

ARTICLE XV – ADMINISTRATION, ENFORCEMENT AND PENTALTIES

Section 15.1 Zoning Enforcement Office

This Ordinance shall be administered and enforced by the Zoning Enforcement Officer who shall be appointed by the City Manager. The Zoning Enforcement Officer may appoint agents to act on his behalf. If the Zoning Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or additions; alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violations of is provisions.

Section 15.2 Zoning Permit

No land shall be used or occupied and no building hereafter structurally altered, erected, or moved, shall be used, or its use changed, until a Zoning Permit shall have been issued by the Zoning Enforcement Officer stating that the building and/or the proposed use thereof complies with the provisions of the Ordinance. No Building Permit shall be issued and no building shall be occupied until that Permit is approved. A record of all permits shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished, on request, to any persons having a proprietary or tenancy interest in the building erected. The Zoning Enforcement Officer shall collect such fees for the issuance of Zoning Permits as are authorized by the fee schedule as adopted by the City Council. The issuance of a valid Zoning Permit shall confer with it the right to undertake and complete the development and/or use of property under the terms and conditions of such Permit provided that such action as authorized by the Permit is commenced within one hundred eighty (180) days of issuance and provided that all other permits are obtained. Otherwise the Permit shall be void. Notwithstanding this section, all applications which includes supplemental documents for zoning permits hereunder shall be reviewed under the terms of the zoning ordinance in effect at the time of the application for such permit is made. This provision shall be applied retroactively twelve (12) months excepting interpretations or changes of the zoning map. Any removal or withdrawal of any supplemental documentation shall be considered a withdrawal of the application.

As a prerequisite for the issuance of a Zoning Permit or the authorization of a Zoning Permit With Vested Rights for any development other than a single-family or two-family dwelling on an individual lot, the Zoning Administrator may require a site specific development plan for review and approval by the Technical Review Committee (TRC) as established in Section 1.8 of the Subdivision Ordinance.

Notwithstanding the above, in the KMBTPD, 74SRDHOD, 74KGSPD, 161YCBOD, YRGPOD and KMPPED single-family and two-family dwelling on individual lots fronting a thoroughfare road shall be subject to the site specific plan development review process. In reviewing such site specific development plan the TRC shall operate in the same manner as set forth in the Subdivision Ordinance for reviewing subdivision plans and plats.

1) Application Procedures

Each application for a Zoning Permit shall be accompanied by a plan in duplicate, drawn to scale one (1) copy of which shall be returned to the Owner upon approval.

The Plan shall show the following:

- a. The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;
- b. The location of the said lot with respect to adjacent rights-of-way;
- c. The shape, dimensions, and location of all buildings, existing and proposed, on the said lot;
- d. The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;
- e. The location and dimensions of off-street parking and the means of ingress and egress to such space; and
- f. Any other information which the Zoning Enforcement Officer may deem necessary for consideration in enforcing the provisions of this Ordinance.

2) Right of Appeal

If the Zoning Permit is denied, the applicant may appeal the action of the Zoning Enforcement Officer to the Zoning Board of Adjustment as provided for herein. Such appeal shall be made within forty-five (45) days of such permit denial.

Section 15.3 Zoning Permit With Vested Rights

1) In any case where the applicant for a Zoning Permit desires to obtain a vested right, as authorized by NCGS 160A-385.1, the applicant shall observe the following procedures:

a. The applicant shall submit to the Zoning Enforcement Officer seven (7) copies of a site specific development plan drawn to scale describing with reasonable certainty the type and intensity of use for the specific parcel or parcels of land. Such plan shall include:

- a) The boundaries of the site;
- b) Significant topographical and other natural features affecting the development of the site;
- c) The location on the site of the proposed buildings, structures, and other improvements;
- d) The dimensions, including height, of the proposed buildings and other structures;
- e) The location of all existing and proposed infrastructure on the site, including water, sewer, roads and walkways; and
- f) Such other information as the Zoning Enforcement Officer may determine to be necessary in order to determine the specifics of the plan.

b. Public Hearing; Notice Thereof

Upon receipt of a properly prepared site specific development plan the Zoning Enforcement Officer shall arrange to bring such plan before the Zoning Board of Adjustment in the manner of a public hearing. Completed plans shall be received a minimum of twenty-five (25) days prior to the public hearing at which the proposed vested rights plan is scheduled to be considered by the Board. Notice of the public hearing shall be given in the same manner as that required for a Rezoning Request.

In considering an application for a Zoning Permit With Vested Rights the Board of Adjustment shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured and substantial justice done. If the Board should find, after public hearing, that the proposed Permit should not be granted, such proposed Permit shall be denied.

In granting such Permit, the Zoning Board of Adjustment shall make the

following affirmative findings:

- a) The use requested is among those listed as a Permitted or Conditional Use in the District in which the subject property is located or is to be located and complies with all the requirements of this Ordinance and other applicable Ordinances.
- b) The requested Permit is either essential or desirable for the public convenience or welfare.
- c) The requested Permit will not impair the integrity or character of the surrounding or adjoining Districts, and will not be detrimental to the health, safety or welfare of the community.
- d) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.

In granting a Zoning Permit With Vested Rights, the Zoning Board of Adjustment may impose such additional restrictions and requirements upon such Permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. Approval of a site specific development plan with the condition that a variance, Conditional Use Permit or modification be obtained shall not confer a vested right unless and until the necessary variance, Conditional Use Permit or modification is obtained. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of the Permit, otherwise the Permit shall be denied. Any Permit so authorized shall remain vested for a period of two years from the date of the action granting the Permit.

2) Violations

Any violation of a term or condition involved in the granting of a Zoning Permit With Vested Rights shall be treated the same as a violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation. In addition, the Board of Adjustment may, after public hearing, revoke any such vested rights for failure to abide by any such term or condition.

3) Other Ordinances Apply

The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity or use, or ordinances or regulations which are general in nature and are applicable to all property subject to land-use regulation, including, but not limited to building, fire, mechanical, electrical and plumbing codes.

4) Changes or Amendments

No change or amendment to any Permit With Vested Rights shall be made except after public hearing and except as provided for in this Ordinance for the original issuance of such Permit. If, at the time of consideration of proposed change or amendment to an existing Permit, such Permit or proposed change or

amendment could not be lawfully made under Ordinance conditions existing at that time, such proposed change or amendment shall be denied. In addition, in no case shall there be an extension of the two-year time period for which such development right is vested. Nothing herein shall exempt plans related to such Permit from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approvals.

5) Status at Expiration of Term

A right which has been vested shall terminate at the end of the two-year vesting period with respect to buildings and uses for which no valid Building Permit applications have been filed. Upon issuance of a Building Permit, the provisions of G.S. 160A-418 and G.S. 160A-422 shall apply except that a Building Permit shall not expire or be revoked because of the running of time while a vested right under this Section is outstanding. Any development constructed pursuant to a Zoning Permit With Vested Rights for which the vested term has expired and which is not in conformance with all the terms of this ordinance because of changes made in the provisions of this Ordinance, including the Zoning Map, after the issuance of such Permit shall be subject to the provisions of this Ordinance relating to non-conformities the same as any other non-conformity.

6) Annexation Declaration

Any landowner who signs an annexation petition to the City pursuant to G.S. 160A.31 or G.S. 160A-58.1 shall, as part of that petition, file a signed statement declaring whether or not vested rights with respect to the property subject to the petition have been established under G.S. 160A-385.1 or G.S. 153A-344.1. If the statement declares that such rights have been established, the City may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established by law shall be binding on the landowner and any such vested right shall be terminated.

Section 15.4 Duties of Zoning Enforcement Officer, Zoning Board of Adjustment, Courts and City Council to matters of Appeal

It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Zoning Enforcement Officer and that such questions shall be presented to the Zoning Board of Adjustment only on appeal from the Zoning Enforcement Officer; and that from the decision of the Zoning Board of Adjustment recourse shall be to courts as provided by law. It is further the intention of this Ordinance that the duties of the City Council in connection with the Ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof, but the procedure for determining such questions shall be as herein set out in the Ordinance, and that the duties of the City Council in connection with this Ordinance shall be only the duty of considering and passing upon any proposed amendment or repeal of the Ordinance as provided by law.

Section 15.5 Penalties for Violation

Violations of this Ordinance shall subject the violation to the penalties and remedies, civil or criminal or both, as set forth in this ordinance and in Sections 1-8 and 1-9 of the Code of the City of Kings Mountain.

(1) MISDEMEANORS

Any person, firm or corporation who violates any provisions of this Ordinance shall, upon conviction, be guilty of a Class III misdemeanor and shall be fined not exceeding fifty dollars (\$50) or imprisoned not exceeding thirty (30) days. Each day that a violation continues to exist shall be considered to be a separate offense, provided the violation is not corrected within thirty (30) days after notice of the violation has been given.

In addition to the other remedies cited in this Ordinance for the enforcement of these provisions, these regulations may be enforced through the issuance of citations by the City of Kings Mountain. These citations shall be in the form of a civil penalty. The City may recover this penalty in a civil action in the nature of a debt if the offender does not pay the penalty within seventy-two (72) hours after being cited for a violation. In addition, failure to pay the civil penalty within seventy-two (72) hours may subject the violator to criminal charges.

(2) CIVIL PENALTIES

In addition to the other remedies cited in this Ordinance for the enforcement of its provisions, and pursuant to North Carolina General Statute 160A-175, the regulations and standards in this Ordinance may be enforced through the issuance of civil penalties by the Zoning Enforcement Officer.

Subsequent citations for the same violation may be issued by the Zoning Enforcement Officer if the offender does not pay the citation (except as otherwise provided in a Warning Citation) after it has been issued unless the offender has sought an appeal to the actions of the Zoning Enforcement Officer through the Board of Adjustment. Once the ten-day warning period has expired, each day which the violation continues shall subject the violator to additional citations to be issued by the Zoning Enforcement Officer.

The following civil penalties are established for violations under this section:

Warning Citation	Correct violation within ten (10) days
First Citation	\$25.00
Second citation for same offense	\$50.00
Third and sequential citation for same offense	\$50.00

These civil penalties are in addition to any other penalties which may be imposed by a court of law for violation of the provisions of this Ordinance.

In addition to the foregoing enforcement provisions, this Ordinance may be enforced by any remedy provided in North Carolina General Statute 160A-175, including, but not limited to, all appropriate equitable remedies issued from a court of competent jurisdiction as provided in General Statute 160A-175 and particularly the remedy of injunction and order of abatement as allowed by North Carolina General Statute 160A-175.

This Ordinance specifically provides that each day's continuing violation is a separate and distinct offense.