

# CHAPTER 4. ZONING PERMITS, SITE PLANS, AND DETERMINATIONS

## SECTION 4.1. ZONING PERMIT REQUIRED

### A. APPLICABILITY

1. No land shall be used or occupied and no building, structure, or sign shall be erected, moved, enlarged, used, or structurally altered or its use changed, until a zoning permit, signed by the applicant, is reviewed, decided, and issued by the Administrator in accordance with this section.
2. Changes of use on an existing developed site that result in increased impervious surface, or that require additional off-street parking, changes to required landscaping, or changes to stormwater control mechanisms shall require issuance of a zoning permit.

### B. EXEMPTIONS

1. Zoning permits are not required for the establishment or operational activities of buildings or uses associated with a bona fide farm (see Chapter 8).
2. The issuance of a zoning permit is not required for the establishment of an accessory building less than 12 feet in any direction, but the accessory building shall comply with all applicable setback requirements in this Ordinance.
3. Portable storage containers known as pods that are designed and constructed for the storage of household goods and any container including shipping containers are exempt from requiring a zoning permit.

### C. ZONING PERMIT APPLICATION

#### 1. APPLICATION REQUIREMENTS

- i. Each application for a zoning permit shall be accompanied by a site plan, prepared in accordance with Section 4.3, Site Plans.
- ii. Changes of use within an existing lawfully established site or building by a permitted use with no alterations to the building, no increases in impervious surface, no need for additional off-street parking, and no changes to stormwater control mechanisms shall not require preparation of a site plan but shall require issuance of a zoning compliance permit. Development exempted from the requirements to submit a site plan shall not be exempted from the requirements to obtain a zoning permit.

#### 2. AGENCY REVIEW

Prior to the issuance of a zoning permit, the Administrator may consult with other applicable departments, as necessary, including but not limited to:

- i. North Carolina Department of Environmental Quality;
- ii. US Army Corp of Engineers;
- iii. North Carolina Department of Transportation;
- iv. Moore County Airport Authority;
- v. Moore County Department of Environmental Health;
- vi. Moore County Department of Public Works;
- vii. Moore County Department of Planning (Building Inspections);
- viii. Moore County Department of Public Safety; and
- ix. Moore County Department of Geographic Information Services.

### D. ACTION BY THE ADMINISTRATOR

1. If the proposed zoning permit application is in conformity with the provisions of this UDO, and if all other required permits have been approved by the Moore County Department of Environmental Health or other appropriate agencies, the Administrator shall issue a zoning permit.
2. All decisions by the Administrator shall be in writing.

3. The zoning permit shall include a statement indicating: "Issuance of a zoning permit shall in no case be construed as waiving any provisions of the UDO, approved plans, specific use standards, and the intended use of such building and land do, in all respects, conform to the provisions of the UDO."

**E. ZONING DECISION SIGN**

The applicant shall post a sign containing the words "Zoning Decision" in letters at least 6 inches high, including contact information of the Administrator, on the site in a prominent location including street frontage, and provide evidence to the Administrator within 10 days of the permit issuance for new non-residential buildings or changes of use, for a minimum of 10 days to notify the neighbors, or the Zoning Permit shall be null and void.

**F. DENIAL**

If the proposed application is not in conformity with the provisions of this Ordinance, the Administrator shall not issue the zoning permit and shall provide, in writing, the cause of such disapproval to the applicant. If a violation of this Ordinance on the site that is the subject of the zoning permit application remains uncorrected, the Administrator may deny or withhold approval of the zoning permit.

**G. EXPIRATION**

Unless otherwise specified by statute, once a zoning permit has been issued, all activities pursuant to such permit shall be substantially commenced within one year of issuance. Unless provided otherwise by statute, if the proposed moving, constructing, altering, repairing, or other use of land, as set forth in an application for a zoning permit, is substantially commenced and the development work is intentionally and voluntarily discontinued for a period of two years or more after commencement, the permit and vesting shall expire and be of no further force and effect.

**H. REVOCATION**

1. The Administrator may revoke a zoning permit issued under this Ordinance for failure to comply with the provisions of this Ordinance or the terms and conditions of a permit. A zoning permit may only be revoked only through the same process as was used for its approval.
2. Before a zoning permit is revoked, the Administrator shall give the permit recipient 10 days-notice of the alleged reasons for the revocation and of their right to conduct an informal meeting with the Administrator on the allegations.
3. If the permit is revoked, the Administrator shall provide to the permittee a written statement of the decision and the reasons why the permit is being revoked.
4. The decision to revoke a permit may be appealed to the Board of Adjustment.

**SECTION 4.2. SITE PLANS****A. APPLICABILITY**

Except for the forms of development exempted from site plan review by this section, all forms of development that involve construction, moving, or significant alteration of a building, habitable structure, or development site, or that result in an increase in the amount of impervious surface cover on a lot shall be subject to site plan review.

**B. EXEMPTIONS**

1. Site plan review shall not be required for the following:
  - i. Construction of an individual single-family detached home or placement of manufactured home on an individual lot;
  - ii. The establishment of an accessory use or structure on serving a single-family home;
  - iii. The construction or alteration of a sign; or

- iv.** Changes to an existing lot or building that do not impact the size or footprint of the existing building, increase the amount of impervious surface cover, require additional off-street parking spaces, or necessitate changes to landscaping.
  - 2.** Development exempted from site plan review shall still be required to obtain a zoning permit in accordance with Section 4.1, Zoning Permits.

**C. PRE-APPLICATION CONFERENCE REQUIRED**

To minimize development planning costs, avoid misunderstandings or interpretations, and ensure compliance with the requirements of this Ordinance, a pre-application conference between the developer and the Planning Staff is required for all non-residential projects, as determined applicable by the Administrator. The developer may, but is not required to, submit a sketch plan for consideration during the pre-application conference.

**D. APPLICATION REQUIREMENTS**

- 1.** Each application for a site plan, drawn to scale, including the following information, as determined applicable or relevant by the Administrator:
  - i.** Dimension of property (front, side, and rear property lines);
  - ii.** Dimensions and locations of any existing or proposed buildings and signs;
  - iii.** Existing and proposed uses of building(s) and/or land;
  - iv.** Non-residential, multi-family, and mixed -use floor plans;
  - v.** Existing and proposed street rights-of-way or easements;
  - vi.** Current and proposed setbacks from property lines, easements, and rights-of-way;
  - vii.** Dimensions and locations of driveway, parking lots, and parking spaces;
  - viii.** Dimensions and location of loading and unloading areas;
  - ix.** Existing and proposed utilities;
  - x.** Screening and landscaping plan;
  - xi.** Significant natural features including floodplain, wetlands, lakes, streams, etc.;
  - xii.** Existing and proposed impervious surface percentages;
  - xiii.** Location of any stormwater control devices, any stormwater control plans, and the name of the certifying engineer. The applicant is responsible for the accuracy of the stormwater controls shown on the site plan.
  - xiv.** Phasing plans
  - xv.** Any other information which the Administrator deems necessary as required per local, state, or federal law.
- 2.** The applicant is responsible for the accuracy of significant features shown on the site plan. The Administrator may require Army Corp of Engineer approval before a zoning permit is issued.

**E. ACTION BY THE ADMINISTRATOR**

- 1.** If the proposed site plan is in conformity with the provisions of this UDO, and if all other required permits have been approved by the Moore County Department of Environmental Health or other appropriate agencies, the Administrator shall approve the site plan.
- 2.** All decisions by the Administrator shall be in writing.

**F. DENIAL**

If the proposed application is not in conformity with the provisions of this Ordinance, the Administrator shall not approve the site plan and shall provide, in writing, the cause of such disapproval to the applicant. If a violation of this Ordinance on the site that is the subject of a site plan application remains uncorrected, the Administrator may deny or withhold approval of the site plan.

**G. PLANS DISTINGUISHED**

Conditional rezoning site plans and planned development master plans shall also be reviewed by the Administrator, who shall provide comments to the Planning Board and Board of Commissioners with respect to the degree of conformity with County requirements and any recommendations for revision to bring the proposed development into closer alignment with County standards or Adopted Comprehensive Land Use Plan.

**H. AMENDMENT**

Amendments to a site plan approval shall be considered in the same manner as the site plan approval.

**I. EXTENSION**

- 1.** Applicants with existing approved site plans may request an extension of the approval from the Board of Commissioners for a period of up to 12 months, if it concludes:
  - i.** The approval has not yet expired;
  - ii.** The approval recipient has proceeded with due diligence and in good faith;
  - iii.** Conditions have not changed so substantially as to warrant a new application; and
  - iv.** Where warranted in light of all relevant circumstances, including, but not limited to, site considerations, the need for the development, economic cycles, and market conditions or other considerations.
- 2.** Successive extensions may be granted for periods up to 12 months upon the same findings by the Board of Commissioners.

**J. EXPIRATION**

Unless otherwise specified by statute, once a site plan has been approved, all activities pursuant to approval shall be substantially commenced within two years of issuance. Unless provided otherwise by statute, if the proposed moving, constructing, altering, repairing, or other use of land, as set forth in an application for a site plan, is substantially commenced and the development work is intentionally and voluntarily discontinued for a period of two years or more after commencement, the permit and vesting shall expire and be of no further force and effect.

**K. VESTING TERM FOR SITE-SPECIFIC VESTING PLANS**

Applicants may extend the vesting term of an approved site plan beyond two years only in accordance with the provisions for vested rights in Chapter 15.

**L. REVOCATION**

- 1.** The Administrator may revoke a zoning permit issued under this Ordinance for failure to comply with the provisions of this Ordinance or the terms and conditions of a permit. A zoning permit may only be revoked only through the same process as was used for its approval.
- 2.** Before a zoning permit is revoked, the Administrator shall give the permit recipient 10 days-notice of the alleged reasons for the revocation and of their right to conduct an informal meeting with the Administrator on the allegations.
- 3.** If the permit is revoked, the Administrator shall provide to the permittee a written statement of the decision and the reasons why the permit is being revoked.
- 4.** The decision to revoke a permit may be appealed to the Board of Adjustment.

**SECTION 4.3. DETERMINATION****A. PURPOSE AND INTENT**

The purpose for this determination procedure is to provide a process where an applicant may request documentation from the Administrator regarding the meaning of language in this Ordinance, boundaries on the Official Zoning Map, or aspects related to prior development application approvals.

**B. APPLICABILITY**

1. The Administrator is responsible for written determinations of the following:
  - i. The meaning of the text in this Ordinance;
  - ii. The location and extent of zoning district boundaries on the Official Zoning Map, and other maps incorporated by reference into this Ordinance;
  - iii. Whether an unlisted use is comparable to a use listed in Chapter 6;
  - iv. Definitions of undefined terms;
  - v. The meaning of conditions of approval;
  - vi. The vesting status of a prior development application approval; and
  - vii. Other aspects of this Ordinance, as appropriate.
2. Any written or oral determinations that do not meet the strict requirements of this section are advisory opinions. Advisory opinions have no binding effect and are not considered determinations subject to appeal.

**C. REVIEW CRITERIA****1. OFFICIAL ZONING MAP BOUNDARIES**

Determination of district boundaries on the Official Zoning Map shall be in accordance with the standards in Section 3.23, Interpretations of District Boundaries, and consistent with the County's Adopted Comprehensive Land Use Plan.

**2. UNLISTED USES**

Determination of whether an unlisted use is similar to a use identified in Chapter 6 shall be based on consistency with the County's Adopted Comprehensive Land Use Plan and the following standards:

- i. The function, product, or physical characteristics of the use;
- ii. The impact on adjacent lands created by the use;
- iii. The type, size, and nature of buildings and structures associated with the use;
- iv. The type of sales (retail, wholesale), and the size and type of items sold and displayed on the premises;
- v. The types of items stored (such as vehicles, inventory, merchandise, chemicals, construction materials, scrap and junk, and raw materials including liquids and powders);
- vi. The volume and type of vehicle traffic generated by the use, and the parking demands of the use;
- vii. Any processing associated with the use, including assembly, manufacturing, warehousing, shipping, distribution, and whether it occurs inside or outside a building;
- viii. Any dangerous, hazardous, toxic, or explosive materials associated with the use;
- ix. The amount and nature of any nuisances generated on the premises, including noise, smoke, odor, glare, vibration, radiation, and fumes; and
- x. Any prior applicable determinations made by the Administrator or decisions made by the Board of Adjustment.

**3. UNDEFINED TERMS**

If a term in this Ordinance is undefined or the meaning is unclear, the Administrator may determine the term's meaning based upon appropriate definitions in any of the following sources:

- i. The North Carolina General Statutes;
- ii. The North Carolina Administrative Code;
- iii. The State Building Code(s);
- iv. Planning-related definitions in publications prepared or offered by the American Planning Association or the Urban Land Institute;
- v. The Oxford Dictionary of Construction, Surveying, and Civil Engineering;
- vi. Black's Law Dictionary; or
- vii. Other professionally-accepted source.

**4. TEXT PROVISIONS AND PRIOR APPROVALS**

Determinations regarding this text and approved applications shall be based on the following considerations:

- i.** The legislative intent of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history related to its adoption;
- ii.** When the legislative intent of a provision is unclear, the Administrator shall consider the clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used in the provision, as established in Chapter 20, and by the common and accepted usage of the term;
- iii.** The general purposes served by this Ordinance, as set forth in Section 1.4, Purpose; and
- iv.** Consistency with the County's Adopted Comprehensive Land Use Plan.

## **5. DETERMINATION OF VESTED RIGHTS**

The determination of whether or not certain development activity or a development application approval is vested from changes in this Ordinance and the duration of the vesting shall be based on the following:

- i.** The standards in NCGS Section 160D-108; and
- ii.** Prior judicial determination from comparable cases, as determined in the sole discretion of the Administrator.

## **D. EFFECT**

A written determination shall be binding on subsequent decisions by the Administrator or other administrative officials in applying the same provision of this Ordinance or the Official Zoning Map in the same circumstance, unless the determination is modified in accordance with this section, the determination is later determined to have been made in error, or the text of this Ordinance is amended.

## **E. RECORD**

The Administrator shall maintain a record of written determinations that shall be available in the Planning Department offices for public inspection, on reasonable request, during normal business hours.

## **F. APPEAL**

Appeal of a determination by the Administrator shall be made to the Board of Adjustment in accordance Section 14.1, Appeal of Administrative Decision.