

Response to Questions on the FY 2010 County's Line of Business & Schools Program Review Processes Fall 2008

Request By: Supervisor McKay

Question: Please evaluate the fine structure for planning and zoning violations. What are the state caps, if any? Is the County maximizing the revenue that can be generated to cover our extensive costs in this area?

Response: General District Court:

The maximum permitted fine amounts for civil penalties are established in Paragraph 1 of Section 18-903 of under the Code of Virginia, which provide for a fine of \$200 for the first violation and \$500 for subsequent violations up to a total of \$5000. It is the practice of Fairfax County Zoning Enforcement to cite violators in two instances for fines of \$200 and \$500 for a total of \$700. Theoretically, staff could charge an individual with ten offenses for a total of \$5000. However, to receive the maximum amount of fines, each offense must be established at a minimum of 10-day intervals, which would require a minimum of 90 days, thereby delaying abatement of the violation. Additionally, the imposition of such a total amount may be reduced by the courts if they determine it is excessive. The current practice of collecting \$700 has been found acceptable by the courts thus far.

Circuit Court:

There is no fine schedule set forth in the Code of Virginia regarding Injunctive Relief filed in Circuit Court to resolve zoning and property maintenance violations. However, if there is a final order for which the violation is not abated and the property is now in violation of an order, a motion for a Rule to Show Cause is filed and the Judge may at his/her discretion impose fines. Staff typically asks for \$100 per day if there is no previous history of violations and recommends an increase to \$200-\$250 after a certain time frame. The Court has found this to be reasonable and has continued to levy such fines. However, upon the violation being abated, in some cases, the Judge often waives the fine. Staff has asked for up to \$500 per day on the more egregious violations, however, Judges often find this to not be reasonable and a lesser fine is levied.