Town of Black Mountain
Building, Planning and Zoning
160 Midland Avenue ♦ Black Mountain ♦ North Carolina ♦ 28711
Phone: 828-419-9300 ♦ Fax: 828-669-2030 ♦ TDD: 1-800-735-2962

ZONING ORDINANCE VIOLATION

September 23, 2025

Shane Lunsford and Erin Lunsford
19 Timber Park Dr.
Black Mountain, NC 28711

RE: Zoning Ordinance Violation at 19 Timber Park Drive (Buncombe County Property ID Number 061869152900000), Black Mountain, NC 28711

Dear Property Owners,

A complaint of a zoning ordinance violation was received by this office. The violation is regarding storage units that have been in place for more than 120 days at 19 Timber Park Drive (Buncombe County Property ID Number 061869152900000). Item ***B*** in Section 4.7.13.3 (Temporary Uses) of Chapter 4 of Appendix A (Land Use Code) lists the requirements for storage units:

> Requirements for storage units or "PODS"
> - This section applies to temporary, self-contained storage units, not including trailers for office use or temporary shelter, which are intended to be picked up and moved to various locations on demand.
> - The maximum time a temporary storage until shall be placed on a parcel is 120 days.
> - PODS shall be placed so as not to interfere with traffic or as to create a traffic hazard.

The two storage units have been at 19 Timber Park Drive since no later than January of this year.

Please know that it is a violation of the Code of Ordinances to establish and maintain a use that is not permitted. Section 4.3.1 (A) of Chapter 4 explains that use of land must conform with zoning requirements:

> No building or land shall be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the town zoning regulations.

Note that per state statute, there is no such thing as a “use variance.” In other words, the Board of Adjustment is not allowed to consider an application from a property owner to establish a use that’s not permitted.

You are required to remove the storage units from your property.

The Town's Code of Ordinances is available online at:
https://library.municode.com/nc/black_mountain/codes/code_of_ordinances

CORRECTIVE ACTION REQUIRED

You are hereby required to remove the storage units from your property.

The property must be brought into compliance within fifteen (15) days of receipt of this notice. Failure to comply may result in a notice and citation for which a civil penalty of $50.00 shall be assessed per day. Pursuant to Chapter 1, Section 1.11.6 of the Town of Black Mountain Land Use Code, this enforcement decision may be appealed to the Board of Adjustment following all procedures documented therein and pasted below.

Any questions relating to this warning notice should be directed to this office.

Thank you for your cooperation in this matter.

Respectfully,

Russell Cate, Planner / Zoning Administrator (phone: 828-419-9373; email: russell.cate@tobm.org)

1.11.6 Notices of violations and right to appeal.

A. When work or activity has been undertaken in violation of state law, this code or the terms of a development approval, a written notice of violation may be issued by the responsible enforcement official. The notice of violation shall be delivered by personal delivery, electronic delivery, or first-class mail to all responsible parties. The notice of violation may be posted on the property.

B. The notice of violation shall include a description of the violation and the actions necessary to correct the violation and shall require such remedial action be taken within a prescribed time period not to exceed 90 days. The enforcement officer may extend the 90-day period at his or her discretion for reasonable mitigating circumstances, but must document the reasons for the extension. Enforcement officers may waive penalties in cases where emergency or temporary repairs have been made out of necessity for the welfare and safety of the public or structure.

If the violation at issue is a violation of the State Building Code, the property owner or party responsible for the violation may appeal the issuance of the citation to the Commissioner of Insurance pursuant to N.C.G.S. § 160D-1127.

For all other violations, the property owner or party responsible for the violation may appeal the issuance of the citation to the board of adjustment within 30 days of the date of the receipt of the written citation by filing an appeal application with the town clerk.

The town may use any combination of the actions and penalties provided in this section to prevent, correct, stop, abate, or penalize a violation of the development regulations.