

**ARTICLE 2
ADMINISTRATION, DEVELOPMENT REVIEW,
AND PERMITTING PROCEDURES**

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ARTICLE 2
ADMINISTRATION, DEVELOPMENT REVIEW, AND PERMITTING PROCEDURES

2-1 City Council

As an elected, legislative body, the City Council performs planning and development functions as authorized by various enabling provisions of the North Carolina General Statutes.

A. Duties and Responsibilities

The City Council performs the following duties:

1. Appoints the Planning Board and the Board of Adjustment;
2. Upon recommendation by the Planning Board, adopts, implements, and amends a comprehensive land use plan which establishes long-range goals and objectives regarding future development of the city;
3. Adopts, amends, and implements more-detailed area plans for smaller geographic areas, as well as policies related to special land use issues;
4. Adopts, amends, and implements other specialized plans, programs, and policies for functional topics like transportation, recreation, open space, and capital improvements;
5. By ordinance, adopts and amends regulations relating to zoning, subdivision of land, and other private development activities;
6. Reviews and decides on applications for special use permits in accordance with the provisions of Sections 2-18 through 2-20. The City Council, in considering special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Section 2-18 of this Ordinance.
7. In considering proposed changes in the text of this Ordinance or to the zoning map, the City Council acts in its legislative capacity and shall review requests for amendments in accordance with the requirements of Article 9, Amendments;
8. Reviews and decides on the approval of site specific development plans (as defined in Section 2-28, Vested Rights), following the procedural requirements set forth in Section 2-28 of this Ordinance for the issuance of a special use permit;
9. As provided in Sections 7-3, the City Council is authorized to decide upon the approval of minor subdivision plats in cases where the applicant has been denied plat approval by the Planning Director and to review and decide upon the approval of preliminary and final major subdivision plats, in accordance with the provisions of Section 7-4-4;

10. Reviews and decides upon requests for waivers to the provisions of Section 7-6 in accordance with the standards delineated in Section 7-9; and
11. Establishes rules and procedures for the enforcement and administration of this Ordinance.

B. Right to an Impartial Decision Maker

Pursuant to the requirements of NCGS 160A-388 (e1), a member of the City Council shall not participate in or vote on a special use permit request or any other quasi-judicial matter in a manner that would violate an affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed ex parte communications; a close familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

2-2 Planning Board

The City of Mebane Planning Board is established pursuant to NCGS 1603A-361, to be known as the City of Mebane Planning Board and referred to herein as the Planning Board. As an appointed, advisory body, the Planning Board makes recommendations to the City Council as generally authorized by Chapter 160A, Article 19, of the North Carolina General Statutes.

A. Appointment and Terms of Planning Board Members

1. The City of Mebane Planning Board shall consist of nine members, six of whom shall be residents of the City of Mebane appointed by the City Council and three members shall be residents of the portion of the city's planning and zoning jurisdictional area which is located outside of the corporate limits of the city (two from Alamance County and one from Orange County.) Reduction from the current numbers shall be accomplished as terms expire; no sitting member shall be removed prior to the end of his or her existing terms.
2. Extraterritorial Planning Board members shall be appointed by the Board of County Commissioners from the applicable county. If a larger number of extraterritorial members is needed to comply with the proportional representation requirements of NCGS 160A-362, the City Council shall submit to the applicable Board of County Commissioners a resolution requesting that an additional member or members, as appropriate, be appointed. Proportional representation shall be determined by calculating the proportional relationship of the extraterritorial area population to the municipal population and applying that proportional relationship to the total membership of the Planning Board. An additional member must be appointed to the Planning Board to achieve proportional representation only when the population of the entire extraterritorial area constitutes a full fraction of the city's population divided by the total membership of the Planning Board. Once the City of Mebane provides proportional representation, no

power available to it under NCGS 160A-360 shall be ineffective in its extraterritorial area solely because county appointments have not yet been made. If the Board of County Commissioners fails to make appointments within 90 days after receiving a resolution from the City Council requesting that they be made, the City Council may make the appointments.

3. Each member of the Planning Board shall be appointed for a term of four years. Vacancies occurring otherwise shall be for the remaining term and shall be made by the City Council. Members shall serve until they are duly replaced.
4. Any member of the Planning Board shall be removed for cause (including, but not limited to, neglect of duty, malfeasance, misconduct or failure to faithfully attend meetings) by the City Council upon written charge and after a public hearing.

B. Duties and Responsibilities

In general, the Planning Board performs the following duties:

1. Initiates studies to identify and analyze land use issues of importance to the City of Mebane;
2. Prepares and recommends to the City Council a comprehensive land use plan and other plans, programs, and policies to achieve community goals and objectives;
3. Develops and recommends regulatory ordinances, text amendments, and administrative procedures to implement adopted land use plans and policies;
4. Makes recommendations to the City Council concerning requests for amendments to the text of this Ordinance and rezoning requests in accordance with the provisions of Section 9-3;
5. Informs and advises the general public regarding planning and zoning matters through meetings, hearings, advertisements, publications, and other appropriate methods of communication;
6. Coordinates planning activities with other jurisdictions' planning boards and commissions;
7. Makes recommendations to the City Council and Board of Adjustment concerning requests for special use permits in accordance with the provisions of Section 2-17;
8. Makes recommendations to the City Council concerning requests for major subdivision preliminary plat approval in accordance with the provisions of Section 7-4; and
9. Performs any other duties assigned by the City Council.

C. Advisory Committees

From time to time, the City Council may appoint one or more individuals to assist the Planning Board to carry out its planning responsibilities with

respect to a particular subject area. Members of such advisory committees shall sit as nonvoting members of the Planning Board when such issues are being considered and lend their talents, energies, and expertise to the Planning Board. However, all formal recommendations to the City Council shall be made by the Planning Board. Nothing in this section shall prevent the City Council from establishing independent advisory groups, committees, or boards to make recommendations on any issue directly to the City Council.

D. Meetings of the Planning Board

1. The Planning Board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with the review procedures delineated in this Ordinance and in accordance with the adopted *Bylaws and Rules of Procedure of the City of Mebane Planning Board*.
2. The Planning Board need not conduct its meetings strictly in accordance with the quasi-judicial procedures established for the Board of Adjustment. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.
3. All Planning Board meetings shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

E. Quorum and Voting

1. A quorum for the Planning Board shall consist of a majority of the board membership (excluding vacant seats). A quorum is necessary for the Planning Board to take official action.
2. All actions of the Planning Board shall be taken by majority vote, a quorum being present.
3. A roll call vote shall be taken upon the request of any member. Once a member is physically present at a Planning Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection 4. or has been allowed to withdraw from the meeting in accordance with subsection 5.
4. A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
 - (a) If the member has a direct financial interest in the outcome of the matter at issue; or
 - (b) If the matter at issue involves the member's own official conduct; or
 - (c) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or

- (d) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
5. A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

F. Right to an Impartial Decision Maker

Pursuant to the requirements of NCGS 160A-388 (e1), a member of the Planning Board shall not participate in or vote on a special use permit request or any other quasi-judicial matter in a manner that would violate an affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed ex parte communications; a close familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

2-3 Board of Adjustment

A. Authority

As an appointed, quasi-judicial body, the Board of Adjustment hears and decides appeals, variance requests, and requests for interpretations from this Ordinance as authorized by NCGS 160A-388. The Board of Adjustment may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued by the Board of Adjustment, the Board of Adjustment may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

B. Duties and Responsibilities

The Board of Adjustment shall carry out the duties outlined in Article 8, Appeals, Variances, and Interpretations of this Ordinance. Specifically, the Board of Adjustment shall hear and decide:

1. Appeals from any order, decision, requirement, or interpretation made by the Zoning Administrator, as provided in Section 8-1;
2. Applications for general variances, as provided in Section 8-2, A; applications for variances from flood hazard overlay district requirements as provided in Section 8-2, B; and applications for variances from watershed overlay district requirements as provided in Section 8-2, C;
3. Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in Section 12-3.2;

4. Requests for a special use permit as provided in Section 2-18 through 2-20; and
5. Any other matter the Board is required to act upon by any other city ordinance.

C. Composition

The Board shall consist of seven members. Five members shall be citizens of residents of the City of Mebane and shall be appointed by the City Council; two members shall be citizens and residents of the area lying outside the corporate limits, appointed by the boards of county commissioners of Alamance and Orange counties respectively. The members of the Board of Adjustment shall receive no compensation for their services. The City Council and the boards of county commissioners may, at their discretion, appoint an equal number of alternates to the Board of Adjustment.

D. Terms

The terms of office of the city members of the Board of Adjustment shall be for overlapping terms of three years. Since the Mebane City Council has appointed itself as the Mebane Board of Adjustment, newly sworn-in members of the Council become immediately eligible to be appointed to the Board of Adjustment. Such appointments shall be for three year terms and a reappointment of one year to complete the four year term to which the City Council was elected. Extraterritorial members shall initially be appointed for terms of office to coincide with municipal elections - that is, one representative would be appointed for no more than two years and the other for no more than three years. Thereafter, as terms expire, all new appointments shall for three year terms. Nothing herein shall be construed as to forbid any member from being reappointed.

Vacancies occurring for any reason other than expiration of term shall be filled as soon as is reasonably possible after the vacancy occurs by the proper board making the appointment, and such appointment shall only be for the period of the unexpired term. Any member of the Board of Adjustment shall be removed for cause (including, but not limited to, neglect of duty, malfeasance, misconduct or failure to faithfully attend meetings) by the City Council upon written charge and after a public hearing.

E. Meetings and Procedures

The Board of Adjustment shall adopt rules and regulations governing its procedures and operations consistent with the provisions of this Ordinance and NCGS 160A-388. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chair or, in the Chair's absence, the Vice-Chair may administer any oaths and compel the attendance of witnesses by subpoena. All meetings shall be open to the public. Evidentiary hearings shall be conducted in compliance with the requirements of Section 2-18 and notice of the hearings shall be provided in accordance with Section 2-18, B. The Board of Adjustment shall keep a written public record of member attendance, findings, and decisions.

F. Quorum

A quorum for the Board of Adjustment shall consist of the number of members equal to four-fifths of the regular Board membership (excluding vacant seats). A quorum is necessary for the Board to take official action. A member who has withdrawn from the meeting without being excused as provided in subsection G shall be counted as present for purposes of determining whether a quorum is present.

G. Voting

The concurring vote of four-fifths of the regular Board membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance or to grant any variance. All other actions of the Board shall be taken by majority vote, a quorum being present. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

The two members appointed to the Board of Adjustment by the Alamance and Orange County commissioners as representatives of the extraterritorial area outside the city shall have equal rights, privileges and duties with other members of the Board on all matters pertaining to the regulation of the extraterritorial area. On all matters pertaining to the regulation of the area within the corporate limits, only those board members appointed by the City Council to represent that area shall vote.

1. Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection G, 2 or has been allowed to withdraw from the meeting in accordance with subsection G, 3
2. A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
 - (a) If the member has a direct financial interest in the outcome of the matter at issue; or
 - (b) If the matter at issue involves the member's own official conduct; or
 - (c) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
 - (d) If a member is related by blood or marriage to the applicant or the adjacent property owners or has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
3. A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for

any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

4. A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
5. A roll call vote shall be taken for each motion.

H. Board of Adjustment Officers

The Board of Adjustment shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chair and preside over the Board's meetings and one member to serve as vice-chair. The persons so designated shall serve in these capacities for terms of one year or until their successors are elected. Nothing herein shall be interpreted so as to forbid the officers from being elected to succeed themselves. Officer vacancies may be filled for the unexpired terms only by a majority vote of the Board membership (excluding vacant seats). The chair or any member temporarily acting as chair may administer oaths to witnesses coming before the Board. The chair and vice-chair of the Board of Adjustment may take part in all deliberations and may vote on all issues. The Board shall appoint a Secretary, who may an employee of the City or a member of the Board.

I. Right to an Impartial Decision Maker

Pursuant to the requirements of NCGS 160A-388 (e1), a member of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

2-4 Planning and Zoning Department

A. Duties and Responsibilities

The Planning and Zoning Department serves as the lead agency for the overall administration of this Ordinance and serves as the primary professional staff of the Planning Board and Board of Adjustment.

1. **Planning Director.** The Planning Director or designee performs the following duties:
 - (a) Supervises the various activities of the department;
 - (b) Develops and maintains the comprehensive plan, area plans, other specialized plans, policies, and regulations for plan implementation;
 - (c) Provides recommendations to the Planning Board, Board of Adjustment, City Council, and City Manager;

- (d) Provides administrative assistance to special boards, committees, and commissions;
- (e) Serves as Executive Secretary to the Planning Board;
- (f) Renders, after consultation with the TRC, a decision on requests for minor subdivision plat approval in accordance with the provisions of Section 7-3; and
- (g) Performs other functions as may be necessary to effectively administer the city's overall planning program.

2. Zoning Administrator. Except as otherwise specifically provided, primary responsibility for administering and enforcing this Ordinance may be assigned to one or more individuals by the Planning Director. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the 'Zoning Administrator'. The Zoning Administrator or designee shall be responsible for the following duties:

- (a) Establish and publish application procedures for permits, appeals, and actions pursuant to this Ordinance and forms implementing the same;
- (b) Issue permits and certificates pursuant to this Ordinance;
- (c) Review all development plans and permits to assure that the permit requirements of this Ordinance have been satisfied;
- (d) Interpret the applicability of the provisions of this Ordinance in matters where the text does not clearly provide guidance;
- (e) Maintain all records pertaining to the provisions of this Ordinance in his office(s) and make said records open for public inspection;
- (f) Periodically inspect properties and activities for which permits have been issued to determine whether the use(s) is being conducted in accordance with the provisions of this Ordinance;
- (g) Cause to be investigated violations of this Ordinance;
- (h) Enforce the provisions of this Ordinance;
- (i) Serve as Executive Secretary to the Board of Adjustment;
- (j) Issue notice of corrective action(s) when required;
- (k) Use the remedies provided in this Ordinance to gain compliance;
- (l) Gather evidence in support of said activities;

- (m) Receive applications for appeals and waivers and forward the case to the appropriate Board;
- (n) Perform the specific flood damage prevention duties delineated in Section 5-3.5; and
- (o) Perform other necessary functions to effectively administer this Ordinance.

2-5 Technical Review Committee

A. Establishment

There is hereby created a technical advisory committee known as the Technical Review Committee (TRC) consisting of representatives from city departments and agencies as appointed by the City Manager. Ex officio TRC members may, at the discretion of the City Manager, also include representatives of other local, state, and federal agencies as well as representatives of privately-owned utility providers.

B. Duties and Responsibilities

The TRC shall have the following duties:

1. Review and provide recommendations to the Planning Director, Planning Board, and City Council regarding the approval of minor and major subdivision plats in accordance with the provisions of Sections 7-3 and 7-4;
2. Review and comment on the technical aspects of all applications for approval of major site plans and master development plans; and
3. Perform any other related duties that this Ordinance may authorize or that the City Council may direct.

C. Officers

The Planning Director or designee shall serve as Chairman and shall have the authority to invite representatives of additional agencies or city departments for assistance. The Planning Director shall also serve as the recording secretary to the TRC.

D. Meetings

1. The TRC shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformance with the review procedures delineated in this Ordinance.
2. The TRC may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Ordinance.

2-6 City Engineer

A. Designation of City Engineer

The City Engineer shall be the person, persons, or consulting firm authorized by the City Council to undertake engineering studies and analyses and to provide recommendations concerning utilities, streets,

stormwater management, and floodplain management.

B. Duties and Responsibilities

As provided in Article 7, the City Engineer is authorized to approve proposed water and sewer systems, stormwater management systems, and street layouts and to perform other duties as authorized by this Ordinance.

2-7 Permit Required

No person shall undertake any development activity subject to this Ordinance except in accordance with and pursuant to one of the following permits:

- A. A zoning permit or sign permit issued by the Zoning Administrator; or
- B. A special use permit issued by the City Council or Board of Adjustment.

2-8 Permit Application Review and Approval

Zoning permits, sign permits, and special use permits are issued under this Ordinance only when a review of the application submitted, including the site plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided herein, all development shall occur strictly in accordance with such approved plans and applications.

2-9 Permit Exemptions

- A. The following are exempt from zoning permit requirements:
 - 1. Farm buildings (other than residences, buildings used for non-farm purposes, and swine farm buildings) used for bona fide farm purposes;
 - 2. Any accessory building with any building dimension that does not exceed 12 feet as well as such accessory uses and structures as flagpoles and mailboxes; landscaping features such as trees and shrubs, terraces, gazebos, and similar items; recreational improvements such as swing sets and playgrounds; and wells and pumphouses;
 - 3. Facilities (other than buildings) of a public utility or an electric or telephone membership corporation; and
- B. The following are exempt from sign permit requirements:
 - 1. Signs specifically exempted by Section 6-6.5.

2-10 Permit Applications and Plans

- A. **Submission.** Unless otherwise specified, all applications for permits under this Ordinance shall be submitted by the owner of the property or the authorized agent of such owner to the Zoning Administrator. The

Zoning Administrator may require reasonable proof of agency from any person submitting an application as an agent.

- B. Form of Submission.** An application for any permit under this Ordinance shall be submitted in such form, number of copies and format as required by Appendix A, together with such fees as required.
- C. Waiver of Submission Requirements.** The Zoning Administrator may waive submission of required elements of information when, in his or her opinion, such information is otherwise available or is not necessary to review the application. The Zoning Administrator may refuse to process an incomplete application.
- D. Processing.** All applications for permits shall be submitted, reviewed and processed in accordance with the requirements of this Ordinance.
- E. Approved Plans.** A copy of required plans or information submitted with the application shall be returned to the applicant after the Zoning Administrator has marked the copy either approved or disapproved and attested to same. A similarly marked copy shall be retained by the Zoning Administrator.
- F. Health Department Construction Permit Required.** A permit for any building or use for which a State or County Health Department permit for installation of a well or a sewage disposal system is required or for which approval by the State or County Health Department of an existing well or sewage disposal system is required, shall not be issued until such permit or approval has been issued by the State or County Health Department.
- G. Compliance with Development Standards.** Certain land uses (designated with a 'D' or 'S' in Table 4-1-1, Table of Permitted Uses) are required to comply with development standards that are delineated in Section 4-7, Development Standards for Individual Uses. Permit applications and site plans for such uses shall demonstrate how compliance with the applicable development standards will be achieved.

2-11 Plot Plan and Site Plan Procedures

- A. Plot Plan Required.** No zoning permit for a single-family or two-family dwelling on a single lot shall be issued until a plot plan, prepared in accordance with Appendix A, has been approved.
- B. Site Plan Required.** No other zoning or special use permit shall be issued on a lot until a site plan, prepared in accordance with Appendix A, has been approved for the development. Neither a new nor amended site plan shall be required if an adequate site plan is already on file, there is no change in the parking requirements, or there is no increase in impervious surface area.
- C. Exception.** The Zoning Administrator may waive the requirement for a site plan or a plot plan if, in the Zoning Administrator's judgment, it is determined that it is not necessary to complete the review of the permit application.

- D. **Timing.** Site plans shall be submitted to the Zoning Administrator in conjunction with a permit application.
- E. **Coordination with Other Procedures.** To lessen the time required to obtain all necessary approvals, the site plan approval process may run concurrently with building plan review or other applications for approvals required for the particular project.

2-12 Site Plan and Plot Plan Approval

- A. **Approval of Site/Plot Plan.** The site plan or plot plan shall be approved when it meets all requirements of this Ordinance or proper waivers and/or variances are obtained.
- B. **Approval Authority.**
 - 1. Site plans or plot plans submitted with zoning permit applications shall be approved by the Zoning Administrator.
 - 2. Site plans submitted with special use permit applications shall be approved by the City Council or Board of Adjustment.
- C. **Conditional Approvals.** If the site plan is granted conditional approval, the applicant shall revise and resubmit the site plan. The Zoning Administrator shall review the revised site plan and, if it meets all the approval conditions and is otherwise substantially unaltered, shall signify on the plan the change from conditional approval to approval. If the site plan is not revised within sixty days from the date of conditional approval, or the applicant notifies the Zoning Administrator that he is unwilling to revise the site plan, it shall be deemed denied.

2-13 Authorization to Commence Work

The issuance of a zoning, sign, or special use permit authorizes the recipient to commence the activity resulting in a change in use of the land or, (subject to obtaining a building permit), to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures. However, except as provided in Sections 2-21 and 2-22, the intended use may not be commenced and no building may be occupied until all of the requirements of this Ordinance and all additional requirements imposed pursuant to the issuance of a special use permit have been complied with.

2-14 Inspections and Investigations

- A. **Periodic 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 city's zoning 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 investigation as he may reasonably deem necessary to carry out his 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.

- C. **Written Statements.** The City Council or its agent shall also have the power to require written statements, certificates and certifications or the filing of reports under oath, with respect to pertinent questions relating to complaints or alleged violations of this Ordinance.

2-15 Zoning and Sign Permits

- A. **Submission.** Requests for a zoning or sign permit shall be submitted to the Zoning Administrator by filing an application form with the Zoning Administrator. Applications for a zoning or sign permit may be a separate form or may be combined.
- B. **Zoning Permit Review and Approval.** The Zoning Administrator shall issue the zoning permit unless the Administrator determines, after reviewing the application and consulting with the applicant, that:
 - 1. The requested permit is not within the authority of the Zoning Administrator according to Section 4-1-1, Table of Permitted Uses; or
 - 2. The application is incomplete; or
 - 3. If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance.
- C. **Sign Permit Review and Approval.** The Zoning Administrator shall issue the sign permit unless the Administrator determines, after reviewing the application and consulting with the applicant, that:
 - 1. The requested permit is not in compliance with the requirements of Section 6-6, Signs; or
 - 2. The application is incomplete.

2-16 Special Use Permits

- A. **Special Use Permit Submission.** An application for a special use permit shall be submitted to the City Council or the Board of Adjustment by filing a copy of the application with the Zoning Administrator in the Planning and Zoning Department 20 working days prior to the Planning Board meeting at which the special use permit request will be reviewed. The appropriate permit-issuing authority (either the City Council or the Board of Adjustment) for special use permits is determined in Table 4-1-1, Table of Permitted Uses.
- B. **Special Use Permit Review and Approval.** The review process for a special use permit request shall include:
 - 1. Planning and Zoning Department and TRC review in accordance with Section 2-17;

2. Planning Board Review and recommendation to the City Council or Board of Adjustment;
3. Evidentiary hearing held by the City Council or Board of Adjustment in accordance with the provisions of Sections 2-18 through 2-20; and
4. Review and action by the City Council or Board of Adjustment.

2-17 Recommendations on Special Use Permits

- A. When presented to the appropriate permit-issuing authority at the evidentiary hearing, the application for a special use permit shall be accompanied by a recommendation from the Planning Board and a report setting forth the Planning and Zoning Department's proposed findings concerning the application's compliance with Section 2-10 and the other requirements of this Ordinance, as well as any staff or TRC recommendations for additional requirements to be imposed by the appropriate permit-issuing authority.
- B. If the Zoning Administrator proposes a finding or conclusion that the application fails to comply with Section 2-10 or any other requirement of this Ordinance, the Zoning Administrator shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

2-18 Evidentiary Hearing Requirements and Procedures for Special Use Permit Applications

- A. No special use permit shall be approved until an evidentiary hearing has been held by the appropriate permit-issuing authority in accordance with the provisions of this Section. The purpose of the evidentiary hearing is to gather facts, not to solicit citizen opinion. Consequently, the hearing procedures differ from those of the typical public hearing. In an evidentiary hearing, testimony may be provided only by sworn witnesses and written findings of fact are required (*amended April 7, 2008*)
- B. The Zoning Administrator shall provide due notice to the parties involved in the special use permit request as well as to the owners of property adjacent to the property involved in the permit request. The Zoning Administrator shall mail written notice of the evidentiary hearing to the owners of all properties involved in the permit request as well as the owners of all properties adjacent to the property involved in the permit request.
- C. The Zoning Administrator shall also publish a general public notice of the evidentiary hearing in a newspaper having general circulation in the area. If published, the notice shall be published not less than ten days before the date affixed for the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be. The newspaper notice shall:
 1. State the date, time, and place of the hearing;

2. State the purpose of the hearing and summarize the procedures of an evidentiary hearing;
 3. Summarize the nature and character of the permit request;
 4. Reasonably identify the property affected by the permit request;
 5. State that the full permit request application can be reviewed at the office of the Zoning Administrator; and
 6. State that substantial changes in the permit request may be made following the hearing.
- D. The Zoning Administrator shall also post notices of the evidentiary hearing on or in the vicinity of the property involved in the permit request and take any other action deemed by the Zoning Administrator to be useful or appropriate to give notice of the evidentiary hearing on any permit request.
- E. The Zoning Administrator shall make every reasonable effort to comply with the notice provisions set forth in this Section. However, it is the permit-issuing authority's intention that no failure to comply with any of the notice provisions [except those set forth in Section 2-18, B] shall render any permit request invalid.
- F. At the conclusion of the evidentiary hearing, the permit-issuing authority may proceed to vote on the permit request or take any other action consistent with its usual rules of procedure (*amended April 7, 2008*). Section 2-19 delineates specific actions that the permit-issuing authority must take on requests for special use permits.
- G. The permit-issuing authority is not required to take final action on a special use permit request within any specific period of time, but it should proceed as expeditiously as practicable on permit requests since inordinate delays can result in the applicant incurring unnecessary costs.
- H. Subject to subsection I below, the permit-issuing authority shall approve the requested special use permit unless it concludes, based upon the information submitted at the hearing, that:
1. The requested special use permit is not within its jurisdiction according to Section 4-1-1, Table of Permitted Uses; or
 2. The application is incomplete; or
 3. If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance.
- I. Even if the permit-issuing authority finds that the application complies with all other provisions of this Ordinance, it may still deny the special use permit request if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:
1. Will materially endanger the public health or safety; or

2. Will substantially injure the value of adjoining or abutting property; or
3. Will not be in harmony with the area in which it is to be located; or
4. Will not be in general conformity with the land use plan or other plans and policies officially adopted by the City Council.

J. **(Reserved)** [amended April 7, 2008]

2-19 Action on Special Use Permits

- A. Following the evidentiary hearing, the permit-issuing authority may proceed to vote on the permit request or take any other action consistent with its usual rules of procedure (*amended April 7, 2008*). The City Council and Board of Adjustment, in considering special use permit applications, act in a quasi-judicial capacity and, accordingly, are required to observe quasi-judicial procedures except that no vote greater than a majority vote shall be required for the City Council to issue a special use permit (a 4/5 majority vote is required for the Board of Adjustment). For purposes of this Section, vacant positions on the permit-issuing authority and members who have been disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite majority.
- B. In considering whether to approve an application for a special use permit, the permit-issuing authority shall proceed according to the following format:
 1. The permit-issuing authority shall consider whether the application is complete. If the permit-issuing authority concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. A motion to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. A motion to this effect, concurred in by a simple majority vote of the permit-issuing authority, shall constitute the permit-issuing authority's finding on this issue. If a motion to this effect is not made and concurred in by a simple majority vote, this shall be taken as an affirmative finding by the permit-issuing authority that the application is complete.
 2. The permit-issuing authority shall consider whether the application complies with all of the applicable requirements of this Ordinance. If a motion to this effect passes by the necessary majority vote, the permit-issuing authority need not make further findings concerning such requirements.

If such a motion fails to receive the necessary majority vote or is not made, then a motion shall be made that the application be found not in compliance with one or more requirements of this Ordinance. Such a motion shall specify the particular requirements the application fails to meet. A separate vote may be taken with respect to each requirement not met by the application. If the permit-issuing

authority concludes that the application fails to meet one or more of the requirements of this Ordinance, the application shall be denied.

3. If the permit-issuing authority concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in Section 2-18, H. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.
 4. Decisions by the permit-issuing authority on special use permit requests shall be filed in the offices of the Planning and Zoning Department. A copy of the permit-issuing authority's decision shall be provided, by first class mail, to the applicant as well as to any parties that have requested a written copy of the permit-issuing authority's decision.
 5. Decisions of the City Council and Board of Adjustment regarding special use permit requests shall be subject to review by the Superior Court of the applicable County by proceedings in the nature of certiorari (see Section 11-7, Judicial Review).
- C. Right to an Impartial Decision Maker. Pursuant to the requirements of NCGS 160A-388 (e1), a member of the City Council or Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.
- D. Recordation of Approved Special Use Permits Required. All approved special use permits shall be recorded in the applicable county registry and indexed under the record owner's name as grantor. Nothing authorized by the permit may be done until the record owner of the property provides documentation that indicates that the permit has been recorded.

2-20 Additional Requirements on Special Use Permits

- A. Subject to subsection B below, in approving a special use request, the City Council or Board of Adjustment, may attach to the approval such reasonable requirements in addition to those specified in this Ordinance as will ensure that the development in its proposed location:
1. Will not endanger the public health or safety;
 2. Will not injure the value of adjoining or abutting property;
 3. Will be in harmony with the area in which it is located; and

4. Will be in conformity with the land development plan, thoroughfare plan, or other plan officially adopted by the City Council.
- B. The permit-issuing authority may not attach additional conditions that modify or alter the specific requirements set forth in this Ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.
- C. Without limiting the foregoing, the permit-issuing authority may attach to a special use approval a condition limiting the approval to a specified duration.
- D. All additional conditions or requirements shall be specified in the letter of approval issued to the applicant by the Zoning Administrator.
- E. All additional conditions or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Ordinance.
- F. A vote may be taken on application conditions or requirements before consideration of whether the special use request should be denied for any of the reasons set forth in Sections 2-18, H or 2-18, I.

2-21 Authorizing Use or Occupancy before Completion of Development under Zoning and Special Use Permits

- A. In cases when, because of weather conditions or other factors beyond the control of the zoning or special use permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this Ordinance before commencing the intended use of the property or occupying any buildings, the permit-issuing authority may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this Ordinance are concerned) if the permit recipient provides an adequately secured performance bond or other security satisfactory to the permit-issuing authority to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve months). The proposed performance bond and security shall be reviewed and approved by the city attorney, however, prior to the permit-issuing authority authorizing the intended use or occupancy.
- B. When the permit-issuing authority imposes additional requirements upon the special use permit recipient in accordance with Section 2-20 or when the developer proposes in the plans submitted to install amenities beyond those required by this Ordinance, the permit-issuing authority may authorize the permittee to commence the intended use of the property or to occupy any building before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:
 1. A performance bond and security satisfactory to the city attorney is furnished;

2. A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made; or
3. The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Section 11-4, Penalties and Remedies for Violations, and Section 11-6, Permit Revocation.

2-22 Completing Development in Phases

- A. If a development is constructed in phases or stages in accordance with this Section, then, subject to subsection C., the provisions of Section 2-13 and Section 2-21 shall apply to each phase as if it were the entire development.
- B. As a prerequisite to taking advantage of the provisions of subsection A., the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this Ordinance that will be satisfied with respect to each phase or stage.
- C. If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied except in accordance with the schedule approved as part of the permit, provided that:
 1. If the improvement is one required by this Ordinance then the developer may utilize the provisions of Section 2-21, A; or
 2. If the improvement is an amenity not required by this Ordinance or is provided in response to a condition imposed by the permit-issuing authority, then the developer may utilize the provisions of Section 2-21, B.

2-23 Expiration of Approved Permits and Site Plans

- A. Except as provided in subsection F., zoning, sign, and special use permits (including approved site or plot plans) shall expire automatically if, within six months after the issuance of such permits:
 1. The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or
 2. Less than ten percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on

the site. With respect to phased development (see Section 2-22), this requirement shall apply only to the first phase.

- B. If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one year, then the zoning or special use permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 2-24.
- C. The permit-issuing authority (Zoning Administrator, City Council, or Board of Adjustment, as applicable) may extend for a period up to six months the date when a zoning, sign or special use permit would otherwise expire pursuant to subsections A or B above if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to six months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.
- D. For purposes of this Section, the permit within the jurisdiction of the City Council or the Board of Adjustment is issued when the applicable permit-issuing authority votes to approve the application and issue the permit. A zoning permit within the jurisdiction of the Zoning Administrator is issued when the earlier of the following takes place:
 - 1. A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is delivered to the permit applicant; or
 - 2. The Zoning Administrator notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded, if required under Section 2-24, B.
- E. Notwithstanding any of the provisions of Article 10, Nonconformities, this Section shall be applicable to permits issued prior to the date this Ordinance becomes effective.
- F. Special use permits with a vested right established in accordance with Section 2-28, Zoning Vested Rights, shall expire at the end of the two-year vesting period established pursuant to Section 2-28.

2-24 Effect of Permit on Successors and Assigns

- A. Zoning, sign and special use permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:
 - 1. No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures

covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and

2. The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued.

2-25 Amendments to and Modifications of Permits and Plans

- A. Insignificant deviations from the permit (including approved site plans) approved by the City Council, Board of Adjustment, or the Zoning Administrator are permissible and the Zoning Administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- B. Minor design modifications or changes in permits (including approved site plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, evidentiary hearing, or payment of any additional fee. For purposes of this Section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- C. All other requests for changes in approved site plans will be processed as a modification to the original application. If such requests are to be acted upon by the City Council or Board of Adjustment, new conditions may be imposed only on the specific site or area requested to be modified in accordance with Section 2-20, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.
- D. The Zoning Administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in subsections A through C.
- E. A property owner requesting approval of changes shall submit a written request for such approval to the Zoning Administrator, which request shall identify the changes. Approval of all changes must be provided to the property owner in writing.
- F. A vested right established in accordance with Section 2-28 shall not be extended by any amendments or modifications to an approved site specific development plan unless expressly provided for by the City Council.

2-26 Reconsideration of Action on Special Use Permits

- A. Whenever the City Council or Board of Adjustment disapproves a special use permit application, on any basis other than the failure of the applicant

to submit a complete application, such action may not be reconsidered by the permit-issuing authority at a later time unless the applicant clearly demonstrates that:

1. Circumstances affecting the property that is the subject of the application have substantially changed; or
 2. New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Zoning Administrator within the time period for an appeal to superior court (see Section 11-7, B). However, such a request does not extend the 30-day period within which an appeal must be taken.
- B. The permit-issuing authority may, however, at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.
- C. The permit-issuing authority shall, by a majority vote, make the determination as to whether or not an amended application meets the criteria delineated in subsection A for a rehearing or qualifies as a new application pursuant to subsection B.

2-27 Maintenance of Common Areas, Improvements, and Facilities.

The recipient or the recipient's successor of any zoning or special use, shall be responsible for maintaining all common areas, improvements or facilities required by this Ordinance or any permit issued in accordance with its provisions, except those areas, improvements or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private streets and parking areas, water and sewer lines, stormwater facilities, common open space, and recreational facilities must be properly maintained so that they can be used in the manner intended, and that required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

2-28 Zoning Vested Rights

- A. A vested right shall be established, upon petition by the owner of the property, after the approval or conditional approval of a site specific development plan by the City Council in accordance with the provisions outlined in this Section. A right which has been vested as provided for in this Section shall, as a general rule, remain valid for two years and shall attach to and run with the land.
- B. Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this Section shall have the meaning indicated when used in this Section.
1. Landowner. Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or

representative for purposes of submitting a proposed site specific development plan.

2. Property. All real property subject to the regulations and restrictions of this Ordinance as well as the zoning district boundaries established by this Ordinance and depicted on the official zoning map.
 3. Site specific development plan. A plan which has been submitted to the City of Mebane by a landowner describing in detail the type and intensity of use for a specific parcel or parcels of property. Such plan shall be in the form of a site plan required to obtain a special use permit. The information required by Section 2-10 and Appendix A, as applicable, shall be included. All site specific development plans shall be approved by the City Council.
 4. Vested right. The right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.
- C. A vested right shall be deemed established, following the receipt of a petition from the property owner, upon the effective date of approval by the City Council of a site specific development plan. Following the approval of a site specific development plan, the Zoning Administrator shall issue a vested right certificate to the landowner which indicates the duration of the vesting period, the conditions, if any, imposed on the approval of the site specific development plan, and any other information determined by the Zoning Administrator to be necessary to administer the vested right.
- D. A vested right shall confer upon the landowner the right to undertake and complete the development and use of the property as delineated in the approved site specific development plan. The City Council may approve a site specific development plan upon such terms and conditions, as may be determined necessary to protect the public health, safety, and welfare. Failure to comply with the approved terms and conditions shall result in a forfeiture of vested rights.
- E. Approval by the City Council of a site specific development plan shall follow the procedural requirements for the issuance of a special use permit as outlined in Sections 2-18 and 2-19. Changes in or modifications to an approved site specific development plan shall be made only with the concurrence of the City Council in accordance with the provisions of Section 2-25.
- F. A vested right obtained under this section runs with the land and is valid for two years from the effective date of approval by the City Council of a site specific development plan. A vested right shall not be extended by any amendments or modifications to an approved site-specific development plan unless expressly provided for by the City Council. A vested right shall expire at the end of two years if no building permit applications have been filed with the City of Mebane to construct the use or uses proposed in the approved site specific development plan. If building permits are issued, the provisions of NCGS 160A-418 and NCGS 160A-422 shall apply, except that a building permit shall not expire or be

revoked because of the lack of progress during the two-year vesting period.

- G. A vested right, once established or provided for in this section, precludes any zoning action by the City of Mebane which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in the approved site specific development plan, except:
1. With the written consent of the affected landowner;
 2. Upon findings, by ordinance after notice and a public hearing, that natural or man-made hazards in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;
 3. To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the city, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property, which is caused by such action;
 4. Upon findings, by ordinance after notice and a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the city of the site specific development plan; or
 5. Upon the enactment or promulgation of a state or federal law or regulation which precludes development as contemplated in the site specific development plan, in which case the city may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a public hearing.
- H. 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 of use, or ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the city, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes.
- I. Notwithstanding any provisions of this Section, the establishment of a vested right shall not preclude, change, or impair the authority of the City to enforce provisions of this Ordinance governing nonconforming situations or uses.
- J. A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such vested rights.

- K. The city shall not require a landowner to waive his or her vested rights as a condition of developmental approval.

2-29 Certificate of Zoning Compliance

- A. Except as otherwise specifically exempted elsewhere in this Ordinance, no building shall be occupied, no land shall be used, and the use of any land shall not be changed until a certificate of zoning compliance has been issued by the Zoning Administrator.
- B. The certificate of zoning compliance shall state that the building and/or proposed use of land complies with the provisions of this Ordinance.
- C. The certificate of zoning compliance shall be presented by the applicant to the City of Mebane Building Inspector prior to the city's issuance of a certificate of occupancy.
- D. A temporary certificate of zoning compliance may be issued by the Zoning Administrator, for a period not to exceed six months, during alteration or construction for partial occupancy of a building pending completion. Such temporary certificate shall bear the dates of issuance and expiration on the certificate, shall be clearly marked, 'Temporary', and shall stipulate such conditions and safeguards as will protect the safety of the occupants and the public.

2-30 Compliance with Overlay District Provisions, Environmental Regulations, and Development Standards

Additional requirements that are applicable to properties within overlay zoning districts and requirements for stormwater management, soil erosion and sedimentation control, watershed protection, flood damage prevention, and coordination with the Army Corps of Engineers regarding wetlands are delineated in Article 5. Use-specific standards that are applicable to those uses designated in Table 4-1-1, Table of Permitted Uses as 'D' or 'S' are provided in Article 4.

2-31 Revocation of Zoning, Sign, and Special Use Permits

See Section 11-6, Permit Revocation.

2-32 Development Agreements

To better structure and manage development approvals for large-scale, multiple-phase developments and to ensure their proper integration into local capital facilities programs, the City Council may enter into development agreements with developers, subject to the procedures and requirements of Chapter 160A, Article 19, Part 3D. A development agreement may specify that the developer furnish certain public facilities, but it must also provide that the delivery date of these public facilities will be tied to successful performance by the developer in completing the private portion of the development. A development agreement may specify that the project be commenced or completed within a certain period of time. A development must provide a development schedule and include commencement dates and interim completion dates for intervals no greater than five years. The property subject to a development agreement must be at least 25 acres in size. The term of the development agreement may not exceed 20 years.

A development agreement must be approved by the City Council by ordinance. Before entering into a development agreement, the City Council shall conduct a public hearing following the same public hearing procedures and requirements delineated in Section 9-5 for zoning text amendments. The public hearing notice shall specify (i) the location of the property subject to the development agreement, (ii) the development uses proposed on the property, and (iii) a place where a copy of the proposed development agreement can be obtained. Once executed by the City and the developer, the development agreement must be recorded with the register of deeds in the county where the property is located. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.