



AGENDA ITEM FORM

TYPE OF AGENDA ITEM:

- CONSENT AGENDA
- PRESENTATION
- ACTION ITEM
- TOWN MANAGER & STAFF COMMENTS
- PUBLIC HEARING
- Duly Advertised

PURPOSE OF ITEM:

- INFORMATION ONLY
- DISCUSSION ONLY
- DISCUSSION AND/OR DECISION
 - Introduction
 - Ordinance
 - By Motion
 - Certificate
 - Resolution
 - Grant/MOU
 - Bylaws

PRESENTER: Morgan Brim

PRESENTER TITLE: Town Planner/Zoning Administrator

AGENDA ITEM:

To Amend Section 70-2 of Town Code to allow the zoning administrator to issue civil fines in accordance with State Code § 15.2-2209

BACKGROUND / SUMMARY:

Ensuring property owners comply with Town Code is not always easy. Currently, the Town process for zoning violations requires a certified notice of violation to be mailed to the owner or tenant of the property. The violator has 30 days to comply or appeal the notice of violation; the case is taken to the general district court and tried as a criminal case. This process often leaves zoning violations outstanding until the property owner is directed by the court to abate such violation. Fairfax City, Fairfax County, Prince William County and Manassas City are among many localities in the State of Virginia that permit the zoning administrator or his designee, to issue civil fines directly to the code violator. Manassas City zoning officials issue a ticket/warning that provides the violator a 30 day period to abate the violation. The ticket indicates that if the violation is not abated within the 30 day period, the zoning administrator will issue a \$200 fine. This fine is increased by \$500 every 10 days, not to exceed \$5,000. Municipalities are finding violators are much more motivated to comply with code when they are confronted with the choice of abating the violation or paying a fine.

ATTACHMENTS:

State Code § 15.2-2209

REQUESTED ACTION:

NO ACTION REQUESTED

Pass a motion to initiate a text amendment to section 70-2 of Town Code to add civil penalties for certain zoning violations.

FOR MORE INFORMATION, CONTACT:

Name: Morgan Brim

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FOR USE DURING MEETING

VOTE:

PASSED

NOT PASSED

Y	N		Y	N		Y	N	
<input type="checkbox"/>	<input type="checkbox"/>	Brewer	<input type="checkbox"/>	<input type="checkbox"/>	Foreman	<input type="checkbox"/>	<input type="checkbox"/>	Forrester
<input type="checkbox"/>	<input type="checkbox"/>	Praino	<input type="checkbox"/>	<input type="checkbox"/>	Reynolds	<input type="checkbox"/>	<input type="checkbox"/>	Toney
<input type="checkbox"/>	<input type="checkbox"/>	Washington						

State Code:

§ 15.2-2209. Civil penalties for violations of zoning ordinance.

Notwithstanding subdivision A 5 of § 15.2-2286, any locality may adopt an ordinance which establishes a uniform schedule of civil penalties for violations of specified provisions of the zoning ordinance. The schedule of offenses shall not include any zoning violation resulting in injury to any persons, and the existence of a civil penalty shall not preclude action by the zoning administrator under subdivision A 4 of § 15.2-2286 or action by the governing body under § 15.2-2208.

This schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be a civil penalty of not more than \$200 for the initial summons and not more than \$500 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$5,000. Designation of a particular zoning ordinance violation for a civil penalty pursuant to this section shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor, provided, however, that when such civil penalties total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor.

The zoning administrator or his deputy may issue a civil summons as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the department of finance or the treasurer of the locality prior to the date fixed for trial in court. 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.

If a person charged with a scheduled violation 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 a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. If the violation remains uncorrected at the time of the admission of liability or finding of liability, the court may order the violator to abate or remedy the violation in order to comply with the zoning ordinance. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within a period of time as determined by the court, but not later than six months of the date of admission of liability or finding of liability. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

No provision herein shall be construed to allow the imposition of civil penalties (i) for activities related to land development or (ii) for violation of any provision of a local zoning ordinance relating to the posting of signs on public property or public rights-of-way.