

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

Table of Contents

| | | |
|-------------|--|-----------|
| 2-1 | CITY COUNCIL..... | 1 |
| | A. <i>Duties and Responsibilities.....</i> | <i>1</i> |
| | B. <i>Right to an Impartial Decision Maker</i> | <i>2</i> |
| 2-2 | PLANNING BOARD | 2 |
| | A. <i>Appointment and Terms of Planning Board Members.....</i> | <i>2</i> |
| | B. <i>Duties and Responsibilities.....</i> | <i>3</i> |
| | C. <i>Advisory Committees</i> | <i>4</i> |
| | D. <i>Meetings of the Planning Board</i> | <i>4</i> |
| | E. <i>Quorum and Voting.....</i> | <i>4</i> |
| | F. <i>Right to an Impartial Decision Maker</i> | <i>5</i> |
| 2-3 | BOARD OF ADJUSTMENT..... | 5 |
| | A. <i>Authority</i> | <i>5</i> |
| | B. <i>Duties and Responsibilities.....</i> | <i>6</i> |
| | C. <i>Composition</i> | <i>6</i> |
| | D. <i>Terms</i> | <i>6</i> |
| | E. <i>Meetings and Procedures</i> | <i>7</i> |
| | F. <i>Quorum</i> | <i>7</i> |
| | G. <i>Voting.....</i> | <i>7</i> |
| | H. <i>Board of Adjustment Officers.....</i> | <i>8</i> |
| | I. <i>Right to an Impartial Decision Maker</i> | <i>9</i> |
| | J. <i>Fact Determination</i> | <i>9</i> |
| 2-4 | PLANNING AND ZONING DEPARTMENT | 9 |
| | A. <i>Duties and Responsibilities.....</i> | <i>9</i> |
| 2-5 | TECHNICAL REVIEW COMMITTEE | 11 |
| | A. <i>Establishment.....</i> | <i>11</i> |
| | B. <i>Duties and Responsibilities.....</i> | <i>11</i> |
| | C. <i>Officers.....</i> | <i>11</i> |
| | D. <i>Meetings</i> | <i>11</i> |
| 2-6 | CITY ENGINEER..... | 11 |
| | A. <i>Designation of City Engineer</i> | <i>11</i> |
| | B. <i>Duties and Responsibilities.....</i> | <i>12</i> |
| 2-7 | PERMIT REQUIRED | 12 |
| 2-8 | PERMIT APPLICATION REVIEW AND APPROVAL | 12 |
| 2-9 | PERMIT EXEMPTIONS..... | 12 |
| 2-10 | PERMIT APPLICATIONS AND PLANS..... | 12 |
| | A. <i>Submission.</i> | <i>12</i> |
| | B. <i>Form of Submission.....</i> | <i>13</i> |
| | C. <i>Waiver of Submission Requirements.....</i> | <i>13</i> |
| | D. <i>Processing.</i> | <i>13</i> |
| | E. <i>Approved Plans.</i> | <i>13</i> |
| | F. <i>Health Department Construction Permit Required.</i> | <i>13</i> |

| | | |
|-------------|---|-----------|
| G. | <i>Compliance with Development Standards.</i> | 13 |
| 2-11 | PLOT PLAN AND SITE PLAN PROCEDURES | 13 |
| A. | <i>Plot Plan Required.</i> | 13 |
| B. | <i>Site Plan Required.</i> | 13 |
| C. | <i>Exception.</i> | 14 |
| D. | <i>Timing.</i> | 14 |
| E. | <i>Coordination with Other Procedures.</i> | 14 |
| 2-12 | SITE PLAN AND PLOT PLAN APPROVAL | 14 |
| A. | <i>Approval of Site/Plot Plan.</i> | 14 |
| B. | <i>Approval Authority.</i> | 14 |
| C. | <i>Conditional Approvals.</i> | 14 |
| 2-13 | AUTHORIZATION TO COMMENCE WORK | 14 |
| 2-14 | INSPECTIONS AND INVESTIGATIONS | 15 |
| A. | <i>Periodic Inspections.</i> | 15 |
| B. | <i>Investigations.</i> | 15 |
| C. | <i>Written Statements.</i> | 15 |
| 2-15 | ZONING AND SIGN PERMITS | 15 |
| A. | <i>Submission.</i> | 15 |
| B. | <i>Zoning Permit Review and Approval.</i> | 15 |
| C. | <i>Sign Permit Review and Approval.</i> | 15 |
| 2-16 | SPECIAL USE PERMITS | 16 |
| A. | <i>Special Use Permit Submission.</i> | 16 |
| B. | <i>Special Use Permit Review and Approval.</i> | 16 |
| 2-17 | RECOMMENDATIONS ON SPECIAL USE PERMITS | 16 |
| 2-18 | EVIDENTIARY HEARING REQUIREMENTS AND PROCEDURES FOR SPECIAL USE PERMIT APPLICATIONS | 16 |
| 2-19 | AUTHORIZING USE OR OCCUPANCY BEFORE COMPLETION OF DEVELOPMENT UNDER ZONING AND SPECIAL USE PERMITS | 19 |
| 2-20 | COMPLETING DEVELOPMENT IN PHASES | 19 |
| 2-21 | EXPIRATION OF APPROVED PERMITS AND SITE PLANS | 20 |
| 2-22 | EFFECT OF PERMIT ON SUCCESSORS AND ASSIGNS | 21 |
| 2-23 | AMENDMENTS TO AND MODIFICATIONS OF PERMITS AND PLANS | 21 |
| 2-24 | RECONSIDERATION OF ACTION ON SPECIAL USE PERMITS | 22 |
| 2-25 | MAINTENANCE OF COMMON AREAS, IMPROVEMENTS, AND FACILITIES | 23 |
| 2-26 | DEVELOPMENT AGREEMENTS | 23 |
| 2-27 | ZONING AND OTHER VESTED RIGHTS | 24 |
| 2-28 | CERTIFICATE OF ZONING COMPLIANCE | 26 |
| 2-29 | COMPLIANCE WITH OVERLAY DISTRICT PROVISIONS, ENVIRONMENTAL REGULATIONS, AND DEVELOPMENT STANDARDS | 27 |
| 2-30 | REVOCAION OF ZONING, SIGN, AND SPECIAL USE PERMITS | 27 |

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;

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;
2. Adopts, amends, and implements more-detailed area plans for smaller geographic areas, as well as policies related to special land use issues;
3. Adopts, amends, and implements other specialized plans, programs, and policies for functional topics like transportation, recreation, open space, and capital improvements;
4. By ordinance, adopts and amends regulations relating to zoning, subdivision of land, and other private development activities;
5. 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.
6. 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;
7. Reviews and decides on the approval of site specific development plans (as defined in Section 2-27, Vested Rights), following the procedural requirements set forth in Section 2-27 of this Ordinance for the issuance of a special use permit;
8. 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;

9. 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
10. 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 160D-109(a) regarding a development regulation adopted where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

Amended June 7, 2021

2-2 Planning Board

The City of Mebane Planning Board is established pursuant to NCGS 160D-30, 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 160D-301, of the North Carolina General Statutes.

Amended June 7, 2021

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 term.
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 160D-307, 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 160D-301 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.

Amended June 7, 2021

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, substantial, and readily identifiable 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 the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

Amended June 7, 2021

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 160D-109, a member of the Planning Board shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. 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.

Amended June 7, 2021

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 160D-302. 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.

Amended June 7, 2021

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 or other City employee, 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 statewide statute or any other city ordinance.

Amended June 7, 2021

C. Composition

The Board shall consist of eight members. Five members shall be represented by the City Council; one shall be the Mayor; 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. The Mayor shall serve as the Chairperson unless he exhibits a conflict of interest in the matter before the Board; or should the Board choose to elect another as their Chairperson.

Amended June 7, 2021; August 2, 2021

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 160D. 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 and Section 8-7. The Board of Adjustment shall keep a written public record of member attendance, findings, and decisions.

Amended June 7, 2021

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 grant any variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. 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.

Amended June 7, 2021

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, substantial, and readily identifiable 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 the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

Amended June 7, 2021

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 of the Board of Adjustment shall administer the meetings and vote only when needed to decide a split vote;

the 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.

Amended August 2, 2021

I. Right to an Impartial Decision Maker

Pursuant to the requirements of NCGS 160D-109, a member of the Board of Adjustment shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. 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.

Amended June 7, 2021

J. Fact Determination

Quasi-judicial decisions:

1. shall be based upon competent, material, and substantial evidence in the record; and
2. shall be reduced to writing (signed by the chair or other duly authorized member of the board), reflecting the board's determination of contested facts and their application to the applicable standards; and
3. is effective upon filing the written decision with the clerk to the board (or such other office or official as specified in the ordinance).

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 5-6; 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 6-7.5.

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 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, there is no increase in impervious surface area, or there is no change or reduction in pedestrian

access/egress, circulation, dimensions for walkways, hallways, common areas, parking lot aisles, curb ramps, landings, lighting, and/or landscaping.

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.

Amended June 6, 2022

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 6-7, 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.** Notice of evidentiary hearings conducted pursuant to a special use permit shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons within a 300-foot radius of the subject property. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.
- C.** The Zoning Administrator shall also post notices of evidentiary hearings conducted pursuant to a special use permit shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons within a 300-foot radius of the subject property. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.
- D.** 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.
- E.** 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.

- F.** 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.
- G.** **(Reserved)** [*amended April 7, 2008*]
- H.** The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.
- I.** Without limiting the foregoing, the permit-issuing authority may attach to a special use approval a condition limiting the approval to a specified duration.
- J.** All additional conditions or requirements shall be specified in the letter of approval issued to the applicant by the Zoning Administrator.
- K.** 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.
- L.** 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, F.
- M.** Right to an Impartial Decision Maker. Pursuant to the requirements of NCGS 160D-109 a member of the City Council or Board of Adjustment shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. 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.

Amended June 7, 2021

2-19 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. The procedure and requirements for bonding shall be in strict accordance with the provisions of Article 7, Section 8.
- B.** When the permit-issuing authority imposes additional requirements upon the special use permit recipient in accordance with this Article 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, as stated above;
 - 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.

2-20 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 2-19, 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 2-19, B.

2-21 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 2-20), 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 2-22.
- 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 2-22, 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 2-27, Zoning Vested Rights, shall expire at the end of the two-year vesting period established pursuant to Section 2-27.

2-22 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.

2-23 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 2-18, 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 2-27 shall not be extended by any amendments or modifications to an approved site specific development plan unless expressly provided for by the City Council.

2-24 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.

2-25 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.

2-26 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 160D, Article 10. 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

- A.** A description of the property subject to the Agreement and the names of its legal and equitable property owners;
- B.** The duration of the Agreement;
- C.** The development use permitted on the property, including population densities and building types, intensities, placement on the site, and design;
- D.** A description of public facilities that will serve the development, including who provides the facilities, the date any new facilities, if needed, will be connected, and a schedule to assure public facilities are available concurrent with the impacts of the development. If the Development Agreement provides that the City shall provide certain public facilities, the Development Agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the Developer in implementing the proposed development (such as meeting defined completion percentages or other performance standards);
- E.** A description where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the Developer that exceed existing laws related to protection of environmentally sensitive features;
- F.** A description of any conditions, terms, restrictions, or other requirements for the protection of public health, safety or welfare; and
- G.** A description, where appropriate, of any provisions for the preservation and restoration of historic properties;

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.

Amended June 6, 2022

2-27 Zoning And Other Vested Rights

A. A person claiming a statutory or common law vested right petition as the owner of the property to the Development Director or designee, who shall make an initiated determination of a vested right. This decision may be appealed to the Board of Adjustment, as provided in NCGS 160D-108(c). The requirements set forth in 160D-108(c) are applicable to any such determination. A right which has been vested as provided for in this Section shall, as a general rule, is not a personal right, but shall attach and run with the applicable property. A vested right shall remain valid set forth in 160D-108 of the North Carolina General Statutes. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such vested rights. The City shall not require a landowner to waive his or her vested rights as a condition of developmental approval.

Amended June 7, 2021

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, or under common law.

- 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 Section 2-18. 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 2-23.

Amended June 7, 2021

- F. A vested right obtained under this section runs with the land and is valid for the time periods set forth in N.C.G.S 160D-108(d) 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 the time periods set forth in NCGS 160D-108(d) 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 160D shall apply, except that a building permit shall not expire or be revoked because of the lack of progress during the vesting period.

Amended June 7, 2021

- 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.

2-28 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.

2-29 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.

2-30 Revocation of Zoning, Sign, and Special Use Permits

See Section 11-6, Permit Revocation.