

ARTICLE 16. ADMINISTRATION AND ENFORCEMENT

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 ensure compliance with or to prevent violations of its provisions. The Zoning Administrator and the staff appointed to act on his/her behalf shall be held to the statutory Conflict of Interest provisions set forth below:

1. No administrative staff of the City shall make a final decision on any matter required by this Ordinance where the outcome of the decision would have a direct, substantial, and readily identifiable financial impact on the staff member.
2. No administrative staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the City to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the City, as determined by the City Council.

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 one year of issuance and provided that all other permits are obtained. Otherwise, the Permit shall be void.

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.

16.2.1 Application Procedures

Each application for a Zoning Permit shall be made in the form specified by the Zoning Administrator and shall be accompanied by such supplemental information, including site plans and associated permits, as specified in the application materials. Following the submission of a complete application, the Administrator shall review it for compliance with the applicable regulations, and, if it is found to be in compliance, shall approve the Zoning Permit. If the Administrator finds that the application is not in compliance with one or more applicable regulations, he shall deny the application in writing and specify the reasons for the denial.

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 30 days of the applicant receiving constructive notice of such permit denial.

16.3 Technical Review Committee (TRC)

A Technical Review Committee (TRC) shall be established to assist the Planning Director, 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.

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.

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.

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.

16.3.4 Powers and Duties

1. To review and consider certain plans for development within the City and its zoning jurisdiction.
2. To review and consider site plans for uses that are permitted by-right.
3. To review and consider site plans that require a Special Use Permit.
4. To advise the Zoning Administrator on the approval or denial of approval of development plans.

16.4 Vested Rights

In any case where the applicant for a development approval desires to obtain a vested right, as authorized by North Carolina General Statute 160D-108.1, 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 Vesting 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

the vested rights application shall be denied. Any approval shall remain vested for a period of 2 years from the date of the action granting the approval.

16.4.1 Violations

Any violations of a term or condition involved in the granting of 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.

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.

16.4.3 Changes or Amendments

No change or amendment to any Site-Specific Vesting Plan associated with a Vested Rights approval shall be made except after public hearing and except as provided for in this Ordinance for the original approval. If, at the time of consideration of proposed change or amendment to an approved vested right, such 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.

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 160D-403(c) and North Carolina General Statute 160D-403(f) 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 Site-Specific Vesting Plan 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.

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 160D-108.1. 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.

16.5 Appeals, Intent and Duties

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.

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.

16.6.1 Development Without Permit.

1. 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.

16.6.2 Development Inconsistent With Permit.

1. 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.

16.6.3 Violation by Act of Omission.

1. 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.

16.6.4 Use in Violation.

1. 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.

16.7 Inspection and Investigation

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

16.7.1 Inspections.

1. 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.

16.7.2 Investigations.

1. 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.

16.7.3 Supporting Documentation.

1. 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.

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 in writing, 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.

16.8.1 Notice of Violation.

1. 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.

16.8.2 Appeal.

1. 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 30 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.

16.8.3 Notice of Decision.

1. 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.

16.9 Penalties for Violation

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

16.9.1 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. Each civil penalty issued for a violation of this Ordinance following the expiration of the warning period shall be in the amount of \$500.00, and shall be payable upon receipt of the citation. A penalty in the above stated amount shall be issued for each day that the violation continues.

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.

16.9.2 Additional Remedies.

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.