

Article XIV. ADMINISTRATION, ENFORCEMENT AND PENALTIES

Section 14.1 Administrative Officer

This Ordinance shall be administered and enforced by the Zoning Administrator. The Zoning Administrator is hereby authorized:

- A. To issue a Zoning Permit prior to the authorization of the issuance of a building permit.
- B. To collect the designated fees in the Administration of this ordinance.
- C. To investigate violations of the provisions of this ordinance and enforce actions necessary for correction thereof. To enter upon private property at reasonable times in the carrying out of the duties.
- D. To make and keep all records necessary and appropriate to the office including a record of issuance and denial of all Zoning Permits and Conditional Use Permits, Amendments, Variances, Appeals and receipt of complaints of violations of this ordinance and action taken on the same.
- E. To appoint agents to act on his behalf.

Section 14.2 Zoning Permits; Building Permits; Certificates of Occupancy Required

- A. **Zoning Permit** Application for a Zoning Permit shall be filed with the Zoning Administrator or his designate. No building permit shall be issued until a Zoning Permit has been issued.
- B. **Building Permit** No building permit shall be issued until the plans and specifications for a building comply with the North Carolina State Building Code, the provisions of the ordinance and until a Zoning Permit has been executed.
- C. **Certificate of Occupancy** No building which has been erected, added to, relocated, or structurally altered for which a building permit has been issued shall be used or occupied nor the use of any building or land changed until a Certificate of Occupancy has been issued by the Building Inspector stating that the building or structure or part thereof complies with the North Carolina State Building Code, and the provisions of this ordinance. No previously unoccupied structure shall be occupied until a Certificate of Occupancy is issued.
- D. No temporary utilities shall be connected until a building permit is issued. No permanent utilities shall be connected until a Certificate of Occupancy is issued.

Section 14.3 **Zoning Permit**

No land shall be used or occupied and no building hereafter structurally altered, erected, or moved, shall be used, or its use changed, until a Zoning Permit shall have been issued by the Zoning Administrator stating that the building and/or the proposed use thereof complies with the provisions of this Ordinance. No Building Permit shall be issued and no building shall be occupied until that Permit is issued. The issuance of a valid Zoning Permit and valid building permit shall confer with it the right to undertake and complete the development and/or use of property under the terms and conditions of such permit provided that such action as authorized by the permit is commenced within one hundred eighty (180) days of issuance and provided that all other permits are obtained. Otherwise the permit shall be void.

1. Application Procedures

Each application for a Zoning Permit shall be accompanied by a site plan in duplicate, drawn to scale, one (1) copy of which shall be returned to the Owner upon approval.

The site plan shall show the following:

- a. The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;
- b. The location of the said lot with respect to adjacent rights-of-way;
- c. The shape, dimensions, and location of all buildings, existing and proposed, on the said lot;
- d. The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;
- e. The location and dimensions of off-street parking and the means of ingress and egress to such space; and
- f. Any other information which the Zoning Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance.

2. Right of Appeal

If the Zoning Permit is denied, the applicant may appeal the action of the Zoning Administrator to the Board of Adjustment as provided for herein. Such appeal shall be made within thirty (30) days of such permit denial.

Section 14.4 **Zoning Permit With Vested Rights**

- 1. In any case where the applicant for a Zoning Permit desires to obtain a vested right, as authorized by NCGS 160A-385.1, the applicant shall observe the following procedures:

- a. The applicant shall submit to the Zoning Administrator seven (7) copies of a site specific development plan drawn to scale describing with reasonable certainty the type and intensity of use for the specific parcel or parcels of land. Such plan shall include:
- 1) The boundaries of the site;
 - 2) Significant topographical and other natural features affecting the development of the site;
 - 3) The location on the site of the proposed buildings, structures, and other improvements;
 - 4) The dimensions, including height, of the proposed buildings and other structures;
 - 5) The location of all existing and proposed infrastructure on the site, including water, sewer, roads and walkways; and,
 - 6) Such other information as the Zoning Administrator may determine to be necessary in order to determine the specifics of the plan.
- b. Public Hearing; Notice Thereof

Upon receipt of a properly prepared site specific development plan the Zoning Administrator shall arrange to bring such plan before the Planning Board in the manner of a public hearing. Completed plans shall be received a minimum of fourteen (14) days prior to the public hearing at which the proposed site plan is scheduled to be considered by the Board. Notice of the public hearing shall be given in the same manner as that required for a variance.

In considering an application for a Zoning Permit With Vested Rights the Planning Board shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured and substantial justice done. If the Board should find, after public hearing, that the proposed Permit should not be granted, such proposed Permit shall be denied.

In granting such Permit, the Planning Board shall make the following affirmative findings:

- 1) The use requested is among those listed as a Permitted or Conditional Use in the District in which the subject property is located or is to be located and complies with all the requirements of this Ordinance and other applicable ordinances.
- 2) The requested Permit is either essential or desirable for the public convenience or welfare.
- 3) The requested Permit will not impair the integrity or character of the surrounding or adjoining Districts, and will not be detrimental to the health, safety or welfare of the community.
- 4) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.

In granting a Zoning Permit With Vested Rights, the Planning Board may impose such additional restrictions and requirements upon such Certificate as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. Approval of a site specific development plan with the condition that a variance, Conditional Use Permit or modification be obtained shall not confer a vested right unless and until the necessary variance, Conditional Use Permit or modification is obtained. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of the Permit, otherwise the Permit shall be denied. Any Permit so authorized shall remain vested for a period of two years from the date of the action granting the Permit.

2. Violations

Any violation of a term or condition involved in the granting of a Zoning Permit With Vested Rights shall be treated the same as a violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation. In addition, the Planning Board may, after public hearing, revoke any such vested rights for failure to abide by any such term or condition.

3. Other Ordinances Apply

The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity or use, or ordinances or regulations which are general in nature and are applicable to all property subject to land-use regulation, including, but not limited to building, fire, mechanical, electrical and plumbing codes.

4. Changes or Amendments

No change or amendment to any Permit With Vested Rights shall be made except after public hearing and except as provided for in this Ordinance for the original issuance of such Permit. If, at the time of consideration of proposed change or amendment to an existing Permit, such Permit or proposed change or amendment could not be lawfully made under Ordinance conditions existing at that time, such proposed change or amendment shall be denied. In addition, in no case shall there be an extension of the two-year time period for which such development right is vested. Nothing herein shall exempt plans related to such Permit from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approvals.

5. Status at Expiration of Term

A right which has been vested shall terminate at the end of the two-year vesting period with respect to buildings and uses for which no valid Building Permit applications have

been filed. Upon issuance of a Building Permit, the provisions of G.S. 160A-418 and G.S. 160A-422 shall apply except that a Building Permit shall not expire or be revoked because of the running of time while a vested right under this Section is outstanding. Any development constructed pursuant to a Zoning Permit With Vested Rights for which the vested term has expired and which is not in conformance with all the terms of this Ordinance because of changes made in the provisions of this Ordinance, including the Zoning Map, after the issuance of such Permit shall be subject to the provisions of this Ordinance relating to non-conformities the same as any other non-conformity.

6. Annexation Declaration

Any landowner who signs an annexation petition to the City pursuant to G.S. 160A.31 or G.S. 160A-58.1 shall, as part of that petition, file a signed statement declaring whether or not vested rights with respect to the property subject to the petition have been established under G.S. 160A-385.1 or G.S. 153A- 344.1. If the statement declares that such rights have been established, the City may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established by law shall be binding on the landowner and any such vested right shall be terminated.

Section 14.5 Duties of Zoning Administrator, Board of Adjustment, Courts and Board of Commissioners to Matters of Appeal

It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the Zoning Administrator; and that from the decision of the Board of Adjustment recourse shall be to courts as provided by law. It is further the intention of this Ordinance that the duties of the Board of Commissioners in connection with the Ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof, but the procedure for determining such questions shall be as herein set out in the Ordinance, and that the duties of the Board of Commissioners in connection with this Ordinance shall be only the duty of considering and passing upon any proposed amendment or repeal of the Ordinance as provided by law.

Section 14.6 Violations; Remedies

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Article and by State law.

A. Development Without Permit

To engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates, or other forms of authorization as set forth in this Ordinance.

B. Development Inconsistent With Permit

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form or authorization granted for such activity.

C. Violation by Act or Omission

To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the Board of Commissioners or its agent boards upon any required permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.

D. Use in Violation

To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure or to use any land in violation or contravention of this Ordinance or any other regulation made under the authority conferred thereby.

E. Continue a Violation

Each day's continuance of any of the above violations is a separate and distinct offense.

Section 14.7 Inspection and Investigation

In order to determine violations of this ordinance the Zoning Administrator shall have the following rights and powers:

A. Inspections

The Zoning Administrator shall have the right upon presentation of proper credentials, or inspection warrant if necessary, to enter on any premises within the jurisdiction at any reasonable hour for the purposes of inspection, determination of plan compliance, or other enforcement action.

B. Investigations

The Zoning Administrator shall have the power to conduct such investigations as he may reasonably deem necessary to carry out his duties as prescribed in this Ordinance and, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this Ordinance.

C. Supporting Documentation

The Zoning Administrator shall have the power to require written statements, certificates, certifications, or the filing of reports with respect to pertinent questions relating to complaints or alleged violations of this Ordinance.

Section 14.8 Enforcement Procedure

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he shall notify the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or additions; alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violations of its provisions.

A. Notice of Violation

If the owner or occupant of the land, building, structure, sign or use in violation fails to take prompt corrective action, the Zoning Administrator shall give the owner or occupant written notice (by certified or registered mail to his last known address, by personal service, or by posting notice conspicuously on the property) of the following:

1. that the land, building, structure, sign, or use is in violation of this Ordinance;
2. the nature of the violation, and citation of the Section(s) of this Ordinance violated; and
3. the measures necessary to remedy the violation.

B. Appeal

Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Zoning Administrator to the Board of Adjustment within fifteen (15) days following the date of the Notice of Violation. The Board of Adjustment shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the Notice of Violation. In the absence of an appeal, the decision of the Zoning Administrator shall be final.

C. Notice of Decision

The decision of the Board of Adjustment may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

Section 14.9 **Failure to Comply with Notice**

If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or a final decision by the Board of Adjustment following an appeal, the owner or occupant shall be subject to the penalties and remedies as set forth in Section 14.10 or to such remedies and penalties as may be provided by the State law.

Section 14.10 **Remedies**

Any or all of the following procedures may be used to enforce the provisions of this Ordinance.

A. Injunction

Any violation of this Ordinance or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to State law.

B. Civil Penalties

Any person who violates any provision of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Chapter 1 of the Code of Ordinances of the City of Mount Airy.

C. Denial of Permit or Certificate

The Enforcement Officer shall withhold or deny any permit, certificate, or other authorization on any land, building, structure, sign, or use in which there is an uncorrected violation of a provision of this Ordinance, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

D. Conditional Permit or Temporary Certificate

The Enforcement Officer may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by appropriate governmental authority.

E. Stop Work Orders

Whenever a building, structure, sign, or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the Enforcement Officer may order the work to be immediately stopped. The stop work order shall be in writing and directed to the owner, occupant, or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Such action shall be in accordance with NCGS 160A-421 or the NC Building Code.

F. Revocation of Permits or Certificates

The Enforcement Officer may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application, plans, or specifications; refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of an applicable State or local law may also be revoked.

Section 14.11 **Penalty**

Violations of this Ordinance shall subject the violator to the penalties and remedies, civil or criminal or both, as set forth in Chapter 1, Section 1-6 or the Code of Ordinances of the City of Mount Airy.