

ARTICLE 8 ADMINISTRATION & ENFORCEMENT

8.1	ADMINISTRATION	8-1
8.1.1	Intent	8-1
8.1.2	Zoning Officer Designation	8-1
8.1.3	Zoning Officer Authority and Duties	8-1
8.1.4	Financial Security	8-2
8.1.5	Insurance Requirements	8-2
8.1.6	Fees	8-2
8.2	NON-CONFORMING USES, STRUCTURES AND LOTS	8-2
8.2.1	Intent	8-2
8.2.2	Determination of Conformity	8-2
8.2.3	Non-Conforming Uses	8-2
8.2.4	Nonconforming Structures	8-2
8.2.5	Nonconforming Lots	8-3
8.3	ENFORCEMENT	8-3
8.3.1	Violations	8-3
8.3.2	Notice of Violations	8-3
8.3.3	Stop Work Orders	8-4
8.3.4	Appeals to the ZBA	8-4
8.3.5	Penalties and Fines	8-4
8.3.6	Civil Enforcement	8-4
8.3.7	Court Action	8-4
8.3.8	Non-Exclusivity of Remedies	8-4
8.4	LEGAL STATUS	8-4
8.4.1	Interpretation	8-4
8.4.2	Conflict with Other Laws	8-4
8.4.3	Repealer	8-5
8.4.4	Severability	8-5
8.4.5	Saving Clause	8-5
8.4.6	Effective Date	8-5

8.1 ADMINISTRATION

8.1.1 Intent

The provisions of this Article are intended to be procedures, standards, criteria and requirements to be used in administering this ~~Zoning Ordinance~~ Unified Development Ordinance.

8.1.2 Zoning Officer Designation

The Building Inspector, or person designated to acting in the capacity as Building Inspector, is hereby designated Zoning Officer and shall have authority to interpret, administer and enforce the provisions of the ~~Zoning Ordinance and Subdivision Regulations~~ Unified Development Ordinance.

8.1.3 Zoning Officer Authority and Duties

In addition to all other authority conferred by law, the Zoning Officer shall have the following specific powers and duties:

- A. Administer and enforce all provisions of this ~~Zoning Ordinance~~ Unified Development Ordinance;
- B. Record all complaints regarding possible Zoning Ordinance violations together with any investigation or action conducted in response to each complaint;
- C. Issue orders to remedy, notices of violation, stop work orders, appearance tickets in accordance with Article 150 of the Criminal Procedure Law, and other documents relative to enforcement, and the commencement of proceedings and actions reasonably necessary to carry out the lawful enforcement of this Chapter;
- D. Determine compliance with the provisions of this ~~Zoning Ordinance~~ Unified Development Ordinance, issue building permit denials and provide referrals to the Zoning Board of Appeals, Design Review Commission and Planning Board as necessary;
- E. Issue determinations, in response to inquiry, about the meaning of any part of this ~~Zoning Ordinance~~ Unified

Development Ordinance;

- F. Submission of an annual report to the Office of the Mayor showing all complaints of violations and subsequent action taken in each case for the year;
- G. Such other specific duties or responsibilities as may be assigned by the Mayor as being reasonably necessary to carry out the provisions of this Chapter.

8.1.4 Financial Security

A City land use board may require applicants to post sufficient financial security to guarantee compliance with any approvals or conditions. Such security may be provided in cash, by letter of credit, or by other means as the City Council may establish by schedule. Security provided in cash shall be retained by the City in an appropriate account until expended or returned to the applicant.

8.1.5 Insurance Requirements

The City Council shall have authority to establish, by Resolution, a schedule of insurance requirements to be provided by applicants under this Chapter.

8.1.6 Fees

The City Council shall have authority to establish, by Resolution, a fee schedule for receipt, review, filing, or issuance of any application, permit, or license or any other activity referred to in this Chapter.

8.2 NON-CONFORMING USES, STRUCTURES AND LOTS

8.2.1 Intent

It is the intent of this **Article section** to set forth the conditions under which uses, structures and lots, that do not conform to requirements of this Chapter but which were lawful prior to the effective date of those requirements, may be continued, repaired, rebuilt, expanded or modified.

- A. Any lot, structure or use which was in violation of the Zoning Ordinance of the City of Saratoga Springs prior to adoption of this Chapter shall not be regarded as lawfully non-conforming under this **Article section** and shall not be

entitled to any of these rights.

- B. This **Article section** shall not be construed to permit any unsafe use or structure or to restrict any proper procedures to regulate, prohibit, abate or remove any unsafe use or structure.

8.2.2 Determination of Conformity

Upon written request, the Zoning Officer shall make a written determination as to whether a particular use, structure, or lot is conforming or non-conforming based on available property records. The Zoning Officer may require such additional information as necessary to make this determination.

8.2.3 Non-Conforming Uses

- A. **Continuation.** A lawfully pre-existing, non-conforming use may be continued subject to the provisions of this **S section**.
- B. **Discontinuance.** A non-conforming use shall be deemed discontinued if it is not operated for at least thirty (30) days in a calendar year and any future use of the property shall conform to this Chapter.
- C. **Damage or Destruction.** A structure containing a non-conforming use that is damaged or destroyed by any unintentional cause may be restored, rebuilt or repaired to its original dimensions and occupied by the same use provided that the building permit for reconstruction is obtained within one (1) year after the damage occurs and a Certificate of Occupancy is obtained within two (2) years from the date of issuance of building permit.
- D. **Extension or Expansion of Use.** A non-conforming use shall not be extended or physically expanded. Extension or expansion of a non-conforming use shall include expansion of the area or volume occupied by a non-conforming use, including expansion into previously underutilized, vacant or newly constructed space, or the increase of any parking related to the use.
- E. **Change in Use.** If a non-conforming use is to be replaced or augmented by another use, the new and any future use shall conform to this Chapter.

8.2.4 Nonconforming Structures

- A. Continuation.** A non-conforming structure may be maintained in reasonable repair subject to the provisions of this [Article section](#).
- B. Damage or Destruction.** A non-conforming structure that is damaged or destroyed by any unintentional cause may be restored, repaired or rebuilt to its nonconforming dimensions provided that the building permit for reconstruction is obtained within one (1) year after the damage occurs and a Certificate of Occupancy is obtained within two (2) years from the date of issuance of building permit.
- C. Renovation, Alteration or Repair.** Any non-conforming structure may be renovated, altered or repaired within its present dimensions.
- D. Extension or Expansion of Structure**
 - 1. A non-conforming structure may be extended or expanded provided the proposed extension or expansion does not violate any dimensional requirements other than the current nonconformity.
 - 2. A non-conforming structure may not be extended or expanded to increase nonconformity unless dimensional relief is granted by an area variance from the ZBA.

8.2.5 Nonconforming Lots

- A.** A lot which lawfully existed and was in compliance with the provisions of the Zoning Ordinance applicable on the date that such lot was recorded in the Saratoga County Clerk's office but which does not conform to the current dimensional requirements of this Chapter shall be considered a legal non-conforming lot of record as follows in "B" and "C".
- B.** Minimum lot size and minimum average lot width requirements shall not apply to any lawfully recorded lot which was under different ownership from any adjoining land on or before July 6, 1961.
- C.** The owner of any lot in a residential district which does not conform to the district's minimum lot size and minimum average lot width requirements may erect a single family residence or accessory building if the lot legally existed on or before January 19, 1970 and is not under the same

ownership as any adjoining land.

- D.** Any parcels that are owned by an adjacent owner that are not legally subdivided and are not in separate ownership prior to [January 19, 1970] are hereby required to be combined into one lot in order to meet the requirements of a conforming lot.
- E.** Lawfully nonconforming lots of record, which are located within approved subdivisions, shall be considered legal nonconforming lots and can be developed in accordance with the dimensional requirements that were effective on the day that such lots were created, provided that the approved subdivision plat was properly filed in the Saratoga County Clerk's office.
- F.** Development of any lawfully nonconforming lots existing outside of approved subdivisions shall comply with the dimensional requirements that are currently in effect.

8.3 ENFORCEMENT

8.3.1 Violations

- A.** No person or entity shall maintain any land or structure, or part thereof, in violation of the use or dimensional requirements permitted in this Chapter. Any person or entity that violates this article shall be subject to the procedures and penalties stated herein. The continuation of a violation shall constitute a separate and distinct offense for each day the violation is continued.
- B.** The Zoning Officer, or duly authorized assistants, shall have the right to enter upon, examine and inspect any building or property at any reasonable time for the purpose of carrying out his/her duties and to determine compliance with the provisions of this ~~Zoning Ordinance~~ [Chapter](#).

8.3.2 Notice of Violations

Upon finding a violation of this ~~Zoning Ordinance~~ [Chapter](#), the Zoning Officer shall deliver written notice to the property owner in person or by certified or registered mail. This notice shall inform the recipient of:

- A.** The nature and specific details of such violation;
- B.** The recommended remedial action;

C. The date by which the violation must be remedied.

8.3.3 Stop Work Orders

Upon finding a violation of this ~~Zoning Ordinance Chapter~~, the Zoning Officer may require the suspension of work by issuing a stop work order to the responsible person. Such person shall suspend all unauthorized activity until the stop work order has been rescinded.

- A. The stop work order shall be in writing and shall state the conditions under which the activity may resume.
- B. The stop work order shall be presented to the person performing the work and, if different, the property owner in person or by certified or registered mail, and may be placed upon a conspicuous portion of the building or premises in use.
- C. The failure of any person to comply with the terms of a stop work order shall constitute a separate violation.

8.3.4 Appeals to the ZBA

A determination of violation by the Zoning Officer may be appealed to the ZBA. Upon such appeal, any further enforcement efforts by the City shall be stayed pending ZBA determination of the appeal.

8.3.5 Penalties and Fines

Except as otherwise provided in this Ordinance, the following penalties shall apply:

- A. First violations of this ~~Zoning~~ Ordinance shall be punishable by a fine of not more than fifty (\$50.00) dollars for each day the violation continues and/or imprisonment of up to five (5) days.
- B. Second violations shall be punishable by a fine of not more than one hundred (\$100.00) dollars for each day the violation continues and/or imprisonment of up to fifteen (15) days.
- C. Third and subsequent violations shall be punishable by a fine of not more than two hundred fifty (\$250.00) dollars or each day the violation continues and/or a jail sentence of up to thirty (30) days.

D. These fines and/or imprisonment shall be exclusive of any additional civil fees or remedies.

8.3.6 Civil Enforcement

In addition to penalties prescribed elsewhere in this Chapter and other laws, any person who violates any provision of this ~~zoning ordinance Ordinance~~ shall be liable to a civil penalty of not more than two hundred dollars (\$200.00) for each day during which the violation continues. These civil penalties shall be recoverable in an action instituted by the City of Saratoga Springs.

8.3.7 Court Action

The imposition of fines and/or imprisonment shall not preclude the City from instituting an action for injunction or other legal action to prevent any unlawful use or activity, or to correct or abate a violation, or to prevent the illegal occupancy of a building, land or premises. In the event the City prevails in this action, the City shall have the authority to seek all reasonable attorneys' fees incurred by or on behalf of the City, together with all costs and disbursements of the litigation.

8.3.8 Non-Exclusivity of Remedies

The City of Saratoga Springs may proceed under any subsection hereof at any time without respect to whether any other remedy has been imposed or sought by the City. The alternative remedies, fees and penalties provided for herein are not mutually exclusive but may be commenced, implemented and enforced simultaneously without regard to whether any other remedies, fees, or penalties have been sought or imposed.

8.4 LEGAL STATUS

8.4.1 Interpretation

It is the legislative intent that, in adopting this ~~chapter Chapter~~, all of its provisions shall be liberally construed to protect and preserve the public health, safety, or general welfare of the City of Saratoga Springs.

8.4.2 Conflict with Other Laws

The provisions of this ~~chapter Chapter~~ shall be held to be minimum requirements. Whenever the requirements of this ~~chapter Chapter~~ differ from the requirements of any other lawfully adopted rules, regulations, local laws, ordinances, the

more restrictive provisions, or higher standards, shall apply. In case of any difference of meaning or implication between different parts, sections, or subsections of the text of this **chapter** Chapter, the specific shall control the general.

8.4.3 Repealer

All prior Zoning Ordinances or enactments, together with all changes and amendments thereto, are hereby repealed and superseded by this chapter. Violations of prior ordinances shall remain violations to the extent that they violate this chapter.

8.4.4 Severability

The provisions of this **chapter** Chapter are severable. If any provision of this **chapter** Chapter is held to be unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions.

8.4.5 Saving Clause

The adoption of this Chapter shall not affect or impair any act done, or right acquired, or liability incurred prior to the time this article takes effect.

8.4.6 Effective Date

This **chapter** Chapter shall take effect and be in force from and immediately after its passage, publication of notice of adoption thereof and posting, as prescribed by law.