

ORDINANCE 834

AN ORDINANCE ENACTING CIVIL PENALTIES FOR ABATEMENT OF NUISANCES.

Civil Penalties.

A. Pursuant to G.S. 160A-175, the Town may impose civil penalties in the form of fines for violation of its ordinances. Subsequent citations for the same violation may be issued by the Town Manager or his/her designee if the offender does not pay the citation (except as otherwise provided in a warning citation) after it has been issued, unless the offender has sought an appeal to the actions of the staff through the Zoning Board of Adjustment.

B. *Responsible parties.* The owner or occupant of any land, building, structure, sign, use of land, or part thereof, and any architect, builder, contractor, agent, or other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of this ordinance may be held responsible for the violation and subject to the civil penalties and remedies provided herein.

C. *Notice.* No civil penalty shall be assessed until the person alleged to be in violation has been notified by certified U.S. mail. If after receiving a notice of violation, the owner or other violator fails to take corrective action, a civil penalty may be imposed under this section in the form of a citation. The citation shall be served in the same manner as of a notice of violation. The citation shall state the nature of the violation, shall state the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within the time period specified within the specific section in violation.

D. The following penalties are hereby established:

1. *Warning citation:* Correct violation within timeframe established by written citation.
2. *First citation:* \$30.00, with each day considered a separate offense and a cumulative fine.
3. *Subsequent citations for same offense:* \$30.00 per day until the offender completely remediates the violation. If the offender fails to pay the civil penalties within 30 days after having been cited, the Town may recover the penalties in a civil action in the nature of debt collection.

Repeat Nuisance Offense Ordinance.

Definitions:

A chronic violator is an individual of whom owns or utilizes property whereupon, in the previous calendar year, the Town of Maggie Valley took remedial action or issued civil penalties at least once for a specific section of the Town's Code Ordinances.

Automatic Remediation:

The Town of Maggie Valley may take immediate action against a chronic violator of the Town's Code of Ordinances if said violator's property is found to be in violation of the same ordinance whereupon remedial action or civil penalties were levied within one calendar year of the repeat violation.

Adopted this 16 day of August, 2016

Joan McElhiney Banks
Mayor Pro-Tem Janet Banks

Wesley Zott
Vickie Best, CMC, Town Clerk



5) **Public Hearing: Consideration of Civil Penalties-Proposed Ordinance 834**

Town of Maggie Valley
Regularly Scheduled Board of Aldermen Meeting
August 16, 2016

MINUTES

Ms. Sutton added that she ran a restaurant in Maggie Valley for 11-years and never had any problems. Many of the town employees ate at her restaurant often. The problem is the town leaders want this to be a tourist town. This town is dead because there is nothing here for kids to do. "It is easier to go across the mountain to Gatlinburg and have plenty to do for all ages."

"The Town has harassed Thomas, a 74-year old man until it is severely affecting his health. Thomas had a stroke over this town trying to shut his work down."

"Mr. Sutton purchased business licenses in the Town for years, they (the town) did not care to take his money and then they realized they were doing wrong and stopped charging him."

State legislation eliminated towns charging for business licenses across the state in 2014.

Alderman Eveland explained that many letters of violation were mailed.

Manager Clark offered for Mr. and Ms. Sutton to meet with him and Planner Bowen to go over how government works and discuss the more complicated and time consuming issues one on one.

Alderman Eveland explained about the numerous grass violation letters that are mailed all season long.

Mayor Pro-Tem Banks closed the hearing at 6:46 p.m.

MOTION CARRIED UNANIMOUSLY.

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Town of Maggie Valley
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As the Town of Maggie Valley attempts to provide a more attractive environment to enhance its commercial and residential appeal through enforcing its nuisance ordinances it has discovered several regulatory flaws that make abatement of these nuisances almost impossible. Currently, the Town relies on "criminal penalties" to assist it in abating nuisances which works with some of the most egregious ordinance violations, but not all of them. This allows a number of pending "notice of violations" to accumulate instead of being remedied in a reasonable amount of time. This fact has frustrated Town Staff and adjacent property owners that are looking for the Town to provide relief to neighborhood and commercial nuisances throughout town. The proposed solution to this problem is transferring our penalty process from "criminal penalties" to "civil penalties." The proposed language, written by our Town Attorney, was unanimously recommended for Board of Alderman adoption by the Planning Board on July 14, 2016.

During the Agenda Setting/Monthly Workshop held August 10, 2016 there appeared to be a majority of Council members wanting to decrease the fee to \$50. Alderman Wright stated that he would be willing to drop the fine to \$30 per day. Alderman Eveland felt the purpose of the fee is to get the nuisances resolved.

As for some of the amendments Council thought should be added, the Town Attorney warned that adding more wording would lead to more complications in the future. Planner Bowen, as directed, added two sub-letters to the ordinance and Attorney Justus did not want them added due to legal defenses in the future.

At the Agenda Setting Meeting/Monthly Workshop, Council suggested providing for a small window of time to be provided for mediation.

Mayor Pro-Tem Banks wanted a legally tight defensible document and felt Council should rely on the Town Attorney's advice.

ALDERMAN EVELAND MADE A MOTION TO ACCEPT THE CIVIL PENALTIES ORDINANCE 834 AS WRITTEN OTHER THAN LOWERING THE FINE TO \$30 PER DAY.

Joy Sutton, co-owner of Elk Towing and J & T Construction, as well as the wife of Thomas Sutton whom was issued a violation a few months prior, inquired where the money paid in fines goes.

Manager Clark responded to the General Fund.

Ms. Sutton felt the town spends money wherever Council sees fit such as the Christmas decorations among other items. The Suttons have paid rent to Ms. Bradshaw for years. Thomas was born and raised here and now the Town is forcing him out of business. The items in the yard are needed for Mr. Sutton to do his job; be it paving, towing, or whatever.

**Town of Maggie Valley
Regularly Scheduled Board of Aldermen Meeting
August 16, 2016
MINUTES**

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6) Public Hearing: Consideration of Approval-USDAs Community Loan for Police Dept. In-Car Cameras

Mayor Pro-Ten Banks called the informational meeting to order at 6:47 p.m.

As part of the FY 16-17 Budget the Town allotted financial resources to purchase six (6) in car camera systems for the Road Patrol Division within our Police Department.

The cost of this entire system is \$25,960.00 which is a financial burden the Town would not be able to easily withstand using traditional budgeting methods. However, the US Department of Agriculture through its Community Facilities Loan program offers local government low interest loans (2.75%) to purchase vital equipment like in car cameras for police use.

State of North Carolina
Haywood County

Clerk's Certification

I, Vickie Best, Town Clerk of the Town of Maggie Valley, North Carolina, do hereby certify that the attached is a true and correct copy of Ordinance 834 and the Board of Aldermen Minutes which was adopted at a meeting of the Town of Maggie Valley Board of Aldermen on the 16 day of August, 2016, the original of which is now on file in the office of the Town Clerk of the Town of Maggie Valley, North Carolina.

IN WITNESS WHERE OF, I have hereunto set my hand and affixed the official Seal of the Town of Maggie Valley, North Carolina, this the 21 day of November, 2018.

Please Confirm this was received.
Thank you and have a wonderful Thanksgiving!!!

Vickie Best, CMC, NCCMC, Town Clerk
3987 Soco Road
Maggie Valley, NC 28751
828-926-0866 x 102