

## PART 14

### ADMINISTRATOR

#### Section 14.1 Administrator

14.1.1 The provisions of this Ordinance shall be administered by the Administrator and any other officials designated by the City Council for the Administration of this Ordinance.

#### 14.1.2 Zoning Inspection: Duties Specified

If the Administrator shall find that any of the provisions of the Ordinance are being violated, he shall cause notification, in writing, to the owner of the property upon which such violation is located, indicating the nature of the violation and order that necessary actions be taken to correct the deficiency. He shall order discontinuances of illegal uses of land, buildings, or structures, removal of illegal buildings or structures or of illegal additions, alterations or structural changes, discontinuance of any illegal work being done and shall take any other action authorized by this Ordinance to ensure its compliance.

#### 14.1.3 Zoning Permit

No building, sign (except as otherwise indicated) or other structure shall be erected, moved, or extended or enlarged or structurally altered; nor shall any building, sign or other structure be repaired exceeding one thousand (\$1,000) dollars of market value of such repairs, nor shall any excavation or filling of any lot for the construction of any building be commenced until the Administrator has issued a zoning permit for such work or change in use, in accordance with a fee schedule established by the City Council. Provided however, except in the HO-Historic Overlay District, the following structures shall not require zoning permits: (i) signs listed under Section 7 of this Ordinance; (ii) construction of public utility lines (gas, electric, water, sewer, cable TV); (iii) erection of a customary residential use television or FM radio reception antenna; (iv) rural mail boxes or roadside newspaper boxes.

##### a. **Expiration of Zoning Permit**

Except as provided in Part 22 of this ordinance, any zoning permit issued in accordance with this ordinance will lapse and become invalid unless the work for which it was issued is started within six (6) months of the date of issue, or if the work authorized by it is suspended or abandoned for a period of at least one year. Once a zoning permit has expired, construction work on the lot(s) in question cannot proceed until a new zoning permit has been issued."

##### b. **Records**

The Zoning Officer shall maintain a record of all zoning permits on file at his office, and copies shall be made available on request to interested parties.

##### c. **Conditions for Approval**

Zoning permits issued on the basis of dimensional plans approved by the Administrator authorize only the use, arrangement, and construction set forth in such approved plans and

applications. Use, arrangement, or construction that materially differ from that authorized shall be deemed a violation of this Ordinance and shall be punishable as indicated under Section 14.8 of this Ordinance.

#### **Section 14.2 Certificate of Compliance**

No structure hereafter erected, moved, structurally altered or changed in use shall be used or occupied until a certificate of compliance has been issued by the Administrator or his designee. Any certificate of compliance issued shall state that the structure is in compliance with the information stated on the zoning permit. A certificate of compliance shall not be issued unless the proposed use of the structure conforms to the applicable provisions of this Ordinance. If the certificate of compliance is denied, the Administrator shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates of compliance shall be kept on file in the office of the Administrator and copies shall be furnished, on request to all interested parties.

#### **Section 14.3 Designation of Class A Status For Placement of Manufactured Homes On Individual Lots**

Prior to the issuance of a zoning permit for the placement of a Class A Manufactured Home on an individual lot the applicant must request a designation of Class A status from the Administrator. In determining whether the proposed manufactured home, when placed on the lot, will meet the requirements for Class A manufactured homes, the applicant shall furnish such information as the Administrator may request in order to make such determination. Such information may include, but shall not be limited to manufacturer's specifications and drawings, photographs, site plan, and elevation drawings. Prior to issuance of a certificate of occupancy by the Lincoln County Building Inspections Department, the owner shall obtain a certificate of compliance as issued by the Administrator who shall inspect the manufactured home and determine that it meets all the requirements for a Class A Manufactured Home.

#### **Section 14.4 Site Plan Review Requirements**

##### **14.4.1 Statement of Intent**

The purpose of these requirements is to promote the orderly development of certain activities in the City and to ensure that such activities are developed in a manner harmonious with surrounding properties and in the interest of the general public welfare. To achieve these ends and to assure compliance with all applicable requirements of this Ordinance, site plans for certain uses of land shall be submitted to and reviewed by the Administrator.

##### **14.4.2 Development and Uses Requiring A Site Plan**

Site plan review shall be required for all uses and development other than one or two family residential uses and their accessory structures. Provided however, the Administrator may waive site plan requirements in either of the following cases when it is determined that the submission of a site plan would serve no useful purpose:

- a. Accessory structures;
- b. Any enlargement of a building by less than thirty-three percent (33%) of the existing size provided such enlargement will not result in a requirement for additional parking;

- c. A change in use where no changes are being made to the building coverage area, off-street parking area, or other external site characteristics.
- d. Review by the Staff Review Committee may not be required for new construction with a gross floor area of less than 5,000 square feet when the Administrator feels that site plan review would serve no useful purpose. Nevertheless, all site plans shall be reviewed by the Administrator as required in Section 14.4.3 and 14.4.4 of this ordinance within five (5) working days from the date of submittal.

#### **14.4.3 Procedure For Preparation**

- a. Site plan or any portion thereof shall be prepared by an engineer, architect, landscape architect or land surveyor who is authorized by the State of North Carolina to practice as such;
- b. Site plans shall be prepared to a scale of one inch equals fifty (50) feet (1" = 50') or larger;
- c. A site plan may be prepared in one or more sheets to show clearly the information required by this Section and to facilitate the review and approval of the site plan;
- d. All horizontal dimensions shown on the site plan shall be in feet;
- e. Decimal fractions of a foot shall be to the closest one hundredth of a foot (0.00) and all bearings shall be indicated in degrees, minutes and seconds;
- f. Every site plan shall show the name and address of the owner or developer, the north arrow, the date, the scale of the drawing, and the number of sheets. In addition, it shall reserve a blank space three (3) inches wide by five (5) inches long for City use;
- g. Five (5) copies of the site plan shall be submitted to the Administrator for review. The Administrator may request additional copies for outside agency review.

#### **14.4.4 Required Information On Site Plans – All Site Plans Shall Contain The Following Information:**

- a. Location of the tract on an inset map at a scale of not less than one inch equal to two thousand feet (1" = 2000') indicating the scale, the north-arrow, and such information as the names and numbers of adjoining roads, streams, subdivisions, or other landmarks, sufficient to clearly identify the location of the property.
- b. A boundary survey of the tract by bearings and distances certified by a licensed land surveyor or engineer.
- c. The location and dimensions of any sidewalks and curbs and gutters to be installed along public street frontages.
- d. All existing property lines; existing streets and easements, their names, numbers and widths; the location and size of existing sanitary and storm sewers, gas lines, water mains, culverts, and other utilities and their easements; existing buildings; existing watercourses; and any other prominent physical features on or adjoining the tract.
- e. Existing zoning and zoning district boundaries on the tract and on adjoining properties.

- f. The present use of all adjoining properties.
- g. Existing topography with contours drawn at two (2) foot intervals. This requirement for topography information may be waived by the Administrator for developments smaller than one acre in size and where he determines that there are insufficient topography changes to make such information necessary.
- h. Proposed changes in zoning, if any.
- i. The proposed location, general use, number of floors, height and floor area for each building; and, where applicable, the number, size and type of dwelling units.
- j. All off-street loading spaces, parking and walkways indicating the type of surfacing, size, angle of stalls, width of aisles, and a specific schedule showing the number of parking spaces provided.
- k. All proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades and where connection is to be made to City or other utility systems; all proposed gas lines and other utilities and their easements.
- l. The location, dimensions and character of construction of proposed streets, alleys, driveways; and the location, type and size of vehicular entrances to the site.
- m. Proposed finished grading at two (2) foot intervals and/or by spot elevations. This requirement may be waived in the same manner as in item (g) above.
- n. Provisions for the adequate disposition of natural and storm water indicating location, and storm water indicating location, sizes, types and grades of ditches, catch basins, pipes, retention facilities and connections to existing drainage systems or suitable outlet.
- o. Provisions for the adequate control of erosion and sedimentation indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction.
- p. Delineation of any flood hazard areas as shown on the City's FEMA maps.
- q. Location, type, size and height of fencing, retaining walls and screen planting where required under the provisions of this or any other City Ordinance.
- r. The location of wooded areas on the property and the location of trees and wooded areas that will be retained.
- s. The location and dimensions of proposed recreation areas, open space and required amenities and improvements.
- t. The location, character, size, height and orientation of proposed signs and outdoor lighting systems.

#### **14.4.5 Compliance With Other Requirements**

All features and elements of the site plan shall in all respects conform to all applicable provisions and standards of the General Statutes of North Carolina; the Ordinances of the City of Lincolnton; and the standards and requirements of the North Carolina Department of Transportation and the North Carolina Department of Health and Environment.

#### **14.4.6 Procedure For Processing**

The Administrator shall review all site plans submitted to him. The Administrator shall verify the completeness and compliance of the site plan and circulate the site plan to the relevant City, County and State agencies and officials for comments as to the proposed development's conformance to all applicable standards and requirements and whether approval of the site plan is recommended. The reviewing agencies and officials may include, but need not be limited to:

- ◆ City Director of Public Works and Utilities
  - ◆ City Engineer
  - ◆ City Fire Department
  - ◆ City Police Department
  - ◆ County Planner
  - ◆ Superintendent of County Schools
  - ◆ County Health and Environmental Health Departments
  - ◆ N.C. Department of Transportation
  - ◆ N.C. Department of Health and Environment
  - ◆ U.S. Soil Conservation Services, District Office
- a. Except under abnormal circumstances, within twenty-one (21) days of the receipt of the site plan the Administrator shall approve, approve subject to conditions, or disapprove the site plan and notify the applicant in writing of the action taken. In cases when the site plan approval is subject to conditions or when the site plan is denied approval, the Administrator shall set forth in writing any conditions or changes that might make the site plan acceptable.
- b. An applicant may appeal any decision of the Administrator in accordance with Section 15.2 of this Ordinance.

#### **Section 14.5 Right Of Appeal**

If a request for a zoning permit is disapproved or if a ruling of the Administrator is questioned, the aggrieved party may appeal such ruling to the Board of Adjustment in accordance with Section 15.2 of this Ordinance.

#### **Section 14.6 Remedies**

In case any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this Ordinance, the Administrator, or any other appropriate City Official, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violation.

**Section 14.7 Complaints Regarding Violations**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the cause and basis thereof shall be filed with the Administrator who shall properly record such complaint, immediately investigate, and take action as provided by this Ordinance.

**Section 14.8 Enforcement And Penalties**

Any person, firm or corporation convicted of violating the provisions of this Ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed five-hundred dollars (\$500) and/or imprisoned for a period not to exceed thirty (30) days. Each day of violation shall be deemed a separate offense, provided that the violation of this Ordinance is not corrected within ten (10) days after notice of said violation is given.

After the effective date of this Ordinance, any person who, being the owner or agent of the owner of any land located within the planning jurisdiction of the City of Lincolnton, thereafter subdivides his land in violation of this Ordinance or transfer or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this Ordinance and recorded in the Lincoln County Deeds Office, shall be in violation of this Ordinance. Any person, firm or corporation convicted of violating any of the provisions of this Ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed five-hundred dollars (\$500) and/or imprisoned for a period not to exceed thirty (30) days. Each day of violation shall be deemed a separate offense, provided that the violation of this Ordinance is not corrected within ten (10) days after notice of said violation is given.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt this transaction from such violation. The City through its attorney or other official designated by the City Council may enjoin an illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this Ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4.

In addition to the other remedies cited in this Ordinance for the enforcement of its provisions, and pursuant to North Carolina General Statutes 160A-175, 160A-365, 160A-375 and 160A-389, the regulations and standards in this Ordinance may be enforced through the issuance of civil penalties by the Administrator. Additionally, and pursuant to the authority granted by North Carolina General Statute 160A-175 (b), the City declares that the violation of the aforementioned civil penalty provisions shall not be a misdemeanor or infraction as provided in North Carolina General Statute 14-4.

Subsequent citations for the same violation may be issued by the Administrator if the offender does not correct the violation within three (3) days (except as otherwise provided in a Warning Situation) after it has been issued unless the offender has sought an appeal to the actions of the Administrator through the Board of Adjustment.

The following penalties are hereby established:

**Warning Citation**..... Correct Violation Within 10 Days

**First Citation** ..... \$100.00

**Second Citation for Same Offense**.....\$250.00

**Third and Subsequent Citations**

**For Same Offense**.....\$500.00 for each day

If the offender fails to pay penalties that have been cited within five (5) days after the offender has been cited, the City may recover the penalties in a civil action in the nature of debt.

Pursuant to G.S. 160A-389, if a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance or other regulation made under authority conferred thereby, the City in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises.

Pursuant to North Carolina General Statute Section 160A-175, the City may seek a mandatory or prohibitory injunction and an order of abatement commanding the offender to correct the unlawful condition upon or cease the unlawful use of the subject premises. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

The above remedies are cumulative, and the City may pursue any or all of the same at its discretion. Each day that the violation exists shall constitute a separate and distinct offense.