

Planning Lunches at Noon (PLAN) Monthly Webinar Series

Welcome to the November 2024 PLAN Webinar!

“Investigating and Enforcing Land Use and Zoning Violations”

Check out OPD’s [Planning and Zoning Training webpage](#) for:

- Slides and recording of past PLAN Webinars and conferences
- Planning Board and Zoning Board 101 slides and recordings
- Planning Board and Zoning Board Handbooks
- Optional Tests and Certificates

Investigating and Enforcing Land Use and Zoning Violations

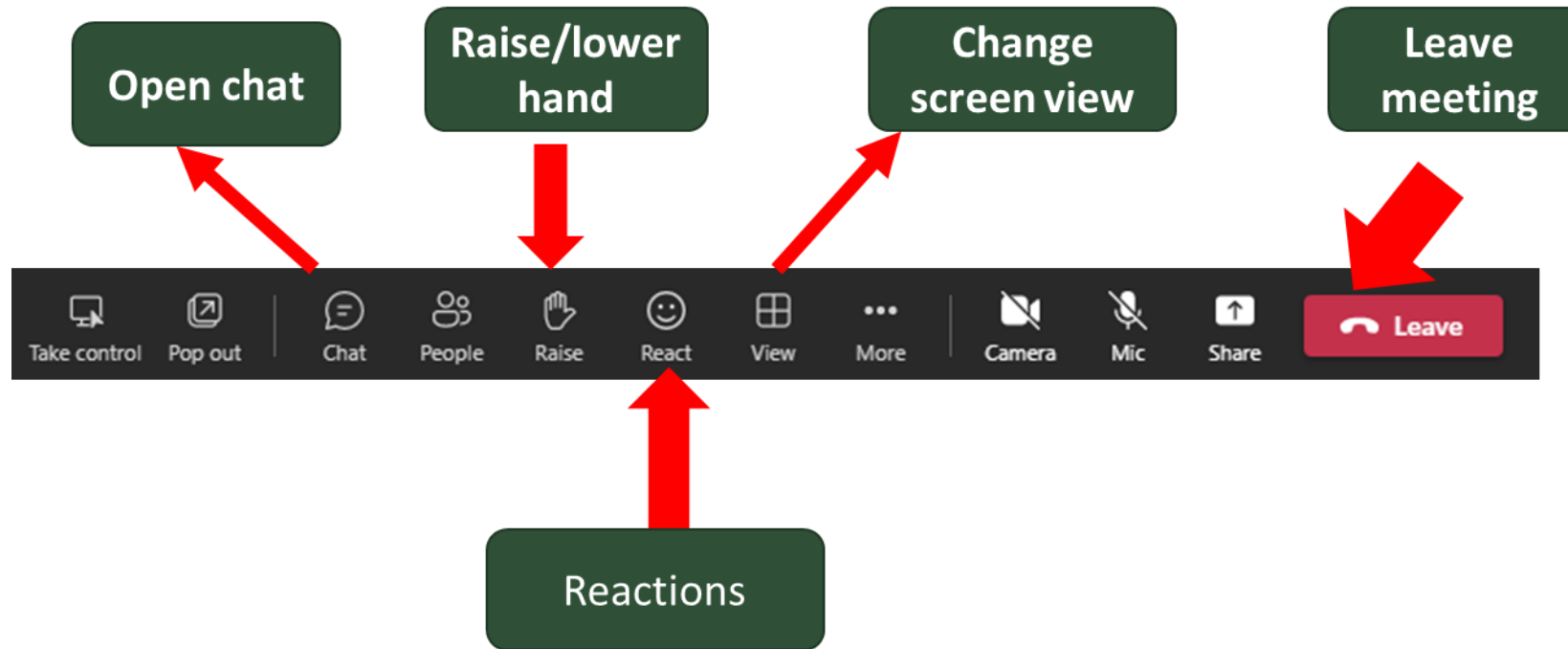
Steven Whitley, Esq., Attorney
Drummond Woodsum Attorneys at Law

Shane Conlin, Code Compliance Officer
City of Somersworth

November 21, 2024

How To Participate

- ▶ For questions, type them into the chat box
- ▶ We will do our best to answer all questions by the end of the webinar



Enforcement Basics:

November 21, 2024
OPD Webinar

Steven Whitley, Esq., DrummondWoodsum

Step by Step Code Enforcement Process:

1. Complaint Intake

- Oral (phone or in-person)
 - memorialize in writing ASAP
- Written
 - Preferred method
 - Have a complaint form
 - Try to get complaining party to allow name to be used
 - Written complaints are “governmental records” for purposes of the New Hampshire Right to Know law



Step by Step Code Enforcement Process:

2. Investigation

- ▶ Can violation be observed without entering property?
 - ▶ Visible from right of way
 - ▶ Visible from abutting property (with abutter consent)
 - ▶ Aerial photographs / Google Earth
- ▶ If violation is not visible
 - ▶ Do not enter the property without owner consent
 - ▶ Obtain administrative inspection warrant under RSA chapter 595-B
- ▶ Document violation
 - ▶ Photographs
 - ▶ Video
 - ▶ Journal / Notebook

Step by Step Code Enforcement Process:

3. Notice

- Meet with owner, tenant and/or occupants to discuss issue
- Written warning of violation with deadline for compliance
- Formal Notice of Violation and/or Cease and Desist Order imposing fines and penalties
 - Notices must cite code section(s) being violated
 - Written letters or orders should be sent both certified (return receipt requested) and first class mail
 - Hand delivery may be necessary in some circumstances (“actual” notice)
 - Violator has the right to appeal an official’s construction, interpretation of application of the zoning ordinance to the Zoning Board of Adjustment – RSA 676:5

Step by Step Code Enforcement Process:

4. Court Enforcement

- ▶ Superior Court
 - ▶ Broad equity powers (declaratory and injunctive relief - “thou shalt not...”)
 - ▶ Better for complicated cases
 - ▶ More intimidating for many violators
 - ▶ Lengthier process / expensive
- ▶ District Court
 - ▶ Cease and Desist orders
 - ▶ Use for straightforward violations
 - ▶ More efficient / less expensive
- ▶ Self-Help (enforcement without court order) not recommended

What Is Being Enforced?

- ▶ Identify up front which statutes, ordinances, codes or regulations apply
- ▶ Who has authority to enforce applicable authority in your municipality?
 - ▶ Code enforcement, zoning enforcement, building inspector, fire chief, health officer, governing body, etc.
 - ▶ Generally, land use boards do not have enforcement authority
- ▶ Multiple officials may work together if more than one kind of violation exists

Penalties for Local Land Use Violation

- ▶ RSA 676:15 (Injunctive relief)
- ▶ RSA 676:17, I (Civil penalties)
- ▶ RSA 676:17, II (Attorney's Fees & Costs)
- ▶ RSA 676:17-a (Cease & Desist Order)
- ▶ RSA 676:17-b (Local Land Use Citation - pleas by mail)
- ▶ RSA 31:39-d (Local Ordinance Citation - pleas by mail)
- ▶ RSA 31:39-c (Local Admin. Enforcement Ord.)

Ordering Building Vacated - RSA 147:16-a

By Health Officer (RSA 147:16-a), or
Building Inspector (RSA 674:52-a) or
Fire Chief (RSA 154:21-a)

Laws do not apply to residence
occupied only by owner and
immediate family unless condition
is clear and imminent danger to
persons other than occupants

Target of 1998 Legislation -
absentee building owners

If Court deems action to vacate
frivolous/in bad faith municipality
may have to pay other party
attorneys fees

Private Covenants

- ▶ Documents and agreements that limit the way property can be used
 - ▶ HOA Covenants
 - ▶ Restrictions on a particular deed
 - ▶ Easements held by adjoining owners
- ▶ **Towns and cities have no authority to enforce!**
- ▶ These are civil matters that the parties have to take up with each other in court

Is it a Junkyard? RSA 236:112

- ▶ Place used for storing and keeping, or storing and selling, trading, or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel, or other old or scrap ferrous or nonferrous material
- ▶ Automotive recycling yards
- ▶ Machinery junk yards
- ▶ Motor vehicle junk yards



- ▶ It's *accumulation* of junk that matters, not what the owner is doing with it
- ▶ “Junk” is more than just broken-down motor vehicles
- ▶ Motor vehicle registration is no longer the standard
- ▶ Certain operations are *not* junkyards under state law
- ▶ Does your zoning ordinance define differently?

Is it Licensed?

The Basic Licensing Requirement

- ▶ Required by state law
- ▶ Separate from (but related to) zoning
- ▶ No grandfathering for license requirements (although location may be grandfathered)
 - ▶ What if never addressed before?

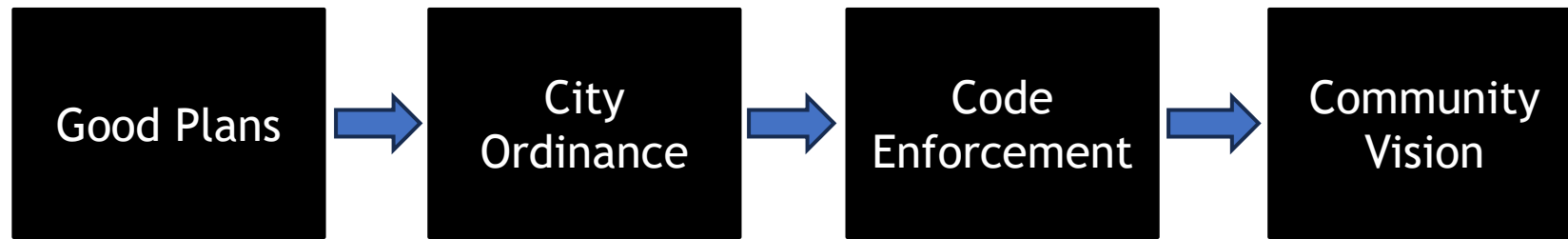


Code Enforcement Methods

Enforcement of Zoning Violations

Shane Conlin, Code Compliance Officer, City of Somersworth

Importance of Code Enforcement



- ▶ Benefits of code enforcement:
- ▶ Improved land values
- ▶ Improved quality of life and sense of community
- ▶ Improved public image
- ▶ Increased economic development

Code Enforcement Strategies

- ▶ Take the easiest route to compliance!
- ▶ Not all violations require formal code enforcement strategies. Code Enforcement officials should strive to maintain positive relationships with as many members of the community as possible.
- ▶ Take a measured approach. Be reasonable with timelines and compliance expectations. Code enforcement to the n^{th} degree may not be a productive use of your time.

Formal Enforcement Strategies

- ▶ Before you start the formal enforcement process, ask yourself if you have the time and resources to take the case from cradle to grave. Are you willing to go the long haul?
- ▶ When preparing to issue a Notice of Violation, assume that every case will go to court.
- ▶ Know the laws:
 - ▶ RSA 676:15 (Injunctive relief)
 - ▶ RSA 676:17 (Fines, penalties)
 - ▶ RSA 676:17-a, -b (C&D, local land use pleas)
 - ▶ RSA 31:39-c, -d (Admin. Enforcement, pleas by mail)

Zoning/Code Enforcement Process

- ▶ **Step 1:** Receive a Complaint or Staff Notes Incompliance During an Inspection

- ▶ **Step 2:** Investigate and Document

Once a code violation is brought to light, your research must begin. Investigate, gather evidence, and document your observations. Documentation may include photographs, a written description of what is observed during the Investigation, and collection of any other pertinent information that supports the case. Always gather information with the intent that the issue may end up in court.

- ▶ **Step 3:** Give Notice of Violation and Request Corrective Action

If a site plan or ordinance has been violated, you need to provide formal notice to the responsible party. The notice needs to include the specific code or codes violated, along with an outline of what must be done to correct the issue.

- ▶ **Step 4:** Follow-up and Verify Compliance

Once the time for taking corrective action has passed, officers need to follow up to ensure issues are resolved. It's essential to stay on top of these deadlines. If possible, depending on the issue, follow up with the violator before the deadline.

- ▶ **Step 5:** Taking Further Action for Unresolved Issues

Unfortunately, not every violator will work to resolve the issue. Your municipality should have a clear, written process in place for these situations. You may opt to give them another chance to comply and/or impose fines until the issue is resolved. To ensure violators resolve issues, it's important to keep an open line of communication with them. And stay persistent. It's important to uphold your community's standards with code/zoning enforcement.

- ▶ **Alternative Strategies?** Planning Board Compliance Hearing/Site Plan Revocation

Zoning Enforcement Example #1







CITY OF SOMERSWORTH
OFFICE OF CODE ENFORCEMENT
1 Government Way – Somersworth, NH 03878
603-692-4262 603-692-9520

NOTICE OF VIOLATION

DATE: July 24, 2023

TO: [REDACTED]

RE: Zoning Violations

You are hereby notified that a condition, which is in violation of the City of Somersworth's City Ordinances and/or NH State Statutes listed below, has been found existent on the premises located at

At: [REDACTED] R/C Zone.

Dear [REDACTED]

As a relatively formal introduction, my name is Shane Conlin and I am a Code Compliance Officer for the City of Somersworth. I am reaching out to you on behalf of the City's Planning Board to bring an issue to your attention.

The first issue I would like to readdress is the closure of the rear garage doors (or lack thereof) at the [REDACTED] garage facility. There has been a repeated history of failing to comply with the Planning Board's condition of approval which states that "[the] rear garage doors must be kept closed at all times, except for when vehicles are entering or exiting."

This condition continues to be ignored during the warmer months. Because of this, the Planning Board will likely request a compliance hearing, in which you could potentially face a revocation of your site plan approval.

If you happen to have any questions or concerns regarding the above, please feel free to reach out to me directly at (603) 692-9521

#1 Complaint Specifics:

Rear garage doors remain open at the [REDACTED]. The Site Plan for the Somersworth NH [REDACTED] location stipulates that "[the] rear garage doors must be kept closed at all times, except for when vehicles are entering or exiting."

This is in Violation of the following:

Regulation 22A, Section 14:9 - ENFORCEMENT; FAILURE TO COMPLY WITH ORDER; VIOLATIONS AND PENALTY.

- a. General – These regulations shall be enforced under the authority of NH RSA 676, as the same may be subsequently amended, and such other authorities as may be available.
- b. Penalties – Any person who fails to comply with or violates any section of these regulations shall be fined in accordance with NH RSA 676.
- c. Civil Enforcement – Appropriate actions may be taken by law or in equity to prevent any violation of these regulations in order to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, or to prevent illegal occupation of a structure or premises. These remedies shall be in addition to the penalties described above.
- d. Revocation of Site Plan Approval – Site Plans approved by the Board may be revoked, in whole or in part, in accordance with NH RSA 676:4-a, as the same may be subsequently amended.

Corrective Action:

Keep the rear garage doors closed at all times, except for when vehicles are entering or exiting.

COMPLIANCE DATES:

- 1. Complaint #1 shall be cured within seven (7) days following receipt of this notice; and

****In addition, in the event that Complaint #1 is repeated, this office will refer this matter to the Dover District Court for prosecution.**


PER ORDER OF SOMERSWORTH CODE OFFICE.

Penalty: Any person who shall violate a provision of this code shall be subject to a civil penalty not to exceed \$275 for the first offense and \$550 for subsequent offenses for each day that such violation is found to continue pursuant to RSA 676:17. We also reserve the right to issue a citation pursuant to RSA 31:39-c or use any legal remedies provided by the State of New Hampshire and the City of Somersworth. Appeals shall be made to the Zoning Board of Adjustments (ZBA) in the form of an APPEAL FROM AN ADMINISTRATIVE DECISION within 30 days of the date of this notice.

SIGNED _____
Shane Conlin – Code Compliance Officer

DATE: _____


THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
http://www.courts.state.nh.us

Court Name: 7th Circuit - District Division - Dover 
Case Name: City of Somersworth v. [REDACTED]
Case Number: _____
(if known)

LOCAL ORDINANCE CITATION/SUMMONS

LOCAL ORDINANCE CITATION, TOWN/CITY OF Somersworth

You MUST COME TO COURT AT 8:30 o'clock AM PM on 05/20/2024 to answer this citation.
 You DO NOT HAVE TO COME TO COURT but must answer this citation by _____ o'clock AM/PM on _____.
Follow the instructions on page 2 of this summons.


7th Circuit - District Division - Dover  (Court Name)
25 St Thomas Street (Street Address)
Dover NH 03820 (Town/City)
1-855-212-1234 (Telephone Number)

THE UNDERSIGNED COMPLAINS THAT CONTRARY TO TOWN/CITY ORDINANCE/REGULATION/BYLAWS
NUMBER Chapter 22 A THE DEFENDANT: (Please Print)

[REDACTED] (Last Name) [REDACTED] (First Name) [REDACTED] (MI)
[REDACTED] (Address) [REDACTED] (City/Town) [REDACTED] (Zip)

On 07/24/2023 (date notice was given) was given written notice of the violation that on the
07/22/2023 (date of violation) at [REDACTED] Somersworth, N.H. 03878 (location
of violation) the Defendant did (narrative to include the circumstances of the violation and place the
violation occurred):

**Pursuant to Defendant's Site Plan, "The rear garage door[s] shall remain closed during business
operations with the exception of vehicles entering and exiting.", due to noise concerns for abutting
residential properties. (Site Plan Approval Letter, 06/25/2021) Defendant has continually failed to keep
the rear garage doors closed despite previous Notice of Violation's and Planning Board compliance
hearings. **This matter is being prosecuted under NH RSA 676:17 ****

After written notice, the violation was again witnessed on 04/15/2024 at 1:41 AM 

 / Code Compliance Officer
(Prosecuting Official Signature) (Title/Authority)

Civil Penalty \$ 10,000.00

SERVED IN HAND
 SERVED BY POSTPAID CERTIFIED MAIL
RETURN RECEIPT REQUESTED (RETURN RECEIPT ATTACHED)

End Results



Zoning Enforcement Example #2



Dec 29, 2022 at 11:25:24 AM





CITY OF SOMERSWORTH

OFFICE OF CODE ENFORCEMENT

1 Government Way – Somersworth, NH 03878

603-692-4262 603-692-9520

January 20th 2023

[REDACTED]

Courtesy Notice

Please Read Carefully

RE: [REDACTED]

[REDACTED]

On 12/29/2022, I received a complaint regarding a code violation on the property. Understanding that you might not be aware of what the [City](#) codes require, I am sending you this Courtesy Notice to give you an opportunity to correct this matter.

The item(s) listed below is the violation I observed which requires your attention. Please correct the violation(s) so that further action, which may include fines, does not become necessary.

#1 Complaint Specifics: The property has more than one unregistered and uninspected vehicle.

This is in Violation of the following:

The City of Somersworth, New Hampshire, Chapter 19 Zoning Ordinance – Table 4.A.4

Principal Use # 10 Junkyard is only allowed in Industrial Zones.

Note: This property which meets the definition of junkyard is located in zone C/I, which is a prohibited use as listed in Table 4.A.4

19.25.PP. JUNKYARD. Any area, lot, building or roofed structure or part thereof whose interior is visible to the public from off premise, used for the storage, collection, processing, purchase, sale or abandonment of: old iron or metal, glass, paper or other discarded goods, materials, machinery or two or more unregistered and uninspected by the State and/or City motor vehicles or old motor vehicles no longer intended or in condition for legal use on the public highways or used parts or materials from motor vehicles which, taken together, include in bulk two or more vehicles. Legal, accessory storage use shall be exempt from this definition.

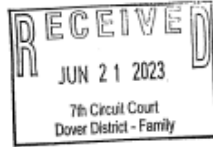
Corrective Action: Only one unregistered and uninspected vehicle is allowed on the property. All other vehicles that are unregistered and uninspected must be removed.

Please correct the violation(s) before 3/1/23. Please call me, when you have resolved the violation.



CITY OF SOMERSWORTH
OFFICE OF CODE ENFORCEMENT
1 Government Way – Somersworth, NH 03878
603-692-4262 603-692-9520

NOTICE OF VIOLATION



DATE: April 4, 2023

TO: [REDACTED]

RE: Zoning Ordinance Violations

You are hereby notified that a condition, which is in violation of the City of Somersworth's City Ordinances and/or NH State Statutes listed below, has been found existent on the premises located

At: [REDACTED]

#1 Complaint Specifics: The property has two or more unregistered and uninspected vehicles. The property is littered with junk.

This is in Violation of the following:

The City of Somersworth, New Hampshire, Chapter 19 Zoning Ordinance – Table 4.A.4
Principal Use # 10 Junkyard is only allowed in Industrial Zones.

Note: This property which meets the definition of junkyard is located in zone C/I, which is a prohibited use as listed in Table 4.A.4

19.25.OO. JUNK. Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, bailing, disposal or other use or disposition.

19.25.PP. JUNKYARD. Any area, lot, building or roofed structure or part thereof whose interior is visible to the public from off premise, used for the storage, collection, processing, purchase, sale or abandonment of: old iron or metal, glass, paper or other discarded goods, materials, machinery or two or more unregistered and uninspected by the State and/or City motor vehicles or old motor vehicles no longer intended or in condition for legal use on the public highways or used parts or materials from motor vehicles which, taken together, include in bulk two or more vehicles. Legal, accessory storage use shall be exempt from this definition.

Corrective Action: Only one unregistered and uninspected vehicle is allowed on the property. All other vehicles that are unregistered and uninspected must be removed. Additionally, all items that fall under the definition of junk must be removed from the property or public view.

COMPLIANCE DATE: The complaint in this notice of violation must be corrected by 4/15/2023

PER ORDER OF SOMERSWORTH CODE OFFICE.

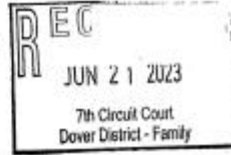
Penalty: Any person who shall violate a provision of this code shall be subject to a civil penalty not to exceed \$275 for the first offense and \$550 for subsequent offenses for each day that such violation is found to continue pursuant to RSA 676:17. We also reserve the right to issue a citation pursuant to RSA 31:39-c or use any legal remedies provided by the State of New Hampshire and the City of Somersworth. Appeals shall be made to the Zoning Board of Adjustments (ZBA) in the form of an APPEAL FROM AN ADMINISTRATIVE DECISION within 30 days of the date of this notice.

It is the responsibility of the property owner to notify the City of Somersworth Code Enforcement Officer upon completion of work. If said violation is not corrected by the above date, this citation will be submitted to the Dover District Court for Civil Prosecution (a court citation will be issued). It is the responsibility of the property owner to obtain all necessary building and Historic District Commission permits.

SIGNED 
Shane P. Conlin – Code Compliance Officer

DATE: 4/4/23

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
http://www.courts.state.nh.us



Court Name: 7th Circuit - District Division - Dover

Case Name: City of Somersworth Code Compliance v. [REDACTED]

Case Number: _____
(if known)

LOCAL ORDINANCE CITATION/SUMMONS
LOCAL ORDINANCE CITATION, TOWN/CITY OF SOMERSWORTH

- You MUST COME TO COURT AT 8:30 o'clock AM on 07/17/2023 to answer this citation.
 You DO NOT HAVE TO COME TO COURT but must answer this citation by _____ o'clock AM/PM on _____.
Follow the instructions on page 2 of this summons.

7th Circuit - District Division - Dover

25 N. Thomas Street
Dover, NH 03828
603-852-2121

THE UNDERSIGNED COMPLAINS THAT CONTRARY TO TOWN/CITY ORDINANCE/REGULATION/BYLAW NUMBER CH. 19 THE DEFENDANT: (Please Print)

[REDACTED] (Last Name) [REDACTED] (First Name) [REDACTED] (MI)
[REDACTED] (Address) Somersworth NH 03878 (City/Town) (Zip)

On 01/20/2023 (date notice was given) was given written notice of the violation that on the 12/29/2022 (date of violation) at [REDACTED] Somersworth, NH 03878 (location of violation) the Defendant did (narrative to include the circumstances of the violation and place the violation occurred):

The defendant was first notified of the junkyard violation 1/20/23 with a Courtesy Notice. After failing to remove the unregistered and uninspected vehicles from the property, a Notice of Violation was sent to the property owner on 4/6/2023. The defendant was given until April 15th 2023, 85 days from the initial notification to remove the unregistered and uninspected vehicles. The violation was again observed on 6/16/2023.

After written notice, the violation was again witnessed on 06/16/2023 at 2:35 AM

[Signature] / Code Compliance Officer
(Prosecuting Official Signature) (Title/Authority)

Civil Penalty \$ 1,000.00
Maximum \$1000 per citation pursuant to RSA 31:39, III

- SERVED IN HAND
 SERVED BY POSTPAID CERTIFIED MAIL
RETURN RECEIPT REQUESTED (RETURN RECEIPT ATTACHED)

Case Name: City of Somersworth Code Compliance v. [REDACTED]

Case Number: _____

LOCAL ORDINANCE VIOLATION CITATIONS/SUMMONS

INSTRUCTIONS

Unless you have been instructed to come to court in person, you may answer this citation/summons by mail or may personally appear in court on the date on the first page of this citation/summons. If you enter a plea by mail, you have four choices regarding this citation/summons. You must (X) one of the following choices, sign below, and return this citation/summons to the court no later than the date shown on the first page of this citation/summons. Checks and money orders shall be made payable in U.S. FUNDS ONLY to the court whose name and address appear on the first page of this citation/summons. DO NOT SEND CASH THROUGH THE MAIL. FAILURE TO RESPOND ON OR BEFORE THE DATE SHOWN ON THE FIRST PAGE OF THIS CITATION/SUMMONS MAY RESULT IN YOUR ARREST.

- I plead NOT GUILTY and wish to have a trial. I understand that I DO NOT HAVE TO APPEAR IN COURT ON OR BEFORE THE DATE SHOWN ON THE FIRST PAGE OF THIS SUMMONS and that I will be notified by mail when and where to appear for trial. I understand I have the right to represent myself or to hire a lawyer at my own expense.
- I plead GUILTY or NO CONTEST and have enclosed a check or money order for the TOTAL amount of my civil penalty.
- I have been charged with an offense for which no fine amount is shown on the front of this Summons, I wish to plead GUILTY or NO CONTEST and to be notified of the amount of my fine by mail.

WARNING

- Defendants who are issued a citation/summons and who wish to plead guilty or no contest shall enter their plea on the summons and return it with payment of the civil penalty, as set forth in the citation, to the clerk of the court prior to the arraignment date, or shall appear in court on the date of arraignment.
- Failure to respond to this summons by the date shown on the front of this citation/summons, or failure to appear for the hearing scheduled with regard to this citation/summons will result in a \$50.00 administrative fee added to your civil penalty (RSA 676:17)
- If you default in accordance with Paragraph 2, or fail to pay any penalty or comply with any order with regard to this citation/summons or a similar order on any matter within the court's discretion, or issue a bad check in payment of a fine or other penalty, the court may in its discretion, issue a bench warrant for your arrest.

Date _____

Signature _____

Address if different than on Summons

CITY OF SOMERSWORTH CODE COMPLIANCE

v.

[REDACTED]
[REDACTED] Somersworth, NH 03878)




AFFIDAVIT

I, Shane Conlin, Code Compliance Officer for the City of Somersworth, New Hampshire,
do on oath depose and state as follows:

1. I am the Code Compliance Officer for the City of Somersworth, NH.
2. I attest that the City of Somersworth Code Compliance Office inspected [REDACTED]
Somersworth NH at approximately 2:35PM on June 16th 2023.
3. I attest that the property remains out of compliance with Complaint #1 in the 4/4/2023
Notice of Violation issued [REDACTED] for failure to remove multiple unregistered
and uninspected vehicles.

Date:

6/21/2023

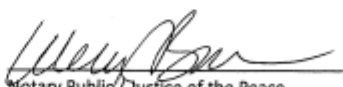

Shane Conlin

THE STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

Personally appeared before me the above-named Shane Conlin, Code Compliance Officer for the
City of Somersworth, and made oath that the foregoing is true and accurate to the best of his
information and belief.

Date:

6/21/2023


Notary Public Justice of the Peace

My commission expires: 02/19/2025

WENDY J. BOOKHOLZ
Notary Public - New Hampshire
My Commission Expires February 19, 2025

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

Court Name: 7th Circuit-District Division-Dover
Case Name: City of Somersworth v. [REDACTED]
Case Number: 432-2023-CR-[REDACTED] On ID# [REDACTED]
(if known)

AGREEMENT

The parties agree as follows:

The Defendant, [REDACTED] will plead guilty to the violation contained in the case and charge number above.

The property owner is allowed to keep one uninspected and unregistered vehicle on the property. All other unregistered and uninspected vehicles must be removed from the property in 30 days, outside of any public view.

In exchange, The City of Somersworth will suspend the following:
o Civil Penalty of 1,000.00

7/7/23
Date

[Signature]
Plaintiff/Petitioner

[REDACTED]
Defendant/Respondent

Attorney for Plaintiff/Petitioner

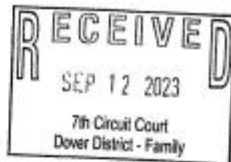
Attorney for Defendant/Respondent

AGREEMENT APPROVED.

[Signature]
Date 7/7/23 Sawako T. Gardner, Judge

AGREEMENT

THE STATE OF NEW HAMPSHIRE
7th CIRCUIT – DOVER DISTRICT
STATE OF NEW HAMPSHIRE



v.

Docket No. 432-2023-CR- [REDACTED]

MOTION TO IMPOSE SUSPENDED SENTENCE

NOW COMES the State of New Hampshire, by and through the Somersworth Code Compliance Office, and moves this Honorable Court to impose the defendant's suspended sentence, and in support thereof, states as follows:

1. On July 17th 2023, the defendant entered into an agreement with the City of Somersworth, to bring the defendants property located at [REDACTED] into compliance. In exchange, the City of Somersworth would suspend the \$1,000.00 civil penalty if the defendant adhered to the terms of the agreement. If the defendant fails to adhere to the terms of his suspended sentence, the defendant assumes culpability for the \$1,000.00 civil penalty.
2. As such, the defendant has failed to abide by the conditions of his suspended sentence and it should be imposed.
WHEREFORE, the State respectfully requests this Court:
 - A. Impose the defendant's suspended sentence on 432-2023-CR-831
 - B. Schedule a hearing thereon if the Court deems it necessary; and
 - C. Grant such further relief the Court deems just.


Shane Conlin,
Code Compliance Officer
1 Government Way
Somersworth, NH 03878

Dated: September 12th 2023

CITY OF SOMERSWORTH CODE COMPLIANCE

v.



AFFIDAVIT

I, Shane Conlin, Code Compliance Officer for the City of Somersworth, New Hampshire, do on oath depose and state as follows:

1. I am the Code Compliance Officer for the City of Somersworth, NH.
2. I attest that the City of Somersworth Code Compliance Office inspected [REDACTED] Somersworth NH at approximately 9:05 AM on August 28th 2023 and again on September 11th 2023 at 12:12 PM.
3. I attest that the property remains out of compliance with the 7/17/2023 agreement for Case #432-2023-CR- [REDACTED] Charge ID: [REDACTED]

Date:

9/12/2023


Shane Conlin

THE STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

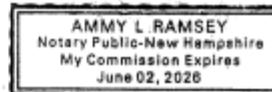
Personally appeared before me the above-named Shane Conlin, Code Compliance Officer for the City of Somersworth, and made oath that the foregoing is true and accurate to the best of his information and belief.

Date:

9/12/23


Notary Public, Justice of the Peace

My commission expires: 6-2-26



THE STATE OF NEW HAMPSHIRE

7th CIRCUIT – DOVER DISTRICT

STATE OF NEW HAMPSHIRE

v.

[REDACTED]
Docket No. 432-2023-CR [REDACTED]

MOTION TO ISSUE BENCH WARRANT

NOW COMES the State of New Hampshire, by and through the Somersworth Code Compliance Office, and moves this Honorable Court to issue a bench warrant, and in support thereof, states as follows:

1. On July 17th 2023, the defendant plead guilty and entered into an agreement with the City of Somersworth to bring the defendants property located at [REDACTED] into compliance. In exchange, the City of Somersworth would suspend the \$1,000.00 civil penalty if the defendant brought the property into compliance within 30 days.
2. On September 12th 2023, the City of Somersworth motioned the Court to impose the suspended sentence for failure to comply with the terms of the agreement.
3. On September 27th 2023, the Court granted the City's motion, ordering the defendant to pay the fine of \$1,000.00 by October 31st, 2023.
4. As such, the defendant has failed to pay the fine by the due date issued by the Court.
WHEREFORE, the State respectfully requests this Court:
 - A. To issue a bench warrant for the defendant.
 - B. Schedule a hearing thereon if the Court deems it necessary; and
 - C. Grant such further relief the Court deems just.

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT

Strafford county

7th Circuit-District Division-Dover

ORDER

City of Somersworth

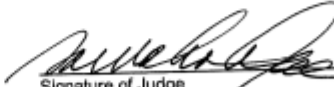
v.

[REDACTED]

The defendant owes \$1000 in
fines. He was arrested and
posted \$1000 bail on 2/26/2024.
Defendant wishes to release the
bail to apply same to the fines
owed in full.

So Ordered.

4/1/2024
Date


Signature of Judge
Sawako T. Gardner
Judge
Printed Name of Judge

(BH)
C:

Zoning Enforcement Example #3

CITY OF SOMERSWORTH
City Hall
One Government Way
Somersworth, NH 03878
Telephone 603 692-4262



- CODE ENFORCEMENT
- PROPERTY MAINTENANCE
- CITY ORDINANCE
- HEALTH CONCERN
- OTHER _____

Code Enforcement Department
Complaint Form or Department Action Form

Map/Lot: _____ Zone: _____ GIS _____ Date Filed: _____

PROPERTY LOCATION

Street Number _____ Street Name _____

COMPLAINANT INFORMATION

Name _____ E-mail Address _____
Address _____ Apartment Number _____
City/State/Zip Code _____ Telephone _____

PROPERTY OWNER INFORMATION

Name _____ E-mail Address _____
Address _____ Apartment Number _____
City/State/Zip Code _____ Telephone _____

COMPLAINT DETAILS:

Complainant's signature: _____ Date: _____

(Office Use Only)

INSPECTOR'S NOTES:

Inspector's signature: _____ Complaint Received By: _____

Date of NOV: _____ Date to Comply: _____ Date of Compliance: _____

Revised Feb 2015

Place additional information on reverse side of this form





CITY OF SOMERSWORTH
OFFICE OF CODE ENFORCEMENT
1 Government Way – Somersworth, NH 03878
603-692-4262 603-692-9520

NOTICE OF VIOLATION

DATE: January 31, 2024

TO: [REDACTED]

RE: Zoning Ordinance Violations

You are hereby notified that a condition, which is in violation of the City of Somersworth's City Ordinances and/or NH State Statutes listed below, has been found existent on the premises located

At: [REDACTED]

#1 Complaint Specifics:

Off-premise sign for [REDACTED]

This is in Violation of the following:

City of Somersworth, City Ordinance, Chapter 19, Section 20 Sign Regulations.

19.20.C.1 No sign shall be displayed or affixed in any manner without the approval of the Sign Review Committee, except where specifically exempted by the regulations below. A completed sign permit application and the required fee must be submitted to the Department of Development Services in order to be considered by the Sign Review Committee.

City of Somersworth, City Ordinance, Chapter 19, Section 20 Sign Regulations.

19.20.C.2. Prohibited Signs: The following types of signs are prohibited in all zoning districts:

19.20.C.2.f Off-premise Signs, except as otherwise provided herein;

Corrective Action:

You must remove the off-premise sign from the intersection of Tri City Road and High Street.

Page 2 of 4

COMPLIANCE DATE: The complaint and corrective action listed under item #1 must be completed within thirty days of receiving this notice.

PER ORDER OF SOMERSWORTH CODE OFFICE.

Penalty: Any person who shall violate a provision of this code shall be subject to a civil penalty not to exceed \$275 for the first offense and \$550 for subsequent offenses for each day that such violation is found to continue pursuant to RSA 676:17. We also reserve the right to issue a citation pursuant to RSA 31:39-c or use any legal remedies provided by the State of New Hampshire and the City of Somersworth. Appeals shall be made to the Zoning Board of Adjustments (ZBA) in the form of an APPEAL FROM AN ADMINISTRATIVE DECISION within 30 days of the date of this notice.

It is the responsibility of the property owner to notify the City of Somersworth Code Enforcement Officer upon completion of work. If said violation is not corrected by the above date, this citation will be submitted to the Dover District Court for Civil Prosecution (a court citation will be issued). It is the responsibility of the property owner to obtain all necessary building and Historic District Commission permits.

SIGNED _____

Shane P. Conlin – Code Compliance Officer

DATE: _____

RECEIVED
FEB 29 2024

APPLICATION FOR AN APPEAL FROM AN ADMINISTRATIVE DECISION
ZONING BOARD OF ADJUSTMENT
CITY OF SOMERSWORTH, NEW HAMPSHIRE

EN AS

(Do not write in this space)

Date Received: 2-29-24
Fee Paid: \$ 195.28
Case Number: ZBA#01-2024

- Name of applicant: _____
Address (include City, State, ZIP): _____
Telephone: _____
- Name of property owner: same
(if same as applicant, write "same")
Address (include City, State, ZIP): _____
Telephone: _____
- Location of Property: _____
(number and street)
Assessor's Map: _____ Lot: _____ Zoning District: _____

All appeals from an administrative decision must be received by the Department of Development Services within thirty (30) days of the administrative decision. The Zoning Board of Adjustment is scheduled to meet the first Wednesday of each month. Please direct any questions to the Department of Development Services, Planning Office, City Hall, One Government Way, Somersworth, NH 03878, 692-9519.

ZBA APPLICATION FEES:

- FILING FEE: \$75.00
- ADVERTISING FEE: \$85.00 (for meeting notice in a newspaper of general circulation)
- ABUTTER NOTIFICATION: Current USPS cost of verified mail per direct abutter

APPEAL FROM AN ADMINISTRATIVE DECISION
(As it relates to the interpretation and enforcement of the Zoning Ordinance)

Section(s) of the Zoning Ordinance in question: See attached addendum

Please indicate the administrative official who made the alleged error and the date the error was made (please note that any appeal must be received by the Planning Department within thirty (30) days of the alleged error): See attached addendum

DocuSign Envelope ID: 76906803-2F2E-4383-A EFC6FB23762

Please describe the alleged error in order, requirement, decision, or determination made by the administrative official in the enforcement of The City of Somersworth Zoning Ordinance:
See attached addendum

Signature of owner (required to file application): _____
Date: 2/29/2024

Signature of applicant (required to file application if applicant is different from owner): _____

Date: _____



June 12, 2024

[REDACTED]

RE: [REDACTED] ZBA#01-2024

Dear Applicant,

Please be advised that at the meeting of June 5, 2024, the Somersworth Zoning Board of Adjustment voted to **DENY** your request for a rehearing of the application for an appeal of an administrative decision ZBA#01-2024 associated with the property located at 1-9 TriCity Road, in the Business (B) District, Assessor's Map 39 Lot 02, ZBA#01-2024 **FOR THE FOLLOWING REASONS:**

1. The Board did not err in the decision-making process; and
2. No new substantial evidence was provided.

APPEAL PROCESS: Pursuant to RSA 677:4 Any person aggrieved by any order or decision of the zoning board of adjustment or any decision of the local legislative body may apply, by petition, to the superior court within 30 days after the date upon which the board voted to deny the motion for rehearing.

If you have any questions or comments, please contact the Department of Development Services at 603-692-9519.

Sincerely,

Michelle Mears

Michelle Mears, AICP
Director of Planning and Community Development

End Results



Contact Information

Steven Whitley, Esq., Attorney
DrummondWoodsum Attorneys at Law
swhitley@dwmlaw.com, (603) 792-7434

Shane Conlin, Code Compliance Officer
City of Somersworth, NH
sconlin@somersworthnh.gov, (603) 692-9521

Q&A

THANK YOU