The owner, or other person having such legal possession, custody, and

control, shall upon written request by the Town, stabilize or repair the exterior features of a significant building or structure if they are found to be deteriorating, or if their condition is contributing to deterioration of the property or the district. The following conditions are examples of (by way of illustration, but not limitation) defects which may constitute, or result in a finding of, demolition by neglect:

- 8.8.2.1** Deterioration of exterior walls, foundations, or other vertical support which results in leaning, sagging, splitting, listing, or buckling,
- 8.8.2.2** Deterioration of flooring or floor supports, roofs, or other horizontal members which results in leaning, sagging, splitting, listing, or buckling,
- 8.8.2.3** Deterioration of external chimneys which results in leaning, sagging, splitting, listing, or buckling of the chimney,
- 8.8.2.4** Deterioration or crumbling of exterior plasters or mortars where there is evidence that such condition exposes structural elements to decay,
- 8.8.2.5** Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors or broken or malfunctioning gutters,
- 8.8.2.6** Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering,
- 8.8.2.7** Rotting, holes, and other forms of decay where there is evidence that such condition has exposed structural elements,
- 8.8.2.8** Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling,
- 8.8.2.9** Deterioration of contributing accessory structures; or
- 8.8.2.10** Overgrown plants/landscaping features which threaten the structural integrity or relevant, significant architectural detail of a structure.

8.8.3 PROCEDURE FOR ENFORCEMENT

- 8.8.3.1** Any citizen who believes demolition by neglect is occurring with respect to any particular property in the Historic District, may make a written complaint to the Planning Director. The Planning Director may also initiate this enforcement process by filing a written complaint. Such a complaint must include a clear description of the property and the nature of the deterioration claimed to constitute demolition by neglect.
- 8.8.3.2** Upon the receipt of a complaint, the Planning Director will conduct a preliminary investigation and prepare a staff report concerning the property which is the subject of the complaint. The Planning Director may inspect the entire property as part of their investigation and is not limited in their investigation to the specific conditions identified in the original complaint. The Planning Director who makes the preliminary investigation may

consult with professionals including, but not limited to, architects, landscape architects, engineers, building inspectors and historic preservationists, during the investigation.

- 8.8.3.3** The Planning Director shall make a written report of their preliminary inspection. If, upon investigation, the Planning Director determines that a structure may be undergoing demolition by neglect, they will notify the property owner in writing that a complaint and staff report concerning the property will be brought before the Historic District Commission at a meeting held no fewer than thirty (30) days nor more than sixty (60) days from the date of the notice. If the preliminary investigation does not substantiate the complaint, the complaint will be considered resolved and no further action will be taken.
- 8.8.3.4** The notice to the property owner shall include a copy of the Planning Director's staff report concerning the structure, a description of the demolition by neglect review process, how the property owner can resolve the issue immediately, and a list of financial resources which may be available to assist the owner.
- 8.8.3.5** The Planning Director will forward the complaint and staff report to the Historic District Commission to be considered at its next regularly scheduled meeting within the time period described in Section 8.8.3.3 above.
- 8.8.3.6** The Historic District Commission will review the complaint and staff report at a regular meeting.
- 8.8.3.7** If the Historic District Commission finds that the structure may be undergoing demolition by neglect, it shall file an order directing the Planning Director conduct an administrative hearing to determine whether the subject property is undergoing demolition by neglect. The order shall describe the demolition by neglect found during the Planning Director's preliminary inspection of the full property.
- 8.8.3.8** Whenever such an order is filed with the Planning Director, a copy shall be mailed to the property owner or such other person as may have legal possession, custody or control of the property. The Planning Director shall also issue and cause to be delivered to the owner and/or such other person who may have legal possession, custody, and control thereof, as the same may be determined by reasonable diligence, a written Notice stating that the Historic District Commission has reason to believe that the property is undergoing demolition by neglect, identifying the specific condition(s) at the property which have led to that determination, and advising that an administrative hearing will be held before the Planning Director at a place within the Town not less than thirty (30) nor more than forty-five (45) days from the date of the Notice; that the owner and/or parties in interest have the right to answer and to give testimony at the administrative hearing. The Historic District Commission shall also be given notice of the administrative hearing. The rules of evidence prevailing in courts of law or equity shall not be controlling in administrative hearings before the Planning Director. The purpose of the administrative hearing is to receive evidence concerning the preliminary finding of demolition by neglect and to ascertain whether the owner and/or other parties in interest wish to file a claim of economic hardship with the Historic District Commission.
- 8.8.3.9** If after such administrative hearing, the Planning Director determines that the structure is undergoing demolition by neglect because it is affected by one (1) or more of the conditions

set out in Section 8.8.2, *Standards*, the Planning Director shall state in writing the findings of fact in support of such determination and shall issue and cause to be delivered to the owner and/or responsible persons (Section 8.3, *Responsible Persons*) an Order to Repair. The Order to Repair shall describe those elements of the structure that are deteriorating, contributing to deterioration, or deteriorated and which serve as the basis of the determination. The Owner and/or other responsible person shall have ten (10) business days from the date of the Planning Director’s written Order to Repair within which to file with the Historic District Commission a written petition for a claim of undue economic hardship. In the event that the owner and/or responsible person wishes to Petition for a claim of undue economic hardship, the Planning Director’s Order to Repair shall be stayed until after the Historic District Commission’s determination in accordance with the procedures of this code, except as provided in the Section 8.8.9, *Other Town Powers*.

8.8.3.10 The commencement and prosecution of work pursuant to the Order of Repair shall stay further enforcement activity under this Section 8.8.3, *Procedure for Enforcement*.

8.8.4 EVIDENCE OF UNDUE ECONOMIC HARDSHIP

The Owner or responsible person claiming undue economic hardship bears the burden of presenting sufficient evidence to allow the Historic District Commission to determine that undue economic hardship exists. Such evidence shall include at least the following:

8.8.4.1 For All Properties:

- 8.8.4.1.a** Nature of property ownership (individual, business, or nonprofit) or other legal possession, custody, or control.
- 8.8.4.1.b** A description of the structures involved.
- 8.8.4.1.c** Petitioner’s financial resources.
- 8.8.4.1.d** Cost of required repairs or other corrective measures.
- 8.8.4.1.e** Assessed value of the land and improvements.
- 8.8.4.1.f** Real estate taxes for the previous two (2) years.
- 8.8.4.1.g** Amount paid for the property.
- 8.8.4.1.h** Date of purchase.
- 8.8.4.1.i** Party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance.
- 8.8.4.1.j** Annual debt service, if any, for previous two (2) years.
- 8.8.4.1.k** Any listing of the property for sale or rent, price asked, and offers received, if any, and
- 8.8.4.1.l** Any potential grants or funding sources available to help improve the property.

8.8.4.2 For Income-Producing Properties:

- 8.8.4.2.a** If the property is income-producing, the annual gross income from the property for the previous two (2) years;
- 8.8.4.2.b** Itemized operating and maintenance expenses for the previous two (2) years, including proof that adequate and competent management procedures were followed; and
- 8.8.4.2.c** Annual cash flow, if any, for the previous two (2) years.

8.8.5 METHODS OF SERVICE

Notices or orders issued pursuant to Section 8.8.3, *Procedure for Enforcement*, shall be transmitted by first class mail to the owner of the property as listed in the Orange County Tax office and to the occupant of the property at the property's mailing address. All notices and orders shall be presumed to be received by the addresses five (5) days from the date of mailing.

8.8.6 SAFEGUARDS FROM UNDUE ECONOMIC HARDSHIP

Undue economic hardship is defined as the property owner's financial inability to make the repairs specified in the Order to Repair pursuant to Section 8.8.3.9. A claim of undue economic hardship must be made, in writing, by filing a request for such a determination with the Planning Director within the time period specified for in Section 8.8.3.9. The determination of undue economic hardship will be made by the Historic District Commission on a case by case basis.

When a claim of undue economic hardship is made, Planning Director shall notify the Commission within five (5) business days following the Planning Director's receipt of the written request for a determination of undue hardship. The Commission shall schedule a hearing at its next available meeting.

The property owner and/or the responsible person shall present the information provided by Section 8.8.4.1, *For All Properties*, and, where appropriate, 8.8.4.2, *For Income Producing Properties*, to the Historic District Commission at least ten (10) days before the date of the hearing. The Commission may require that an owner and/or parties in interest furnish such additional information as the Commission may reasonable conclude is relevant to its determination of undue economic hardship, and may, in its sole discretion, hold the hearing open or close the hearing and allow the owner or party in interest additional time to furnish the requested additional information. The Commission may direct Planning Director to furnish additional information, as the Commission believes is relevant. The Commission shall also state which form of financial proof it deems relevant and necessary to a particular case.

In the event that any of the required information is not reasonably available to the owner and/or parties in interest and cannot be obtained by the owner, the owner shall describe the reasons why such information cannot be obtained.

8.8.7 COMMISSION'S DECISION ON CLAIM OF UNDUE HARDSHIP

- 8.8.7.1** Within sixty (60) days following the Commission's HEARING on the claim of undue economic hardship, the Commission shall make a determination whether undue economic hardship exists and shall enter the reasons for such determination into the record. In the event of a

finding of no undue economic hardship, the Commission shall report such finding to the Planning Director, and the Planning Director shall cause to be issued an Order to Repair the property within a specified time.

- 8.8.7.2** In the event of a determination that undue economic hardship exists, the finding shall be accompanied by recommended options that may be available to the property owner to relieve the economic hardship. This plan may include, but is not limited to, property tax relief as may be allowed under North Carolina law, loans or grants from the Town, the County, or other public, private, or nonprofit sources, acquisition by purchase or eminent domain, building code modifications, changes in applicable zoning regulations, or relaxation of the provisions of this article sufficient to mitigate the undue economic hardship. The Commission shall report such finding and plan to the Planning Director. The Planning Director shall cause to be issued an Order to Repair the property within a specified time.

8.8.8 APPEALS

Determinations made by the Planning Director pursuant to Section 8.8.3, *Procedure for Enforcement*, or by the Commission pursuant to Section 8.8.3, *Procedure for Enforcement* or Section 8.8.7, *Commission's Decision on Claim of Undue Hardship*, may be appealed to the Board of Adjustment. To perfect such an appeal, a written application must be filed by an aggrieved party with the Board of Adjustment within thirty (30) calendar days of the date the determination was mailed to the property owner. Appeals shall be in the nature of certiorari (review of a quasi-judicial decision) such that the Board of Adjustment may review the record of the proceedings before the Planning Director or the Commission (as the case may be) to ensure that all procedures required by this Ordinance have been followed, and to ensure that the decision appealed from is supported by competent evidence in the record. However, the Board of Adjustment may not substitute its judgment for that of the Planning Director or the Historic District Commission unless it concludes that either (i) there has been an error of law or procedural error which has resulted in prejudice to the appellant or (ii) there is not substantial, competent evidence in the record to support the decision.

8.8.9 OTHER TOWN POWERS

Nothing contained within this Article shall diminish the Town's power to declare an unsafe building or a violation of the minimum housing code.

8.8.10 PENALTIES AND REMEDIES

Enforcement of this article may be by any one (1) or more of the following methods, and the institution of any action under any of these methods shall not relieve any party from any other civil or criminal proceeding prescribed for violations and prohibitions.

8.8.10.1 Equitable Remedy

The Town may apply for any appropriate equitable remedy to enforce the provisions of this article.

8.8.10.2 Order of Abatement

The Town may apply for and the court may enter an order of abatement. An order of abatement may direct that improvements or repairs be made, or that any other action be

taken that is necessary to bring the property into compliance with this article. Whenever the party is cited for contempt by the court and the Town executed the order of abatement, the Town shall have a lien, in the nature of a mechanic's and material man's, on the property for the cost of executing the order of abatement.

8.8.10.3 Civil Penalty

No civil penalty shall be levied unless and until the Planning Director transmits a notice thereof to the property owner by first class mail. The notice shall also set forth the time period, not less than ten (10) days, within which corrective measures must be commenced and shall establish a deadline for completion of the work. The notice shall state that failure to either (i) commence the work or (ii) complete the work, within the specified time period will result in the assessment of civil penalties and other enforcement action the civil penalty shall be assessed in the amount of one hundred dollars (\$100.00) per day of continuing violation.