

ARTICLE XVI. ADMINISTRATION, ENFORCEMENT, VIOLATIONS, AND PENALTIES

Section 16.1 Zoning Administrator

This Ordinance shall be administered and enforced by the Zoning Administrator who shall be appointed by the City Manager. The Zoning Administrator may appoint agents to act on his/her behalf. If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she shall notify the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she 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.

Section 16.2 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 approved. A record of all Permits shall be kept on file in the office of the Zoning Administrator and copies shall be furnished, on request, to any persons having a proprietary or tenancy interest in the building erected. The Zoning Administrator shall collect such fees for the issuance of Zoning Permits as are authorized by the fee schedule as adopted by the City Council. The issuance of a valid Zoning 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 180 days of issuance and provided that all other permits are obtained. Otherwise the Permit shall be void.

1. Exception: Residential accessory buildings which do not require a Building Permit (i.e. buildings measuring 12' or less in all dimensions) are not required to get a zoning permit. See Article VII for applicable regulations (size, location, etc.) for such buildings.

Section 16.2.1 Application Procedures

Each application for a Zoning Permit, including application for Special Use Permits as authorized by this Ordinance, shall be accompanied by a requested number of plan copies, drawn to scale, one copy of which shall be returned to the Owner upon approval. The plan shall show the following:

1. The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;

2. The location of the lot with respect to adjacent rights-of-way;
3. The shape, dimensions, and location of all buildings, existing and proposed, on the lot;
4. The nature of the proposed use for the building or land, including the extent and location of the use, on the lot;
5. The location and dimensions of off-street parking and the means of ingress and egress to such space; and
6. Any other information which the Zoning Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance.

Section 16.2.2 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 45 days of such permit denial.

Section 16.3 Technical Review Committee (TRC)

A Technical Review Committee (TRC) shall be established to assist the staff, Planning and Zoning Board, and City Council in review of certain site development plans. The purpose of the TRC shall be to determine whether or not proposed developments meet the standards established in the Ordinance and all other applicable regulations within the City of Archdale and to provide guidance as how to provide for the betterment of public safety and welfare. The TRC review of development plans shall be of a technical nature only, and shall not involve negotiation with developers. All development requests that require review from the Planning and Zoning Board and City Council shall first be reviewed by the TRC.

Section 16.3.1 TRC Membership

A member shall represent the TRC from City Administration, the Planning Department, Public Works, the Police Department, Guil-Rand Fire Protective Agency, or any other department and/or professional that would be beneficial for technical review.

Section 16.3.2 TRC Chair

The Planning Director shall serve as Chair of the TRC. The Chair shall be responsible for all proceedings and decisions made by the TRC.

Section 16.3.3 TRC Meetings

The TRC shall meet as needed. After receipt from the Planning Director of a development proposal, the TRC shall review the proposal within 30 days.

Section 16.3.4 **Powers and Duties**

1. To review and consider certain plans for development within the City and its zoning limits.
2. To review and consider site plans that are permitted uses by right as per Section 6.4.
3. To review and consider site plans that require a conditional or special use.
4. To approve, approve with conditions, table, or disapprove site plans through a majority vote of those represented on the TRC. In the event of a tie, the Chair shall have the final and deciding vote.

Section 16.3.5 **Appeal of TRC Decision**

Appeals shall be to the City Council after review and recommendation from the Planning and Zoning Board provided the appeal is made by the applicant within 30 days of the TRC determination. All decisions on appeals made by the City Council are final.

Section 16.4 **Zoning Permits with Vested Rights**

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

1. The applicant shall submit to the Zoning Administrator a requested number of 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:
 - a. the boundaries of the site;
 - b. significant topographical and other natural features affecting development of the site;
 - c. the location on the site of the proposed buildings, structures, and other improvements;
 - d. the dimensions, including height, of the proposed buildings and other structures;
 - e. the location of all existing and proposed infrastructure on the site, including water, sewer, roads, and walkways; and
 - f. such other information as the Zoning Administrator may determine to be necessary in order to determine the specifics of the plan.

2. 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 Board of Adjustment in the manner of a public hearing. Completed plans shall be received a minimum of 30 days prior to the public hearing at which the proposed vested rights 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 rezoning request.

In considering an application for a Zoning Permit with Vested Rights, the Board of Adjustment 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 Board of Adjustment shall make the following affirmative findings:

- a. The use requested is among those listed as a Permitted or Special 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.
- b. The requested permit is either essential or desirable for the public convenience or welfare.
- c. 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.
- d. 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 Board of Adjustment may impose such additional restrictions and requirements upon such permit 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, Special Use Permit, or modification be obtained shall not confer a vested right unless and until the necessary variance, Special 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 2 years from the date of the action granting the permit.

Section 16.4.1

Violations

Any violations 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 Board of Adjustment may, after public hearing, revoke any such vested rights for failure to abide by any such term or condition.

Section 16.4.2 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 of 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.

Section 16.4.3 Changes or Amendments

No change or amendment to any Zoning 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 2 year time period for which such development right is vested. Nothing herein shall exempt plans related to such permit from subsequent review and approvals to ensure compliance with the terms and conditions of the original approval, provided that such review and approvals are not inconsistent with the original approvals.

Section 16.4.4 Status at Expiration of Terms

A right, which has been vested, shall terminate at the end of the 2 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 North Carolina General Statute 160A-418 and North Carolina General Statute 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 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.

Section 16.4.5 Annexation Declaration

Any landowner who signs an annexation petition to the City pursuant to North Carolina General Statute 160A-31 or North Carolina General Statute 160A-58 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 North Carolina General Statute 160A-385.1 or North Carolina General Statute 163A-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 16.5 **Duties of Zoning Administrator, Board of Adjustment, Courts, and City Council 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 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 City Council 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 City Council 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 16.6 **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 State law.

1. 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.
2. 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.
3. Violation by Act of Omission. To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the City Council 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.
4. 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.

Section 16.7 **Inspection and Investigation**

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

1. **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.
2. **Investigations.** The Zoning Administrator shall have the power to conduct such investigations as he/she may reasonably deem necessary to carry out his/her duties as prescribed in this Ordinance and, for this purpose, to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this Ordinance.
3. **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 16.8 **Enforcement Procedure**

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she 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, structures, 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.

1. **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/her last known address, by personal service, or by posting notice conspicuously on the property) of the following:
 - a. that the land, building, structure, sign, or use is in violation of this Ordinance;
 - b. the nature of the violation, and citation of the Section(s) of this Ordinance violated; and
 - c. the measures necessary to remedy the violation.

2. 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 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.
3. 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 16.9 Penalties for Violation

Violations of this Ordinance shall subject the violator to the penalties and remedies, civil or criminal or both, as set forth in this Ordinance.

1. Misdemeanors. Any person, firm, or corporation who violates any provision of this Ordinance shall, upon conviction, be guilty of a Class III misdemeanor and shall be fined not exceeding \$50.00 or imprisoned not exceeding 30 days. Each day that a violation continues to exist shall be considered to be a separate offense, provided the violation is not corrected within 30 days after notice of the violation has been given.

In addition to the other remedies cited in this Ordinance for the enforcement of these provisions, these regulations may be enforced through the issuance of citations by the City of Archdale. These citations shall be in the form of a civil penalty. The City may recover this penalty within 72 hours after being cited for a violation. In addition, failure to pay the civil penalty within 72 hours may subject the violator to criminal charges.

2. Civil Penalties. In addition to the other remedies cited in this Ordinance for the enforcement of its provisions, and pursuant to North Carolina General Statute 160A-175, the regulations and standards in this Ordinance may be enforced through the issuance of civil penalties by the Zoning Administrator.

Subsequent citations for the same violation may be issued by the Zoning Administrator 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 Zoning Administrator through the Board of Adjustment. Once the 10 day warning period has expired, each day that the violation continues shall subject the violator to additional citations to be issued by the Zoning Administrator.

The following civil penalties are established for violations under this Section:

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| Warning citation | Correct violation within 10 days |
| First citation | \$25.00 |
| Second citation | \$50.00 |

Third and sequential citation \$50.00
for the same offense

These civil penalties are in addition to any other penalties, which may be imposed by a court of law for violation of the provisions of this Ordinance.

In addition to the foregoing enforcement provisions, this Ordinance may be enforced by any remedy provided in North Carolina General Statute 160A-175, including, but not limited to all appropriate equitable remedies issued from a court of competent jurisdiction as provided in North Carolina General Statute 160A-175 and particularly the remedy of injunction and order of abatement as allowed by North Carolina General Statute 160A-175.

This Ordinance specifically provides that each day's continuing violation is a separate and distinct offense.