

CHAPTER 11 ZONING ADMINISTRATION

Section 11.1 Zoning Administrator

11.1.1 The provisions of this Ordinance shall be administered by the Zoning Administrator and any other officials designated by the Town Council for the administration of this Ordinance.

11.1.2 Zoning Inspection: Duties Specified

The Zoning Administrator shall have the authority to grant an extension of a temporary use permit for manufactured homes as per Section 5.8.3, and 5.8.4.

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

Additional written notices of violation may be sent by the Zoning Administrator at his discretion. The final written notice (such final notice may be the initial written notice) shall state the action which the Zoning Administrator intends to take if the violation is not corrected and shall advise that the Zoning Administrator decision may be appealed to the Board of Adjustment in accordance with Section 12.6 of this Ordinance.

Section 11.2 Zoning Permit

No building, sign or other structure (except as otherwise for in this Ordinance) shall be erected, moved, extended or enlarged or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be commenced until the Zoning Administrator has issued a zoning permit for such work in accordance with a fee schedule established by the Town Council.

A. Expiration of Zoning Permit

Any zoning permit issued in accordance with this Ordinance will lapse and become invalid unless the work for which it was issued is started within six (6) months of the date of issue, or if the work authorized by it is suspended or abandoned for a period of at least one (1) year.

B. Records

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

The Stanly County Planning Director shall keep records on development activities on all lots located within a Water Supply Watershed Overlay District having a maximum prescribed built-upon area.

The Stanly County Planning Director shall maintain files on all minor and major variances concerning property located within a Water Supply Watershed Overlay District. A copy of information pertinent to any minor variance application request concerning property located within a Water Supply Watershed Overlay District (including minutes of the hearing, findings made by the Board of Adjustment, actions taken by the Board of Adjustment, names and addresses of all

persons giving evidence at the public hearing) shall be submitted annually during the last week of December to Division of Environmental Management, Supervisor of the Classification and Standards Group.

C. Conditions for Approval

Zoning permits issued on the basis of dimensional plans approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction which differ from that authorized shall be deemed a violation of this Ordinance and shall be punishable as indicated under Section 11.8 of this Ordinance.

D. Zoning Permit Not Required

Notwithstanding any other provisions of this Ordinance, no zoning permit is necessary for the following uses:

- (1) street construction or repair
- (2) electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way
- (3) specific signs exempted in Section 8.7 of this Ordinance
- (4) mailboxes, newspaper boxes, walls, fences, birdhouses, flag poles, pump covers, and doghouses under fifteen (15) square feet of gross floor area.

Section 11.3 Certificate Of Occupancy

No structure hereafter erected, moved, structurally altered or changed in use shall be used or occupied until a certificate of occupancy has been issued by the Stanly County Building Inspector. Any certificate of occupancy issued shall state that the structure or portion of a structure is in compliance with the information stated on the zoning permit and with all applicable provisions of this Ordinance. A record of all certificates of occupancy shall be kept on file in the office of the Stanly County Building Inspector and copies shall be furnished, on request, to all interested parties. If a certificate of occupancy is denied, the reasons for such denial shall be specified in writing and provided to the applicant.

Section 11.4 Right Of Appeal

If a request for a zoning permit is disapproved or if a ruling of the Zoning Administrator is questioned, any aggrieved party may appeal such ruling to the Board of Adjustment in accordance with Section 12.6 of this Ordinance.

Section 11.5 Remedies

In case any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this Ordinance as herein provided, an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violation may be instituted by **(i)** the Zoning Administrator **(ii)** the Stanly County Building Inspector, **(iii)** any other appropriate Town authority; or **(iv)** any person who may be damaged by such violation.

Section 11.6 Complaints Regarding Violations

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

as provided by this Ordinance.

Section 11.7 Reserved

Section 11.8 Penalties

Upon confirmation of a violation of this Ordinance, a notice of violation shall be issued by the Administrator of his/her designee to the violator. Such notice shall set out the nature of the violation, the section violated, and the date of the violation. The notice of violation shall provide for a reasonable period of time by which the violation must be abated or otherwise brought into compliance with this Ordinance. The notice shall specify that a second citation shall incur a civil penalty, together with the costs and attorney fees. An appeal of the Administrator's decision shall be allowed as prescribed under Section 12.6. Upon the expiration of the deadline stated in the notice of violation, the violator shall be subject to a civil penalty of \$50.00 for each day that the violation remains on the property without further notice. Should a violation continue to exist and/or the violator fails to pay the penalties, the Town shall seek to recover the penalty together with all costs by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. The collection of a penalty pursuant hereto shall not foreclose further proceedings for penalties coming due subsequent to the date of the filing of a prior proceeding. The provisions of this section may also be enforced through any other appropriate remedies as prescribed in Ordinance 05-7, General Penalty, Enforcement of Ordinances, Continuing Violations."

All ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 11.9 Early Vesting Of Development Rights Upon Approval Of Site Plan

Pursuant to G.S. 160A-385.1 and notwithstanding any other provision of this Ordinance or amendment thereto, a landowner may apply for a site specific development plan approval which shall entitle said

landowner to develop property in accordance with said site specific development plan. The procedure for establishing a vested right is set forth in this section.

11.9.1 Definitions

For the purpose of this section only, the following definitions shall apply:

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 in the manner allowed by Ordinance.

2. Property

All real property subject to zoning regulations and restrictions and within the jurisdiction of Badin.

3. 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.

11.9.2 Submission Of A Site Specific Development Plan

To apply for vested right, a landowner shall first submit to the Zoning Administrator a site specific development plan. The plan shall be submitted in completed form (i.e., contain all information as herein prescribed) with a fee (in accordance with a fee schedule adopted by the Town Council) and an accompanying application which, at a minimum, contains the following information:

- A. All information listed in Section 9.2.1 of this Ordinance.

Once the Zoning Administrator deems the site specific development plan to be complete, he shall schedule it to be reviewed by the Planning Board at their next regularly scheduled meeting. The Zoning Administrator must receive the complete plan at least ten (10) days prior to the Planning Board's next meeting date to place it on their agenda.

11.9.3 Planning Board Review And Recommendation

Once the site specific development plan is forwarded, the Planning Board shall review the application and make a recommendation to the Town Council. The Planning Board shall have up to forty-five (45) days from their first meeting date to make such recommendation. Alternatively, the Planning Board could request additional information of the applicant in order to aid them in their review of the application. Such information may include (but not be limited to) that listed in Section 9.2.2 of this Ordinance. If no recommendation is made during said forty-five (45) day period (except as herein provided) the application shall forthwith be forwarded to the Town Council without a recommendation.

11.9.4 Public Hearing

Upon receipt of the plan and the recommendation from the Planning Board, if one is forthcoming, the Town Council shall schedule a public hearing.

Notice of the Town Council public hearing shall be given as follows:

- A. A notice shall be published in a newspaper having general circulation in Badin once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.
- B. At least one (1) notice shall be conspicuously posted on the subject property at least ten (10) days prior to the public hearing. Such notice shall state the nature of the public hearing and the date, time and location at which it is to be held. The notice shall be removed only after the public hearing has been held.
- C. A notice of the public hearing shall be sent by first class mail by the Zoning Administrator to all contiguous property owners at least ten (10) days prior to the public hearing.

11.9.5 Town Council Action

Once the public hearing has been conducted and concluded, the Town Council shall determine whether or not to approve the site-specific development plan and accord the vested right. In approving an application for vested rights of a site specific development plan, the Town Council may attach fair and reasonable ad hoc conditions which tend to support the requiring finding of facts as herein listed. The petitioner shall be given

reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council. The Town Council may not require the landowner to waive his vested right as a condition of developmental approval.

The Town Council may approve the site specific development plan if it has evaluated an application and determined that:

- A. The use meets all required specifications of the Zoning Ordinance, and
- B. The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed. Conditions, if any, placed on the site specific development plan by the Town Council shall be adequate to meet this requirement.
- C. If the site specific development plan is vested for a period of greater than two (2) years, this shall be based on one or more factors so described in Section 11.9.6.

The burden of proof of producing evidence to support these findings (and to overcome any challenges that approval of the site plan would be contrary to one or more of these findings shall rest entirely with the landowner.

If the use or development for which the site specific development plan is submitted is a conditional use, the Town Council may approve the site specific development plan contemporaneously with the approval of the conditional use permit. In no case, however, may a site specific development plan be approved for a use or development which requires the issuance of a conditional use permit without the conditional use permit having first been issued.

11.9.6 Effect Of Approval

The effect of the Town Council approving a site-specific development plan shall be to vest such site plan for a period of two (2) years from the date of approval. If the landowner requests, however, the Town Council may approve a vesting period not to exceed five (5) years from the date of approval. The vesting of any site plan beyond a two (2) year period may only be authorized by the Town Council where it is found that due to (i) the sizing and phasing of the development; or (ii) the level of investment; or (iii) the need for the development; or (iv) economic cycles; or (v) market conditions, building permits for all phases of the development cannot be secured within two years.

A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan as provided for in this Section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the vested right previously accorded.

A vested right, once established as herein provided, shall preclude any zoning action by the Town 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 except under the following conditions:

- 1. The affected landowner provides written consent to the Town of his desire to terminate the vested right; or,
- 2. The Town determines, after having advertised and held a public hearing, that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project

were to proceed as indicated in the site specific development plan; or,

3. Compensation is made by the Town to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid; or,
4. The Town determines, after having advertised and held 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 Town of the site specific development plan; or,
5. Upon the enactment or promulgation of a State or Federal law or regulations which precludes development as contemplated in the site-specific development plan. In such case the Town may (after having advertised and conducted a public hearing) modify the affected provisions upon a finding that the change in State or Federal law has a fundamental effect on the plan.

Any public hearing called for in Section 11.9.6 (4 and 5) herein shall be conducted by the Town Council and advertised as indicated in Section 11.9.4. Recommendation by the Planning Board and final action by the Town Council shall be undertaken provided in Sections 11.9.3 and 11.9.5, respectively.

Once a vested right is granted to a particular site-specific development plan, nothing in this section shall preclude the Town from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are not inconsistent with the original approval.

11.9.7 Revocation Or Expiration Of A Vested Right

The vested right resulting from the approval of a site-specific development plan may be revoked by the Town Council as provided for in Section 11.9.6. In addition, a revocation may occur if the Town Council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Zoning Ordinance. The vested right shall otherwise expire at the end of the approval period established by the Town Council.

11.9.8 Revocation Of Building Permit

A building permit issued by the Stanly County Building Inspector pursuant to G.S. 160A-417 may not be revoked because of the running of time on a piece of property for which a site-specific development plan has been approved and the vested right period has not otherwise expired.

11.9.9 Amendments To The Zoning Ordinance

The establishment of a vested right on a piece of property for a site-specific development plan shall not preclude the Town from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.

