

**ARTICLE 1000  
ADMINISTRATION AND LEGAL PROVISIONS**

1001            Establishment of Administrative Officer.

The provisions of this Ordinance shall be administered by the Zoning Administrator, who shall be designated by the City Manager.

1002            Duties of the Zoning Administrator.

The Zoning Administrator shall have the power to grant Zoning Compliance permits and Certificates of Zoning Compliance and to make or cause to be made inspections of buildings or premises necessary to carry out the enforcement of this Ordinance. In connection with the enforcement of this Ordinance, the Zoning Administrator shall make all necessary determinations and interpretations as required by this Ordinance. Persons aggrieved by a decision or a determination made by the Zoning Administrator may appeal that action to the Board of Adjustment.

1003            Powers and Limitations of the Zoning Administrator.

If any proposed excavation, construction, moving, alteration, or use of land as set forth in an application for a Zoning Compliance Permit is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a Zoning Compliance Permit; however;

- A. Issuance of a Zoning Compliance Permit shall in no case be construed as waiving any provisions of this Ordinance.
- B. Under no circumstance is the Zoning Administrator permitted to grant exceptions to the actual meaning of any clause, standards, or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter, or use either building, structures or land.
- C. Under no circumstance is the Zoning Administrator permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his duties.
- D. The Zoning Administrator shall issue a permit when the imposed conditions of this Ordinance are complied with by the applicant regardless of whether the use of the permit would violate contractual or other arrangements (including, but not by way of limitation, restrictive covenants) among private parties.
- E. If an application for such permit is disapproved, the Zoning Administrator shall state in writing the cause of such disapproval.

1004            Zoning Compliance Permit Required (Amended 2-4-2016).

It shall be unlawful to begin the excavation for the construction, the moving, alteration, or repair, except ordinary repairs, of any building or other structure, including an accessory structure, costing more than \$250.00 or exceeding one hundred square feet in area, until the Zoning Administrator has issued for such work a Zoning Compliance Permit which includes a determination that plans, specifications and the intended use of such structure do, in all respects, conform to the provisions of this Ordinance. Prior to the issuance of a Zoning Compliance Permit, the Zoning Administrator shall

consult with all applicable departments including, but not limited to, the Department of Public Works, the Building Inspection Department and the Fire Department. A Zoning Compliance Permit shall be valid for a period of six months from date of issuance. A Zoning Compliance Permit does not constitute a vested right.

#### 1004.1

Also, it shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use or any lot on which there is a nonconforming use, until the Zoning Administrator has issued for such intended use a Zoning Compliance Permit, including a determination that the proposed use does, in all respects, conform to the provisions of this Ordinance.

#### 1004.2

In all cases where a Building Permit is required, application for a Zoning Compliance Permit shall be made coincidentally with the application for a Building Permit; in all other cases, it shall be made prior to that date when a new or enlarged use of a building or premise or part thereof is intended to begin.

All Zoning Compliance Permit applications shall be made in writing to the Zoning Administrator on forms provided for that purpose. A record of all such applications shall be kept on file by the Zoning Administrator.

#### 1005            Contents of Application for Zoning Compliance Permit.

Every application for a Zoning Compliance Permit for site clearance, excavation, grading, filling, construction, moving, alteration, or change in type of use or type of occupancy, shall be accompanied by a written statement and plans or plats, drawn to scale, showing the following in sufficient detail to enable the Zoning Administrator to ascertain whether the proposed work or use is in conformance with the provisions of this Ordinance:

- a. The actual shape, location and dimensions of the lot; if the lot is not a lot of record, sufficient data to locate the lot on the ground.
- b. The shape, size, and location of all buildings, or other structures, to be erected, altered, or moved, and of any other buildings, or other structures already on the lot.
- c. The existing and intended use of the lot and of all structures upon it.
- d. Location and size of any required buffers, screens, front yard landscaping, and/or interior landscaping
- e. Location and type of screening used to screen mechanical equipment
- f. Location, access to and screening of central solid waste area
- g. Location and dimensions of off street parking and loading spaces
- h. Grade separation of building and parking areas
- i. Paving material for parking

- j. Curb cuts
- k. Location, size and height of any signs
- l. Compliance with Performance Standards for this district
- m. Location of any flood zones if applicable.
- n. Location of watershed if applicable.
- o. Sidewalks, when required
- p. Information concerning permitting from other regulatory agencies, including, but not limited to, NC Department of Transportation, NC Department of Environmental Quality, and/or other local, state, and/or federal agencies as necessary, depending on the specific proposal.

In addition, such other information concerning the lot, adjoining lots, or other matters as may be essential for determining whether the provisions of this Ordinance are being observed.

1006            Certificate of Zoning Compliance.

No building, structure, or zoning lot for which a Zoning Compliance Permit has been issued shall be used or occupied until the Zoning Administrator has, after final inspection, issued a Certificate of Zoning Compliance indicating compliance has been made with all the provisions of this Ordinance. Guarantees in the form of Certified Checks, bonds, cash, or Letter of Credit may be accepted to insure the actual installation of certain landscaping, buffers and screens, paving requirements, and recreational facilities and offices for multifamily developments. Such guarantee shall be in an amount not less than 100% of the estimated costs of such requirements as estimated by professional contractors competent in their respective fields in the form of proposals or bids for the installation being guaranteed. Such guarantee shall not be for more than a period of 6 months from the date of issuance of Certificate of Zoning Compliance. However, the issuance of a Certificate of Zoning Compliance shall in no case be construed as waiving the provisions of this Ordinance.

1007            Site Specific Development Plan.

The purpose of this section is to implement the provisions of G.S.160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.

A. Definitions.

As used in this section, the following terms shall have the meaning indicated:

Approval Authority — The City Council by this ordinance is being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

Site specific development plan — A plan of land development submitted to the City of Asheboro for purposes of obtaining one of the following zoning or land use permits or approvals:

Zoning Compliance Permit; as per Section 1004 of the Asheboro Zoning Ordinance  
 Conditional Use Permit; as per Section 1013 of the Asheboro Zoning Ordinance

Special Use Permit; as per Section 603 of the Asheboro Zoning Ordinance  
Subdivision Preliminary Plat Approval; as per Article VII, Section II, B. of the  
Asheboro Subdivision Ordinance.

Notwithstanding the foregoing, neither a variance, a sketch plan nor any  
other document that fails to describe with reasonable certainty the type  
and intensity of use for a specified parcel or parcels of property shall  
constitute a site specific development plan.

Zoning vested right— A right pursuant to G. S. 160A-385.1 to undertake and complete  
the development and use of property under the terms and conditions of an approved site  
specific development plan.

B. Establishment of a Zoning Vested Right.

1. A zoning vested right shall be deemed established upon the valid  
approval, or conditional approval, by the City Council of a site specific  
development plan, following notice and public hearing.
2. The City Council may approve a site specific development plan upon  
such terms and conditions as may reasonably be necessary to protect  
the public health, safety, and welfare.
3. Notwithstanding subsections 1. and 2., approval of a site specific  
development plan with the condition that a variance be obtained shall  
not confer a zoning vested right unless and until the necessary  
variance is obtained.
4. A site specific development plan shall be deemed approved upon the  
effective date of the approval authority's action or ordinance relating  
thereto.
5. The establishment of a zoning vested right shall not preclude the  
application of overlay zoning that imposes additional requirements  
but does not affect the allowable type or intensity of use, or  
ordinances or regulations that are general in nature and are  
applicable to all property subject to land use regulations by the  
City of Asheboro, including, but not limited to, building, fire,  
plumbing, electrical, and mechanical codes. Otherwise applicable  
new or amended regulations shall become effective with respect to  
property that is subject to a site specific development plan upon the  
expiration or termination of the vested right in accordance with this  
article.
6. A zoning vested right 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 right while applicable.

C. Approval Procedures and Approval Authority.

1. An application for a site specific development plan in conjunction  
with a request for a Zoning Compliance Permit, Special Use Permit, or

Subdivision Preliminary Plat Approval shall be processed in accordance with the procedures established by this ordinance for a Special Use Permit application. An application for a site specific development plan in conjunction with a Conditional Use Permit request application shall be processed in accordance with the procedure established by this Ordinance for a Conditional Use Permit application. The City Council in reviewing and approving a site specific development plan application shall be governed by the requirements for the accompanying permit or approval for which application is made.

2. Notwithstanding the provisions of subsection 1 above., if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a board, committee or administrative official other than the City Council, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the City Council following notice and a public hearing as provided in G. S.160A-364.
3. In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form to be provided by the City of Asheboro, that a zoning vested right is being sought.
4. Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G. S. 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."
5. Following approval or conditional approval of a site specific development plan, nothing in this chapter shall exempt such a plan 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 approval.
6. Nothing in this chapter shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the zoning ordinance.

#### D. Duration.

1. A zoning right that has been vested as provided in this chapter shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to subsection 2 below.
2. Notwithstanding the provisions of subsection 1. above, the City Council may provide that rights shall be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size of the development, the level of investment, the need for or desirability of

the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the City Council at the time the site specific development plan is approved.

3. Upon issuance of a building permit, the expiration provisions of G. S. 160A-418 and the revocation provisions of 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 zoning vested right under this section is outstanding.

E. Termination.

A zoning right that has been vested as provided in this chapter shall terminate:

1. at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
2. with the written consent of the affected landowner;
3. upon findings by the City Council, by ordinance after notice and a public hearing, that natural or man-made hazards on or 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;
4. upon payment to the affected landowner of 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;
5. upon findings by the City Council, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or
6. upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority 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 hearing.

F. Voluntary Annexation.

A petition for annexation filed with the City under G. S. 160A-31 or G. S. 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition

has been established under G. S. 160A-385.1 or G. S. 153A-344.1. A statement that declares that no zoning vested right has been established under G. S. 160A-385.1 or G. S. 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

G. Limitation.

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G. S. 160A-385.1.

H. Repealer.

In the event that G. S. 160A-385.1 is repealed, this ordinance shall be deemed repealed and the provisions hereof no longer effective.

I. Effective Date.

This chapter shall be effective November 11, 1991, and shall only apply to site specific development plans approved on or after November 11, 1991.

1008      Fees.

Before any Zoning Compliance Permit or Certificate of Zoning Compliance shall be issued covering building or other operations regulated by this Chapter, a fee in an amount fixed by the City Council shall be paid.

1009      Determination of Exact Location of Zoning District Boundary Lines.

The Community Development Director shall decide the exact location of zoning district boundary lines when a question arises concerning boundary lines shown on zoning maps, subject to administrative review by the Board of Adjustment provided for in Article 900. The determination of the exact location of a zoning district's boundary line shall be guided by the provisions of Section 103.

1010      Building Permits Issued Prior to Adoption of this Ordinance.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit had been granted by the Building Inspector before the time of passage of this ordinance; provided, however, that where construction is not begun under such outstanding permit within a period of 60 days subsequent to passage of this ordinance or where it has not been prosecuted to completion within 18 months subsequent to passage of this ordinance, any further construction or use shall be in conformity with the provisions of this ordinance.

1011      Changes and Amendments.

For the purpose of establishing and maintaining sound, stable and desirable development within Asheboro and its extraterritorial planning jurisdiction, this Ordinance shall not be amended except to correct a manifest error in the Ordinance, or because of changed or changing conditions in a particular area or in the jurisdiction of the City of Asheboro generally, to rezone an area, extend the boundary of an existing zoning district, or to change the regulations and restrictions thereof, and then, only as reasonably necessary to the promotion of the public health, safety, or general welfare, and to achieve the purposes of the adopted Land Development Plan.

1011.1 Amendment Initiation. (Amended 2-4-2016)

Subject to the limitations of the foregoing Statement of Intent, an amendment to this Ordinance may be initiated by:

- A. The City Council on its own motion;
- B. The Planning Board;
- C. Application by any property owner or his or her agent, a citizen or his or her agent.
- D. City Manager and/or designee

1011.2 Filing and Contents of Amendment Application.

- A. Filing of Applications  
All applications for amendments to this Ordinance shall be in writing, signed and filed with the Zoning Administrator.
- B. Contents of Application  
All applications for amendments to this Ordinance, without limiting the right to file additional material, shall contain at least the following:
  - 1. If the proposed amendment would require a change in the Zoning Atlas, a fully dimensioned map, at a scale of not more than 200 feet to the inch, showing the land which would be covered by the proposed amendment.
  - 2. A legal description of such land, if applicable.
  - 3. Any alleged error in this Ordinance which would be corrected by the proposed amendment with a detailed explanation of such error in the Ordinance and detailed reasons how the proposed amendment will correct same.
  - 4. The changed or changing conditions, if any, in the jurisdiction of the City of Asheboro generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.
  - 5. The manner in which the proposed amendment will carry out the intent and purpose of the adopted Land Development Plan.
  - 6. All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.

1011.3 Authorization to Schedule & Publish Notice of a Public Hearing (Amended 2-4-2016)

(A) The Zoning Administrator shall coordinate with the City Manager's office the placement of the application on the City Council's consent agenda for approval to schedule and advertise a public hearing on the requested amendment.

(B) The deadline for filing of applications for changes and amendments will normally be 5:00 PM on the day which is 55 days prior to the date of the City Council meeting for which the public hearing is to be set.

(C) Hearing dates may be established for a regular or special meeting of the City Council; however, a combined total of more than five (5) hearings on amendments to this ordinance, Special Use Permits and Conditional Use Permits shall not be heard at any meeting of the City Council.

1011.4 Publication of Notice of the Public Hearing (Amended 2-4-2016)

A. A public hearing shall be held by the City Council before adoption of any proposed amendment to this Ordinance. In accordance with NC General Statute 160A-364(a), a notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in Asheboro. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

B. In addition to the notice required by A. above, where the proposed amendment involves a change in the designation of any parcel of land, staff shall, by first class mail, give notice of the public hearing to the owner(s) of parcel(s) involved in the proposed amendment, if the owner(s) are different from the applicant(s), as well as the owners, as shown on the tax rolls of Randolph County, of all land abutting the parcel(s) involved in the proposed amendment. Certification shall be included in the report prepared by the Zoning Administrator that such notice has been made.

1011.5 Reports Prepared by Zoning Administrator (Amended 2-4-2016)

In addition to taking the action prescribed by division 1011.3 of this section, the Zoning Administrator shall prepare and submit a written report to the Planning Board for study. Such report shall be submitted prior to the meeting at which the Board will consider the application. The administrator shall also submit a copy of the report, along with the report summarizing the study of the proposed amendment by the Planning Board, to the City Council prior to the public hearing that is to be conducted by the City Council.

1011.6 Action of City Council.

The City Council, after the public hearing on the application and the receipt of the recommendation of the Planning Board and the Zoning Administrator, shall then take one of the following actions:

- A. Approval of the application
- B. Approval of a modified version of the application
- C. Denial of the application

1011.7 Written Comments Received from Citizen(s) Prior to Public Hearing (Amended 2-4-2016)

In accordance with NC General Statute 160A-385(a)(1), if any resident or property owner in the city submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the City Council. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160A-388, the clerk shall provide only the names and addresses of the individuals providing written comment, and the

provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

1011.8 Withdrawal of Application.

An applicant may withdraw his or her application at any time by written notice to the City Manager.

1011.9 Effect of Denial on Subsequent Petitions.

When the City Council shall have denied an application the City Council shall not receive another application for the same or similar amendment, affecting the same property or a portion of it until the expiration of a one-year period, extending from the date of denial. Not more than two (2) applications may be filed for rezoning all or part of the same property within any twelve (12) month period.

1011.10 Fees.

Fees for filing application for amendments shall be set by resolution of the City Council.

1012 Prohibition of Certain Testimony.

It is the intent of this Section that the applicant for rezoning to any district other than a Conditional Use District shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property. If the applicant believes that the development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with the principles underlying the City's comprehensive zoning plan, he shall apply for rezoning to the appropriate Conditional Use District and for a Conditional Use Permit. No permit shall be issued for any development within a Conditional Use District except in accordance with an approved Conditional Use Permit.

1013 Conditional Use Permits. (Amended 2-4-2016)

A request for a Conditional Use Permits as authorized by this ordinance, shall be accompanied by a site plan meeting all the requirements of Section 1005. An application for a Conditional Use Permit may be made simultaneously with the request for rezoning to a Conditional Use District or may be made subsequent to approval of the Conditional Use District. In addition, the following shall apply:

1013.1 Procedure for Submission (Amended 2-4-2016)

A. Application Submitted to Zoning Administrator.

Application for a Conditional Use Permit shall be filed with the Zoning Administrator, who shall, before accepting any application, ensure that it contains all required information.

The deadline for filing of applications for a Conditional Use Permit will normally be 5:00 PM on the day which is 55 days prior to the date of the City Council meeting for which the public hearing is to be set.

The Zoning Administrator, in consultation with the City Manager, shall schedule each complete application for a public hearing. Hearings dates may be established for a regular or special meeting of

the City Council; however, the Administrator shall not schedule a combined total of more than five (5) hearings on amendments to this Ordinance, Special Use Permits and Conditional Use Permits at any meeting of the City Council.

Applications which are not complete, or otherwise do not comply with the provisions of this Article, shall not be accepted by the Zoning Administrator, but shall be returned forthwith to the applicant, with a notation by the Zoning Administrator of the deficiencies in the application. A site plan meeting the requirements of Section 1005 shall be submitted at time of application. However, revisions can be made to this submitted site plan and all revisions shall be received no later than 15 days prior to the public hearing. If site plan revisions are submitted after 15 days prior to the advertised public hearing date, they will not be considered. (10/2001)

B. Community Development Director Prepares Analysis

The Community Development Director shall cause an analysis to be made of the application for consideration by the City Council. The analysis shall be a written report which shall be submitted to the City Council prior to the meeting at which the public hearing described in Section E is to be held.

C. Public Hearing Required; Notice Specified.

Prior to consideration of the application for approval of a Conditional Use, a public hearing thereon shall be held by the City Council to receive evidence in the form of testimony, exhibits, documents, models, plans and the like to support the application for approval of a Conditional Use.

D. The Zoning Administrator shall give public notice of the date, time and place of the public hearing.

E. Action Subsequent to the Decision.

The Zoning Administrator shall cause notice of the disposition of the application to be to the applicant and a copy of the decision to be filed in the office of the Zoning Administrator.

The Zoning Administrator, in the case of approval or approval with conditions, shall issue the necessary permit in accord with the Council's action. The permit shall be based upon plans as approved by the City Council.

1013.2 In considering an application for a Conditional Use Permit, the City Council, 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 City Council should find, after a public hearing, that the proposed Conditional Use Permit should not be granted, such proposed permit shall be denied. Specifically the following general standards shall be met:

1. *That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.*
2. *That the use meets all required conditions and specifications.*
3. *That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity, and,*
4. *That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.*

The City Council shall make these general findings based upon substantial evidence contained in its proceedings. It shall be the responsibility of the applicant to present evidence in the form of testimony, exhibits, documents, models, plans and the like to support the application for approval of a Conditional

Use.

1013.3

In granting a Conditional Use Permit, the City Council may impose such additional reasonable and appropriate special requirements upon such permit as it may deem necessary in order that the purpose and intent of this ordinance is served, public welfare secured and substantial justice done. If all requirements and conditions are accepted by the applicant, the City Council shall authorize the issuance of the Conditional Use Permit, otherwise the permit shall be denied.

1013.4

Any **valid** Conditional Use Permit so authorized shall be perpetually binding upon the property included in such permit unless subsequently changed or amended by the City Council as provided for in this Ordinance.

1013.5

Minor Changes to be Approved by Zoning Administrator / Modifications Require Action by City Council.

The Zoning Administrator is authorized to approve minor changes in the approved plans of Conditional Uses, as long as they are in harmony with action of the approving body, but shall not have the power to approve changes that constitute a modification of the approval. A modification shall require approval of the City Council and shall be handled as a new application.

The following actions shall constitute a modification, unless expressly authorized by the permit:

- A. (Reserved for future amendments)
- B. The erection of a new structure or the addition to an existing structure that:
  - 1. exceeds 1000 square feet, either cumulatively or non-cumulatively;
  - 2. exceeds 10% of the useable floor area, either cumulatively or non-cumulatively, approved by the City Council as part of its review of the applicable Conditional Use permit; or
  - 3. results in any portion of a structure being located closer than thirty (30) feet to an adjoining property developed with a single-family or two-family dwelling.
- C. An increase in number of dwelling or lodging units.
- D. An increase in outside land area devoted to sales, displays, or demonstrations.

E. Any change in parking areas resulting in an increase or reduction of 5% or more in the number of spaces approved by the City Council. In no case shall the number of spaces be reduced below the minimum required by the ordinance.

F. Structural alterations significantly affecting the basic form, style, ornamentation and the like of the building as shown on the approved plan.

G. Substantial change in the amount and/or location of open space, recreation facilities or landscape buffers/screens.

H. A change in use.

I. Substantial changes in pedestrian or vehicular access or circulation.

Notwithstanding any other provision within this Section, the Zoning Administrator is expressly prohibited from approving any changes that would be in conflict with the requirements of the Zoning Ordinance or significantly contrary to the Findings of Facts, Conclusions of Law, or Order as outlined the applicable Conditional Use Permit. The Zoning Administrator shall, before making a determination as to whether a proposed action is a minor change or a modification, review the record of the proceedings on the original application for the approval of the Conditional Use.

The Zoning Administrator shall, if he determines that the proposed action is a modification, require the applicant to file a request for approval of the modification, which shall be submitted to the City Council. The Council may approve or disapprove the application for approval of a modification. (6/02)

#### 1013.6

Any violation of a term or condition of a Conditional Use Permit shall be treated the same as any violation of this ordinance and shall be subject to the same remedies and penalties as any such violation. Where any violation is not corrected or abated the Community Development Director, or any person aggrieved, may institute injunction, mandamus or other appropriate action in proceedings to correct or abate any violation. In the event that any violation is not promptly corrected or abated after a judicial determination that there has been such violation, the Conditional Use Permit shall become void and of no effect.

#### 1013.7

The City Council may change or amend any Conditional Use Permit after a public hearing, and subject to the same consideration as provided for in this Article for the original issuance of a Conditional Use Permit

#### 1013.8 Discontinuance of Permitted Activity or Failure to Act on a Conditional Use Permit

If any Conditional Use is discontinued for a period of 180 days; or the permit is not initiated within 180 days; or replaced by a use otherwise permitted in the zoning district, it shall be deemed abandoned and the Conditional Use Permit shall be null and void and of no effect. The owner shall demonstrate that the Conditional Use has not been discontinued for a period exceeding 180 days; the project has been started within 180 days ; or has not been replaced by a use otherwise permitted to maintain a **valid** Conditional Use Permit. (7/10/97)

1014 Enforcement and Review (Amended 2-4-2016).

1014.1 Complaints Regarding Violations.

Whenever the administrator receives a written, signed complaint alleging a violation of this Ordinance, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.. Nothing in this section shall be construed to prohibit the Zoning Administrator from initiating an investigation and taking any enforcement action authorized by this Ordinance when the Zoning Administrator, regardless of whether or not a signed complaint has been received, has any reason to believe that any provision of this Ordinance is being violated. (4/02)

1014.2 Persons Liable.

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

1014.3 Procedures Upon Discovery of Violations.

- A. If the administrator, or his authorized designee, finds that any provision of this Ordinance is being violated, a written notice shall be sent to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the administrator's , or his authorized designee's, discretion.
- B. The final written notice (and the initial written notice may be the final notice) shall state what action the administrator, or his authorized designee, intends to take if the violation is not corrected and shall advise that the decision or order may be appealed to the Board of Adjustment as provided in Article 900 Board of Adjustment.
- C. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety or welfare, the administrator, or his authorized designee, may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in this section.
- D. A notice of violation shall not be required where a notice of the same violation has been issued to the same violator at the same property within the previous two years. In such cases, the violator may be charged with an continuing violation without further notice.

1014.4 Penalties and Remedies for Violations.

- A. Violations of the provisions of the Ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or Special Use or Conditional Use Permits, shall constitute a misdemeanor, punishable as provided in General Statutes **160A-175**
- B. Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or Special Use or

Conditional Use Permits, shall also subject the offender to a civil penalty of up to ***five hundred (\$500)*** dollars for each day the violation continued unabated. The amount of the civil penalty will be based on the following criteria:

- (1) Whether the violator has been notified of similar violations in the past;
- (2) The potential profit to the violator in continuing the violation;
- (3) The degree and duration of noncompliance; and
- (4) The City's cost to investigate and pursue abatement of the violation.

If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the City in a civil action in the nature of a debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with Section 1014.3 B and did not take an appeal to the Board of Adjustment within the prescribed time. The Enforcement Officer has the discretion to waive the penalty if the violator worked to correct the violation in good faith.

- C. This section may also be enforced by any appropriate equitable action.
- D. Each day that any violation continues after notification by the administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.
- E. Any permit, certificate, or other authorization for property on which there is an uncorrected violation may be withheld, or may be conditioned on the correction of the violation and/or payment of a civil penalty.
- F. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this Ordinance.

#### 1014.5 Permit Revocation (Amended 2-4-2016).

- A. A zoning, building, sign, special use, or Conditional Use Permit may be revoked by the permit issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed by the permit issuing board.
- B. Before a Conditional Use or Special Use Permit may be revoked, all requirements of this Ordinance shall be complied with. The notice of violation shall inform the permit recipient of the alleged grounds for the revocation.
- C. Before a zoning or sign permit may be revoked, the administrator shall give the permit recipient ten days notice of the intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the administrator shall provide to the permittee a written statement of the decision and the reasons

therefore.

D. No person may continue to make use of land or buildings in the manner authorized by any zoning, sign, Special Use or Conditional Use Permit after such permit has been revoked in accordance with this section.

1014.6 Judicial Review.

Every decision of the City Council granting or denying any rezoning, Special Use Permit, or Conditional Use Permit and every final decision of the Board of Adjustment shall be subject to review by the Superior Court of Randolph County by proceedings in the nature of certioraris.

1015 Severability

It is the legislative intent of the City Council in adopting this Ordinance that all provisions thereof shall be liberally construed to protect and preserve the peace, health, safety, and general welfare of the inhabitants of the City of Asheboro. It is the further intent of the City Council that this Ordinance shall stand, notwithstanding the invalidity of any part thereof, and that should any provision of this Ordinance be held to be unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions.

1016 Interpretation, Purpose, and Conflict.

In interpreting and applying the provisions of this ordinance they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this ordinance imposes a higher standard or greater restriction than is imposed or required by other ordinances, rules, regulations, statutes or by easements, covenants or agreements, the provisions of this ordinance shall govern. When the provisions of any other ordinances, rules, regulations or statutes impose higher standards than are required by the provisions of this Ordinance, the provisions of that ordinance, rule, regulation or statute shall govern.

1017 Effective Date.

The provisions of this Ordinance shall be effective on and after the 7<sup>th</sup> day of November, 1991.