

**ARTICLE XV**  
**VIOLATIONS AND PENALTIES**

**55-272. VIOLATIONS AND PENALTIES; CIVIL ACTIONS. [Amended 10-5-98 by Ord. No. 1998-20 §§ 8-9 and Ord. No. 1998-21 §§ 8-9]**

- A. In case any building or structure is erected, constructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter or of any other ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality or an interested party, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.
- B. If, before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or agent, any land which forms a part of a subdivision for which municipal approval is required by ordinance pursuant to this act,<sup>1</sup> such persons shall be subject to a penalty not to exceed one thousand (\$1,000.00) dollars, and each lot disposition so made may be deemed a separate violation.
- C. In addition for the foregoing, the municipality may institute and maintain a civil action for injunctive relief and to set aside and invalidate any conveyance made pursuant to such a contract of sale if a certificate of compliance has not been issued in accordance with N.J.S.A. 40:55D-56, but only if the municipality has so

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<sup>1</sup> **Editor's Note:** See N.J.S.A. 45:22A-1 et seq.

determined and has adopted, by ordinance, standards and procedures in accordance with N.J.S.A. 40:55D-38. In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the developer or his assigns or successors, to secure the return of any deposits made or purchase price paid, and also to a reasonable search fee, survey expense and title-closing expense, if any. Any such action must be brought within two (2) years after the date of the recording of the instrument of transfer, sale or conveyance of said land or within six (6) years, if unrecorded.

D. *Penalties.*

- (1) Any violation of any provision of this chapter shall be punishable by a fine of no less than one hundred (\$100.00) dollars and not to exceed one thousand (\$1,000.00) dollars; or by imprisonment in the Ocean County Jail for any term not exceeding ninety (90) days; or by a period of community service not exceeding ninety (90) days. The following individuals/entities shall be subject to potential punishment:
  - (a) The owner, person, firm, corporation, partnership or other business association, general agent, contractor or occupant of a building, premises or part thereof where such a violation has been committed or does exist; and
  - (b) Any agent, contractor, architect, engineer, builder, corporation or other person or commits, takes part or assists in the violation.
- (2) Each day a violation continues shall constitute a separate offense in accordance with the following:

- (a) A minimum penalty of one hundred (\$100.00) dollars per day shall be imposed for each day that said violation or violations continue unabated until such time as same are corrected.
  - (b) Any person or entity who is convicted of violating any provision of this chapter within one (1) year of the date of a previous violation of the same provision of this chapter, and who was fined for the previous violation, shall be sentenced by the Municipal Court an additional fine imposed by the Court upon such person or entity for a repeated offense shall not be less than five hundred (\$500.00) dollars and not more than the maximum fine fixed for a violation of this chapter, but shall be calculated separately from the fine imposed for the violation of this chapter.
- (3) The imposition of penalties herein shall not preclude the Township or any other person or entity from instituting an action to prevent an unlawful construction, reconstruction, alteration, repair, conversion, or use; or to restrain, correct or abate a violation, or to prevent the illegal occupancy of a building, land or premises.
- E. In addition to the foregoing, the Township may institute and maintain a civil action for injunctive or other relief as provided in the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) and other applicable laws.
- F. Enforcement of conditions and resolutions approving development applications. **[Added 11-2-09 by Ord. No. 2009-32]**
- (1) Definitions. For the purposes of this paragraph F., "application for development" shall have the same meaning as that set forth in N.J.S.A. 40:55D-3.

- (2) Enforcement of conditions. In the event that the Construction Official or the Zoning Office of the Township shall determine that any condition contained in a resolution or court order approving an application for development is being violated, he shall notify the property owner, in writing, of his findings and order that the violation be corrected within thirty (30) days of the notice. Conditions contained in a resolution approving an application for development shall be deemed to be continuing conditions, and the property owner or subsequent transferees of real property shall be responsible for the maintenance, replacement and repair of any improvements required by such conditions, including, but not limited to, the replacement of any required plantings which fail to survive.
- (3) Appeal. A property owner shall have the right to appeal the determination of the Construction Official or Zoning Officer to the Township Committee by filing a written appeal with the Township Clerk no later than the expiration of the thirty-day period provided in the notice. Upon receipt of the appeal, the Township Committee shall establish a hearing date. The thirty-day period provided in the notice shall be tolled from the date of receipt of the notice of appeal by the Township Clerk until the date of the determination of the appeal by the Township Committee. The Township Committee may, as part of its determination of the appeal, allow a greater number of days for correction of the violation.
- (4) Failure to comply. If the property owner fails to correct the violation within the time provided in the notice, or within such further time as may be allowed by the Township Committee in the event of an appeal, the Township Committee may order that the violation be corrected at the property owner's

expense and may revoke the certificate of occupancy for the property and require that it be vacated. If the Township Committee expends money to correct the violation, the amount of the expenditure shall become a lien on the real property and subject to collection in the same manner as real property taxes.

- (5) Fines and penalties. Any person who fails to correct a violation after receiving written notice thereof and expiration of the time period in the notice shall be subject to the maximum fines and penalties established under N.J.S.A. 40:49-5 and as same shall be amended from time to time. Each and every day a violation of this ordinance shall exist shall constitute a separate violation.