

ARTICLE 5. PROCEDURES, PERMITS, ENFORCEMENT, AND APPEALS -ADMINISTRATIVE

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5.1. ADMINISTRATIVE DEVELOPMENT APPROVAL (PERMIT) REQUIRED

- 5.1.1. No person shall commence or proceed with development within the Town’s jurisdiction without first securing any development approvals from the Town. This Article includes the regulations pertaining to Administrative procedures, development approvals and permits.
5.1.2. A development approval shall be in writing and shall contain a provision that the development work done shall comply with all applicable State and local laws.
5.1.3. The Town may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued.
5.1.4. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

Statutory Authority – NCGS Chapter 160D-403(a)

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5.2. DEFINITIONS.

- 5.2.1. As used under this Article and consistent with the definitions contained in **Article 2**, the term “Administrative Decision” shall mean decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in NCGS Chapter 160D and these development regulations. These are sometimes referred to as “ministerial” decisions or “administrative determinations.”
- 5.2.1.1. Administrative decisions are decisions made by the planning staff of the Town of White Lake.
- 5.2.2. As used under this Article and consistent with the definitions contained in **Article 2**, the term “Administrative Hearing” shall mean a proceeding to gather facts needed to make an administrative decision.
- 5.2.3. As used under this Article and consistent with the definitions contained in **Article 2**, the term “Development” shall mean:
- 5.2.3.1. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- 5.2.3.2. The excavation, grading, filling, clearing, or alteration of land.
- 5.2.3.3. The subdivision of land as defined in G.S. 160D-802.
- 5.2.3.4. The initiation or substantial change in the use of land or the intensity of use of land.
- 5.2.4. As used under this Article and consistent with the definitions contained in **Article 2**, the term “Development Approval” shall mean an administrative approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project or development proposal. Administrative development approvals include, but are not limited to, zoning permits and site plan approvals.
- 5.2.5. As used under this Article and consistent with the definitions contained in **Article 2**, the term “Development Regulation” shall mean a unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to NCGS Chapter 160D, or a local act or charter that regulates land use or development.
- 5.2.6. As used under this Article and consistent with the definitions contained in **Article 2**, the term “Zoning Permit” shall mean a permit issued by the Zoning Administrator that certifies compliance with the Zoning Ordinance and authorizes the recipient to make use of property in accordance with the requirements of this Ordinance.

Statutory Authority – NCGS Chapter 160D-102

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5.3. ZONING PERMIT PROCEDURE.

- 5.3.1. Requests for a zoning permit shall be submitted by filing an application with the Town Clerk. Said application shall be on a form approved by the Town Board of Commissioners.

(Ord. 12/1/1997; 7/8/2014, 4-3.1)

- 5.3.2. The Zoning Permit shall be accompanied by either a Minor Site Plan or a Major Site Plan as determined by the Zoning Administrator.

(Ord. 12/1/1997; 7/8/2014, 4-3.2)

Cross Reference – Section 12.4.2, Zoning Permits

- 5.3.3. The Town Clerk shall transmit the application and any accompanying documents within 3 working days to the Zoning Administrator.

Cross Reference – Sections 12.4 and 12.5, Zoning Permits.

- 5.3.4. Review. The Zoning Administrator will verify that the use application and site plan meet the requirements of this Ordinance and will verify that the development will be adequately served by necessary public facilities such as roads, schools, water, emergency services, and sewage disposal. During review, the Zoning Administrator may circulate the plan to relevant governmental agencies and officials. The agencies and officials may include, but not necessarily be limited to, the following: Police Department, Fire Department, Bladen Building Inspections Department, Public Works, Town Attorney, Other Utilities Providers, Bladen County Health Department, and the US Army Corps of Engineers.

(Ord. 12/1/1997; 7/8/2014, 4-3.1)

- 5.3.5. Approval. If the zoning permit application is found to meet all of the applicable regulations of this Ordinance and is consistent with the requirements of this Ordinance, then the Zoning Administrator shall approve and issue a zoning permit. If approved by the Zoning Administrator, such approval shall be evidenced by the signature of the Zoning Administrator on the application form as certification of zoning compliance.

(Ord. 12/1/1997; 7/8/2014, 4-3.1)

- 5.3.6. The applicant shall provide a copy of the approved zoning permit from the Town of White Lake to the Bladen County Building Inspector prior to obtaining a building permit from the county.

(Ord. 12/1/1997; 7/8/2014, 4-6)

- 5.3.7. Denial. If the Zoning Permit application is found not to meet all applicable regulations of this Ordinance, it shall be marked “Denied” and returned to the applicant. If applicable, instructions on changes necessary to make the compliant shall also be delivered to the Applicant.

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- 5.3.8. Appeal of Administrative Denial. Administrative denial of an application for approval of a minor site plan and Zoning Application may be appealed in compliance with **Section 5.14**.

5.4. SIGN PERMIT PROCEDURE.

- 5.4.1. Requests for a sign permit shall be submitted by filing an application with the Zoning Administrator. Said application shall be on a form approved by the Town Board of Commissioners.
- 5.4.2. The Zoning Administrator shall issue the sign permit unless he finds, after reviewing the application and consulting with the applicant, that:
- 5.4.2.1. The requested permit is not within his authority to approve according to the development regulations governing signs as detailed in **Article 10**.
 - 5.4.2.2. The application is incomplete.
 - 5.4.2.3. If completed as proposed in the application, the sign will not comply with one or more requirements of this Ordinance.
- 5.4.3. If approved by the Zoning Administrator, such approval shall be evidenced by the signature of the Zoning Administrator on the application form.

5.5. ADMINISTRATIVE DETERMINATIONS AND NOTICE OF DETERMINATIONS – OTHER ADMINISTRATIVE PERMITS.

- 5.5.1. Written Notice. The Zoning Administrator making the determination based upon the development regulations herein shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination if different from the owner. A decision is effective upon filing the written decision is completed by the Zoning Administrator.

Statutory Authority – NCGS Chapter 160D-403(b)

- 5.5.2. Delivery of Written Notice. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

Statutory Authority – NCGS Chapter 160D-403(b)

- 5.5.3. Addresses. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

Statutory Authority – NCGS Chapter 160D-403(b)

- 5.5.4. Constructive Notice by Posting of Signs. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, provided the sign remains on the property for at least 10 days. The

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sign shall contain the words “Zoning Decision” or “Subdivision Decision” or similar language for other determinations in letters at least six inches high and shall identify the means to contact a local government staff member for information about the determination.

Statutory Authority – NCGS Chapter 160D-403(b)

- 5.5.5. Constructive Notice Not Limited to Posting of Signs. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner, applicant, or person who sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs shall not be required.

Statutory Authority – NCGS Chapter 160D-403(b)

5.6. DURATION OF DEVELOPMENT APPROVAL.

- 5.6.1. Cases in Which Work is Not Substantially Commenced. Unless a different period is specified by NCGS Chapter 160D or other specific applicable law, or a different period is provided by a quasi-judicial development approval, a development agreement, or the Ordinance, a development approval issued pursuant to this Ordinance shall expire one year after the date of issuance if the work authorized by the development approval has not been substantially commenced.

Statutory Authority – NCGS Chapter 160D-403(c); S.L. 2020-25

- 5.6.2. Cases in Which Work or Activity is Commenced Then Discontinued. Where the development approval is issued for temporary land uses, special events, temporary signs, and similar development, if the work or activity is discontinued for a period of 24 months after commencement, the development approval shall immediately expire.

Statutory Authority – NCGS Chapter 160D-403(c); 160D-108(d)

- 5.6.3. During Appeal. The time periods set out in this subsection shall be tolled during the pendency of any appeal.

Statutory Authority – NCGS Chapter 160D-403(c) 160D-1111.;

- 5.6.4. New Development Approval Required. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured.

Statutory Authority – NCGS Chapter 160D-403(c); 160D-1111.

- 5.6.5. Vested Rights. This subsection shall not limit any vested rights secured by G.S. 160D-108.

Statutory Authority – NCGS Chapter 160D-403(c); 160D-1111.

Cross Reference – Article 13: Vested Rights and Moratoria.

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5.7. CHANGES TO DEVELOPMENT APPROVAL.

5.7.1. Written Approval of Changes Required. After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained.

Statutory Authority – NCGS Chapter 160D-403(d)

5.7.2. Minor Modifications to Development Approvals. Minor modifications to administrative development approvals shall include those that do not change the use approved or the zoning determination. Examples of minor modification include, but are not limited to, the correction of a name, address or other contact information.

Statutory Authority – NCGS Chapter 160D-403(d)

5.7.3. Major Modification to Development Approvals. Major modification to administrative development approvals shall include all other changes. The process for a major modification shall follow the same development review and approval process required for issuance of the development approval.

Statutory Authority – NCGS Chapter 160D-403(d)

5.7.4. The Zoning Administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in subsections.

Statutory Authority – NCGS Chapter 160D-403(d)

5.8. INSPECTIONS BY ADMINISTRATIVE STAFF.

Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

Statutory Authority – NCGS Chapter 160D-403(e)

5.9. VIOLATIONS.

5.9.1. Violations. Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Article and by state law.

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- 5.9.1.1. Development Without Permit. A 'development without a permit' violation means to engage in any development, use, construction, remodeling or other activities of any nature upon the land or improvements thereon subject to the jurisdiction of this Ordinance without required permits, certificates or other forms of authorization as set forth in this Ordinance.
- 5.9.1.2. Development Inconsistent With Permit. A 'development inconsistent with a permit' violation means to engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.
- 5.9.1.3. Violation by Act or Omission. A 'violation by act or omission' means to violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the Board of Commissioners or its authorized boards upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereon.
- 5.9.1.4. Use in Violation. A 'use in violation' means to erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this Ordinance, or any other regulation made under the authority conferred thereby.

5.9.2. Continue a Violation. Each day's violation of any provision of this Ordinance is a separate and distinct offense.

(Ord. 12/1/1997; 7/8/2014, 5-1)

5.10. ENFORCEMENT.

5.10.1 Enforcement Procedure. When the Zoning Inspector or his agent finds a violation of this Ordinance or receives a complaint alleging a violation of this Ordinance, it shall be his duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation.

5.10.1.1. Notices of Violation. When the Administrative Staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to NCGS Chapter 160D or this ordinance, or other local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued.

- (a) The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity.
- (b) The notice of violation may be posted on the property.
- (c) The person providing the notice of violation shall certify to the Town that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud.

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- (d) Except as provided by G.S. 160D-11-23, 160D-12-6, or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.

Statutory Authority – NCGS Chapter 160D-404

5.10.1.2. Stop Work Orders. Whenever any work or activity subject to regulation pursuant to NCGS Chapter 160D, this Ordinance, or other applicable Town regulation or any State law delegated to the Town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped.

- (a) The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed.
- (b) A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first class mail.
- (c) The person or persons delivering the stop work order shall certify to the Town that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud.
- (d) Except as provided by G.S. 160D-11-12 and 160D-12-8, a stop work order may be appealed pursuant to G.S. 160D-4-5.
- (e) No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

Statutory Authority – NCGS Chapter 160D-404

5.11. REMEDIES.

5.11.1. If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, the owner or occupant shall be subject to such remedies including penalties as may be provided for by state law. If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction. Subject to the provisions of the development regulation, any development regulation adopted pursuant to authority conferred by NCGS Chapter 160D may be enforced by any remedy provided by G.S. 160A-175 or G.S. 153A- 123.

5.11.1.1. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used or developed in violation of NCGS Chapter 160D or this Ordinance, of any development regulation or other regulation made under authority of NCGS Chapter 160D, the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance use, or development; to restrain, correct or abate the violation; to

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prevent occupancy of the building, structure or land; or to prevent any illegal act, conduct, business or use in or about the premises.

5.11.1.2. Enforcement within ETJ. When a development regulation adopted pursuant to authority conferred by this NCGS Chapter 160D is to be applied or enforced in any area outside the planning and development regulation jurisdiction of the Town as set forth in Article 2 of NCGS Chapter 160D, the Town and the property owner shall certify that the application or enforcement of the Town development regulation is not under coercion or otherwise based on representation by the city that the Town's development approval would be withheld without the application or enforcement of the Town development regulation outside the jurisdiction of the Town. The certification may be evidenced by a signed statement of the parties on any development approval.

5.11.1.3. Historic Landmark. In case any building, structure, site, area or object designated as a historic landmark or located within a historic district designated pursuant to this NCGS Chapter 160D is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the development regulation or other provisions of this Chapter, the Town, the historic preservation commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area or object. Such remedies shall be in addition to any others authorized by NCGS Chapter 160D for violation of an ordinance.

(Ord. 12/1/1997; 7/8/2014, 5-4)

Statutory Authority – NCGS Chapter 160D-404

5.11.2. Any one or all of the following procedures may be used to enforce the provisions of this Ordinance.

5.11.2.1. Injunction. Any violation of this Ordinance or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

(Ord. 12/1/1997; 7/8/2014, 5-4)

5.11.2.2. Civil Penalties. Any person who violates any provisions of this Ordinance shall be subject to the assessment of a civil penalty the maximum civil penalty allowed by law.

(a) Notice. No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with **Subsection 5.10.1.1**. If after receiving a notice of violation the owner or other violator fails to take corrective action, a civil penalty in the amount of \$50.00 may be imposed under this Section in the form of a citation. The citation shall be served in the manner of a Notice of

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Violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within thirty days of the date of the notice.

- (b) Responsible Parties. The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.
- (c) Continuing Violation. For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.
- (d) Demand for Payment. The Zoning Administrator shall make written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for which the civil penalty has been imposed.
- (e) Nonpayment. If payment is not received or equitable settlement reached within thirty days; after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided however, if the civil penalty is not paid within the time prescribed, the Zoning Administrator may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to NCGS 14-4.

(Ord. 12/1/1997; 7/8/2014, 5-4)

- (f) Bring Court Action Prior to Expiration of Statute of Limitations. Be aware that a local government must bring a court action in advance of the applicable five and seven-year statutes of limitation.
 - 1. Five Years. Action by the Town against the owner of an interest in real property for a violation of a land-use statute, ordinance, or permit or any other official action concerning land use carrying the effect of law must be brought within five years. The claim for relief accrues upon the occurrence of the earlier of any of the following:
 - a. The facts constituting the violation are known to the governing body, an agent, or an employee of the unit of local government.
 - b. The violation can be determined from the public record of the unit of local government.

Statutory Authority – NCGS Chapter 1-51.

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2. Seven Years. Action by the Town against the owner of an interest in real property for a violation of a land-use statute, ordinance, or permit or any other official action concerning land use carrying the effect of law must be brought from the earlier of the following:

- a. The violation is apparent from a public right-of-way.
- b. The violation is in plain view from a place to which the public is invited.

Statutory Authority – NCGS Chapter 1-49(3).

5.11.2.3. Denial of Permit or Certificate. The Zoning Administrator may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate or other authorization previously granted.

(Ord. 12/1/1997; 7/8/2014, 5-4)

5.11.2.4. State and Common Law Remedies. In addition to other enforcement provisions contained in this Article, the Board of Commissioners may exercise any and all enforcement powers granted to it by state law or common law.

(Ord. 12/1/1997; 7/8/2014, 5-4)

5.12. REVOCATIONS OF DEVELOPMENT APPROVALS.

In addition to initiation of enforcement actions under NCGS 160D-404, development approvals may be revoked by the Town by notifying the holder of the development approval in writing stating the reason for the revocation.

5.12.1. The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval.

5.12.2. Failure to Comply with Development Approval. Development approvals shall be revoked for any of the following:

5.12.2.1. Substantial departure from the approved application, plans, or specifications.

5.12.2.2. Refusal or failure to comply with the requirements of any applicable development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State.

5.12.2.3. For false statements or misrepresentations made in securing the approval.

5.12.3. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked.

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5.12.4. Appeal. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405. an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-405(e) regarding stays shall be applicable.

Statutory Authority – NCGS Chapter 160D-403(f)

5.13. CERTIFICATE OF OCCUPANCY.

5.13.1. The Town of White Lake may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the permit approval.

5.13.2. No building, structure, or use of land that is subject to a building permit issued by Bladen County shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to G.S. 160D-11-14 has been issued.

Statutory Authority – NCGS Chapter 160D-403(g)

5.14. APPEALS OF ADMINISTRATIVE DECISIONS.

5.14.1. Except as provided in **Subsection 5.14.2.**, appeals of decisions made by the Administrative staff shall be made to the Board of Adjustment and shall follow the procedure outlined in Section 6.3.

5.14.1.1. Appeal of a decision made pursuant to an erosion and sedimentation control regulation, a stormwater control regulation, or a provision of the housing code shall not be made to the Board of Adjustment unless required by a Town ordinance or code provision.

5.14.1.2. The official who made the decision (or his or her successor if the official is no longer employed) is to appear as a witness in the appeal.