

PART 1 Development Approvals, Zoning Administrator, Permits and Compliance

Section 12-1. Development Approvals Required

To the extent consistent with the scope of regulatory authority granted by this Ordinance, no person shall commence or proceed with development without first securing any required development approvals from the local government with jurisdiction over the site of the development.

Section 12-2. Zoning Administrator

A Zoning Administrator and his or her staff are designated by the Cabarrus County Board of Commissioners (“BOC”) to administer and enforce the provisions of this Ordinance. Among the responsibilities of the Zoning Administrator is the issuance or denial of zoning compliance permits.

Section 12-3. Zoning Compliance Permit

A Zoning Compliance Permit must be obtained from the Zoning Administrator prior to the use or occupancy of any building or premises, or both, hereinafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure.

Additionally, no nonconforming structure or use can similarly be changed or extended without a Zoning Compliance Permit or Certificate of Non-Conformity Adjustment being issued.

Section 12-4. Cabarrus Health Alliance Approval Prior to Zoning and Building Permitting

If a site does not have access to municipal sewer and/or water, then the site will need to be evaluated to determine if a septic system and/or well can be approved using 15A NCAC 18A .1900 NC Rules. If approved, documentation will be provided in the form of an issued Authorization to Construct (ATC) permit.

If a site has an existing septic and/or well that is either in use or has previously been in use, then an evaluation will be made of the proposal and the current existing system to determine approval using the 15A NCAC 18A .1900 NC Rules. If approved, documentation will be provided in the form of an approval letter.

If approval in either circumstance cannot be given, a letter of denial will be issued and the stated reasons why in reference to 15A NCAC 18A .1900.

No permits or certificates shall be issued except in compliance with the provisions of this Ordinance.

Section 12-5. Duration of Development Approval and Zoning Compliance Permit

Unless a different period is specified in this Ordinance or other specific applicable law, or a different period is provided by a quasi-judicial development approval, a development agreement, or a local ordinance, a zoning compliance permit 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.

Unless provided otherwise by this Ordinance or other applicable law, if after commencement the work or activity is discontinued for a period of 12 months, the development approval shall immediately expire. The time periods set out in this section shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured.

Section 12-6. Penalties

Failure to obtain a zoning compliance permit prior to site development or construction is a violation of this Ordinance and punishable as set forth in this Ordinance.

Section 12-7. Construction and use as provided in application, plans and as described in zoning compliance permit

Zoning compliance permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in approved plans and applications and no other use, arrangement, or construction. Any use, arrangement or construction at variance with that authorized shall be deemed in violation of this Ordinance.

Section 12-8. Applying for the Zoning Compliance Permit

Applications shall be made in writing to the Zoning Administrator on forms provided for that purpose. Records of all such applications will be kept on file as prescribed by state statute.

Section 12-9. Site development plans

The developer of industrial, commercial, residential, office or institutional property, including mobile home parks, with the exception of single-family detached units, must file a site development plan (site plan) with the Zoning Administrator. This plan must be approved prior to the issuance of a zoning compliance permit.

Site plans are of two types, either major or minor.

Section 12-10. Site development plan requirements

12-10.1 Major Site Development Plans

Major site development plan general requirements:

Site plans shall be prepared on maximum size sheets of 24" x 36". Plans shall be prepared at a graphic scale of no less than 1" = 100' and folded to 9" x 12". Each sheet shall include a north arrow and graphic scale.

Title Block, Location Map, Survey Map, Existing Features Plan, Development Plan and Landscape Plan.

The following is a list of the minimum contents to be included in a set of submitted site plans. The items listed below may be submitted on one sheet or a series of sheets:

- A. **Title Block:** Must be included on each sheet submitted:
 - 1. Project name
 - 2. Name, address, and telephone number of the owner and/or applicant
 - 3. Name, address and contact information for the Design Professional responsible for preparing the drawings
 - 4. Date of original plan
 - 5. Revision Dates (if applicable)

- B. **Location Map:** May be drawn on the same sheet as the survey and features map at a scale of 1" = 2000', indicating the location of the site, and showing:
 - 1. The location and ownership of adjacent lots or tracts of land;
 - 2. The intersection of at least two (2) public streets nearest the property and the names of all public ways, opened or unopened, clearly indicated;
 - 3. North arrow;

- C. **Survey Map:** May be combined with features map, but must show bearing and distances of the boundaries of the site plus all land within twenty-five (25) feet of the site prepared by a registered engineer or surveyor licensed to practice in North Carolina. Shall not be of a scale smaller than 1" =100'
 - 1. Name, address and contact information for the Design Professional responsible for preparing the map
 - 2. Date survey was made
 - 3. Scale, date and north arrow
 - 4. Dimensions of the parcel and total area (square feet) of proposed site
 - 5. Deed Book and Page Number for subject property

- D. **Existing Features Map:** Shall show all existing features of the site plus all land within twenty-five (25) feet of the site at a scale of not smaller than 1" = 100' showing:
1. Rights-of-way and easements, utilities on/over/under the site (including storm drains and catch basins, if applicable), railroads, culverts, drainage channels, flood channels, parks, cemeteries, bridges and irrigation ditches;
 2. All existing structures including walls, fences, and other manmade features of the site;
 3. Topography shown at not greater than five (5) foot contour intervals;
 4. Streams, floodway boundaries, delineation of the 100 year flood plain elevation (FEMA map used and date), ponds, lakes, wooded areas, applicable stream buffers and other natural features, including those within 100 feet of the subject property;
 5. Existing driveways, drives, walk-ways and curb-cuts;
 6. Proposed roadway improvements, if any, serving the site should be provided, including the proposed typical for the road;
 7. Any other necessary information requested by the Zoning Administrator for site plan review and approval;
 8. Parcel Identification Number(s) for site
 9. Ownership, use and zoning designation of all adjacent lots and/or tracts of land
- E. **Site Development Plan of the site at a scale of no smaller than 1" = 100' (at the same scale as the existing features map) showing:**
1. Proposed use(s);
 2. Location of required building setback lines;
 3. Proposed finished grade at no greater than five (5) contour intervals;
 4. Natural features to be left undisturbed and/or landscaped areas or buffers to be created.
 5. Proposed drainage;
 6. Proposed location of utilities;
 7. Proposed location of public streets and private drives, including rights-of-way and pavement widths, curb-cuts, pedestrian ways and other paths, proposed parking and loading areas;
 8. Location of existing structures, fences, walls, signs, plantings, exterior lighting, and solid waste disposal facilities;
 9. Number of proposed dwelling units or commercial units by type, size, and proposed ownership;
 10. Proposed location of all structure(s), fences, walls, signs and exterior lighting of the structure(s);
 - a. Existing and proposed sign(s) and location(s),
 - b. Color renderings of buildings elevations showing dimensions (non-residential or multi-family development).
 11. Location of off-street parking areas and loading areas along with proposed paving material (include parking and loading calculations);
 12. Total acreage and square footage of site
 13. Existing and proposed:

- a. Acreage and square footage of building coverage,
 - b. Acreage and square footage in common open space,
 - c. Acreage and square footage in roads, and
 - d. Acreage and square footage of other paved/graveled areas,
 - e. Acreage and square footage of all impervious surfaces
 - f. Acreage suitable for active recreational use shall be shown, indicating proposed use thereof. Common open space as computed shall not include streets, drives, parking or loading areas;
14. Height of buildings;
 15. Proposed drainage and erosion control measures;
 - a. Erosion control measures cannot encroach into required landscaped areas
 16. Delineation of special flood hazard and/or wetlands;
 17. Location(s) of Overlay Zones (if applicable);
 18. Location(s) of solid waste containers, including proposed design provisions for required screening;
 19. Required NCDOT site triangles
 20. Other information deemed necessary by the Zoning Administrator for site plan review and approval;
- F. **Landscape Plans:** Commercial site plans must include a landscape plan. If space allows, the landscape may be shown on the site plan but must be submitted as a separate plan sheet. At a minimum, the landscape plan shall include:
1. Proposed landscape areas and required buffer areas with dimensions;
 2. Planting area calculations in tabular form listing botanical/common names, number and size of plantings for each area;
 3. All undisturbed natural features;
 4. The total square footage of the property, the square footage of the buildings, parking and other vehicular use/parking areas;
 5. Location, name, and size of any existing trees or shrubs to be incorporated or retained as part of the landscape plan.
- G. **Flood Prevention Plan:** Projects located in or near the flood plain are required to file a Flood Prevention Plan and may also be required to obtain a Floodplain Development Permit. The plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. The plan must be drawn at a scale of no smaller than 1" = 100' showing the following data:
1. Location of floodplain (floodway, 100 and 500 year)
 2. Location of all proposed buildings and parking areas in relation to the floodplain
 3. Distance of any proposed buildings and parking areas from the delineated floodplain
 4. Location of any areas of disturbance and any proposed limits of disturbance
 5. Base flood elevation for existing and proposed structures
 6. Elevation Certificate, if applicable
 7. Flood proofing Certificate, if applicable

See Chapter 16 for additional information related to Flood Damage Prevention and Floodplain Development Permitting

H. Other Information and Documents:

1. Driveway permit from NCDOT for new driveway connections or modifications to existing access points
2. Army Corp of Engineers Approval for wetlands or stream crossings
3. Copy of recorded deed if project located on a newly created parcel
4. Erosion Control Approval Certificate
5. Phase II Post Construction Stormwater Permitting Approval Certificate
6. Architectural Review Plans, if applicable
7. Any other necessary information requested by the Zoning Administrator for site plan review and approval
8. Case number and documentation showing conditions of approval for items approved by Planning and Zoning Commission
9. Case number and documentation showing that conditions of approval have been met for projects that have received approval and have Granting Orders in place with the Board of Adjustment.

12-10.2 Minor site development plans

Site improvements or building additions to existing developments may submit the following in lieu of a major site development plan:

1. If the site has a previously reviewed and approved site plan, the changes or additions to that plan may be submitted with the Title block and the site plan properly updated.
 - a. If there have been any changes to local or state regulations related to the previously approved site plans and development, the burden is on the applicant to show that the current standards of review are being met for the site
2. If no previously reviewed and approved site plan exists, a major site plan as described in the previous section must be submitted

Section 12-11. General standards for site development

All development, other than single-family and agriculture, shall conform to the following standards:

- A. **Land ownership.** All land within multi-unit developments shall be in single, or joint ownership, or in whatever form the petitioner shall have the right to acquire ownership

under a valid option, and this information shall be included in the submission.

Satisfactory arrangements shall be made for the ownership of land in common space.

- B. **Pedestrian ways.** Sidewalks or pathway systems shall be provided from parking areas to the main building entrance. Surface materials, width, and alignment shall be shown. All proposed pedestrian areas must meet design standards for accessibility.
- C. **Land coverage.** Land covered by impermeable surfaces shall not exceed the required percentage of the total site area. (See Chapter Five for impermeable surface maximums)

All provisions of this Ordinance which apply to the site under review for development shall be included on or with the site plan.

Section 12-12. Review and approval procedure

Complete applications and plans are needed before the site plan will be accepted for review. If the submitted site plan meets all of the requirements of this Ordinance, it shall be approved by the Zoning Administrator. In the event that a site plan is denied, the specific reasons for the denial shall be transmitted to the applicant within one week of that action.

An approved or conditionally approved site plan shall be retained in the Planning and Zoning Department in accordance with state statutes. A zoning compliance permit may only be secured after receiving an approved site plan. If the developer is not prepared to begin the project immediately, he or she may petition the Commission to vest development rights for a period of not more than two (2) years. If a zoning compliance permit has not been issued within two years of the Board's approval, the approved plans shall be null and void.

Before a Certificate of Compliance is granted, all requirements of the approved site plan and zoning compliance permit that has been issued shall be completed.

Section 12-13. Traffic Impact Analysis

Transportation impacts, and how to mitigate them, are an important consideration for the community when development is proposed. Public policy makers, citizens and developers all have a stake in understanding and responding to additional demands on the transportation system. A Transportation Impact Analysis (TIA) is a tool used to evaluate the incremental impacts on the surrounding transportation infrastructure and how to mitigate them to maintain safe traffic and transportation operations.

A. Applicability

- 1. A traffic impact analysis (TIA) shall be required for any conditional use rezoning, conditional use permit, preliminary plat, site plan or zoning compliance permit application or request estimated to produce 2,000 vehicles per day or greater and/or 100 total trips both entering and exiting the site during either the AM or PM

- peak hours during an average weekday based on a five day national average as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual.
2. A TIA shall be required for residential development estimated to produce 2,000 vehicles per day or greater and/or 100 total trips both entering and exiting the site during either the AM or PM peak hours during an average weekday based on a five day national average as defined in the ITE Trip Generation Manual.
 3. A TIA shall be required for any nonresidential or mixed use development estimated to produce 3,000 vehicles per day or greater and/or 150 total trips both entering and exiting the site during either the AM or PM peak hours during an average weekday based on a five day national average as defined in the ITE Trip Generation Manual.
 4. A TIA may also be required for proposed access within 1,000 feet of an interchange, in the vicinity of a high accident location, on a major arterial roadway, when involvement with an existing or proposed median crossover is necessary, when the project includes highway improvements that are in the Transportation Improvement Program, when involvement with an active roadway construction project is necessary or at the discretion of the NCDOT District Engineer.
 5. A TIA or Technical Memorandum may also be required based on special circumstances associated with the proposed development, even if the number of gross trips falls below the above stated thresholds. This includes when:
 - a. Traffic is being generated from a non-residential development that could potentially impact adjacent residential neighborhoods.
 - b. Traffic operation issues for current and/or future years on nearby roads is expected to be worsened by traffic generated from the new development.
 - c. Traffic near the site is experiencing significant or unacceptable delays.
 - d. The proposed land use differs from the proposed land use classification in the Land Use Plan.
 - e. The existing street or access system is not anticipated to accommodate the expected traffic generation.
 - f. The proposed development includes a drive-through facility, or other uses, such as schools, that require significant on site circulation that may have off-site impacts to adjoining roads and/or intersections.
 - g. The amount, behavior or assignment of traffic is different from a previously approved TIA for the same property.

The need for a TIA may be waived when Cabarrus County and NCDOT agree a TIA is not needed. In the event a waiver is requested, the applicant must provide evidence to show that a waiver is appropriate. Waiver requests shall be handled on a case-by-case basis.

B. Calculating Trip Generation The trip generation of a proposed development is the sum of the number of inbound and outbound vehicle trips that are expected for the proposed land use. For purposes of determining the requirement to submit a TIA, no adjustments such as modal split, pass-by trips or internal capture rates will be allowed to the site traffic calculation. A TIA will vary in range and complexity depending on the type and size of the proposed development. When mutually agreed upon by the NCDOT, the applicant, and Cabarrus County staff, the basic requirements for the TIA may be modified.

C. Traffic Impact Study

1. When required by this section or NCDOT, a TIA shall be used to review the potential impacts of proposed or revised developments on the State Highway System. The TIA covers safety, capacity, and access issues. When required and completed, a TIA shall be used by Cabarrus County and NCDOT to determine the required improvements to the State Highway System within the vicinity of the development to mitigate undesirable impacts of the project.
2. The NCDOT District Engineer, working together with Cabarrus County, will determine the basic parameters of the TIA during a pre-submittal conference. The scoping document will be mutually agreed upon by NCDOT, the applicant, and the County.
3. The TIA shall be prepared under the direct charge of, and sealed by a licensed North Carolina Professional Engineer with expertise in traffic engineering. All work shall be in accordance with NCDOT approved methods and input parameters and shall be of sufficient scope and detail to allow the County and NCDOT to evaluate the impact of the development with regards to roadway capacity and operational and safety improvements that may be needed.
4. The format and contents of the required TIA shall be established in conjunction with NCDOT and the County (see Appendix A).

D. TIA Findings

When the County and the applicant concur that the technical analysis is complete, the report shall be forwarded to the Commission. A development improvement agreement detailing the applicant's responsibilities for implementing any mitigation measures shall be prepared. If the County or NCDOT finds that the proposed development will not meet applicable service level standards, staff shall recommend one or more of the following actions:

- a. Reduce the size, scale, scope or density of the development to reduce traffic generation;

- b. Divide the project into phases and authorize only one phase at a time until traffic capacity is adequate for the next phase of development;
- c. Dedicate right-of-way for street improvements;
- d. Construct new streets;
- e. Expand the capacity of existing streets;
- f. Redesign ingress and egress to the project to reduce traffic conflicts;
- g. Alter the use and type of development to reduce peak hour traffic;
- h. Reduce background (existing) traffic;
- i. Eliminate the potential for additional traffic generation from undeveloped properties in the vicinity of the proposed development;
- j. Integrate non-vehicular design components (e.g., pedestrian and bicycle paths or transit improvements) to reduce trip generation;
- k. Require cross-connectivity or shared access points be used; or
- l. Recommend denial of the application for development for which the TIA is submitted.

E. Expiration of TIA.

A TIA shall be valid for a period of one year from the date of the approval of the preliminary plat for the project or the date of site plan approval for the project, whichever occurs first.

Pursuant to NCDOT policy, access connections and building construction must start within one year after the approval date of any driveway permits issued as part of the development process.

Section 12-14. Approvals required for new lots in subdivisions:

For major subdivisions, no zoning compliance permit can be issued in a subdivision (see Cabarrus County Subdivision Regulations) prior to the issuance of a Certificate of Approval by the Cabarrus County Planning and Zoning Commission and recordation by the Register of Deeds. For minor subdivisions, administrative approval and recordation by the Register of Deeds is required.

Newly created lot configurations, property identification numbers (PINs), street center lines and addresses must be shown in the Cabarrus County Geographic Information System (GIS) prior to any zoning compliance permit being issued.

Section 12-15. Certificate of Compliance

Certificates of Compliance are issued by the Zoning Administrator after the following conditions have been met:

- a. The Cabarrus Health Alliance or the appropriate governmental entity has inspected and approved the installation of both waste water and fresh water supply systems; and
- b. The Zoning Administrator and/or his or her designee has performed a final inspection and determined that the provisions of this Ordinance have been met and that the project complies with all applicable development standards.

Where deemed appropriate, the Zoning Administrator may request "As-Built" plans as part of the conditions of Certificate of Compliance approval.

Temporary Certificates of Compliance may be issued in accordance with Chapter 9, Section 9-13 Unavoidable Delays in the Installation of Landscape for up to one hundred twenty (120) days.

Part II The Cabarrus County Planning and Zoning Commission and Board of Adjustment

Section 12-16. Establishment of the Planning and Zoning Commission

In order to exercise the powers authorized in G.S. 160D-301, Planning Boards, the Cabarrus County Planning and Zoning Commission is hereby established. The Commission shall be comprised of nine (9) members appointed by the Cabarrus County Board of Commissioners. Members must be residents of Cabarrus County.

The Cabarrus County Board of Commissioners shall also appoint three (3) alternate members to serve on the Planning and Zoning Commission in the absence, for any cause, of any regular member. Such alternate members shall exercise all the powers and duties of a regular member when serving in his or her absence.

Terms of appointment for regular members and for alternates shall be for three years. Term expiration dates shall be staggered so that all of the member terms do not expire at the same time.

Members appointed to the Cabarrus County Planning and Zoning Commission shall also serve as members of the Cabarrus County Board of Adjustment.

Section 12-17. Duties of the Planning and Zoning Commission

The Planning and Zoning Commission shall have the following duties:

When acting as a planning board, to:

1. Make decisions on planning and zoning items presented to the board for consideration.
2. Initiate proposed amendments to this ordinance and make recommendations to the Board of Commissioners.

3. Prepare studies and plans related to controlling and creating orderly growth and development of the County.
4. Develop and recommend to the Board of Commissioners plans, goals, and objectives as well as policies, ordinances and administrative procedures or other means for carrying out the studies and plans referenced above.
5. Perform any other duties assigned by the Board of Commissioners or as authorized in G.S. 160D-301.

When acting as the Board of Adjustment, to:

1. Hear and decide variance applications.
2. Hear and decide special use permit applications
3. Hear and decide appeals when it is alleged there is an error in any ordinance, requirement, decisions, interpretation, grant, or refusal made by the Zoning Administrator and/or his or her designee.
4. Hear and decide a change from one nonconforming use to another. The Board of Adjustment shall permit a change in use only if the new use is equally compatible or more compatible with the area and the permitted uses in the district in which it is located as the existing nonconforming use. Application for a change of nonconforming use shall follow the standards established in Chapter Twelve.
5. Perform any other duties assigned by the Board of Commissioners provided in this Ordinance or required by G.S. 160D-302.

All quasi-judicial matters before the Board of Adjustment shall be handled in accordance with G.S. 160D-406.

Section 12-18. Planning and Zoning Commission Administration

1. The Commission shall adopt rules of procedures and regulations for the conduct of its affairs.
2. The Commission shall elect a chair and vice-chair in accordance with its rules of procedure. The Zoning Administrator shall appoint a Clerk to the Commission.
3. All meetings of the Commission shall be open to the public.
4. The Commission shall keep a record of its meetings, including the vote of each member on every question, a complete summary of the evidence submitted, documents submitted-and all official actions.
5. When required by this Ordinance, the Commission shall give notice of matters coming before it by causing a public notice to be placed in a newspaper of general circulation in the County and/or by placing the notice on the Cabarrus County web site (SL2003-81).
6. The person acting as Chair of the Commission or Clerk to the Commission is authorized to administer oaths to any witnesses in any matter coming before the Commission.

7. Applications for special use approvals, applications for variances, change of nonconforming use, and appeals of decisions of the Zoning Administrator shall be filed with the Zoning Administrator as agent for the Board. All applications and appeals shall be submitted on forms provided by the Zoning Administrator.
8. It shall be the responsibility of the Zoning Administrator to notify the applicant or appellant of the disposition which the Commission made of this matter.
9. It shall be the responsibility of the Zoning Administrator to issue permits in accord with Commission action on an appeal or application, if a permit is authorized by the Commission action.
10. The Zoning Administrator shall see to the faithful execution of all Commission actions, including the enforcement of all conditions which may have been attached to the granting of a variance or approval of a special use and as outlined in the Granting Order for such cases.

Section 12-19. Quorum and vote required

1. A quorum, necessary to conduct any business of the Commission, shall consist of five members.
2. The concurring vote of at least 80 percent of the members of the Commission shall be necessary in order to approve any request for a variance from this Ordinance. For the purposes of this subsection, vacant positions on the Commission and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the Commission" for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.
3. A 75 percent vote of the members of the board present and not excused from voting shall be considered the final action for zoning amendment applications if no appeal is filed with the Board of Commissioners.(SL1993-247)
4. A simple majority vote of those present and not excused from voting shall be necessary to conduct routine business of the Commission and to act on all other applications upon which it is required to consider under this Ordinance:
 - a. To approve or deny applications for special use permits
 - b. To make a recommendation on amendments to the Zoning Ordinance
 - c. To make a recommendation on adoption or amendments Long Range Planning Documents or Studies
 - d. To reverse any order, requirement, decision or determination of the Zoning Administrator
 - e. To approve a change in a nonconforming use
 - f. All other business

Section 12-20. Variances

A variance may only be allowed by the Board of Adjustment in cases involving practical difficulties or unnecessary hardships when substantial evidence in the official record of the application supports all the following findings:

1. Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

All of these findings of fact shall be made in the indicated order by the Board of Adjustment, which is not empowered to grant a variance without an affirmative finding of fact on all four categories above. Each finding of fact shall be supported by substantial, material, and competent evidence being entered in the record of the proceeding.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Violation of such conditions shall be a violation of this Ordinance.

Section 12-21. Special Use Permits

The Cabarrus County Board of Adjustment, shall hear and decide special use permits in accordance with the principles, conditions, safeguards, and procedures specified in this Ordinance.

1. The Board of Adjustment shall consider requests for special use permits in accordance with this Ordinance and with the rules established for quasi-judicial procedures.
2. Before any application for a special use shall be approved, the Board of Adjustment shall make written findings certifying compliance with the specific standards governing each individual special use and the General Standards contained in Chapter Eight as well as all other applicable development standards in this Ordinance. The Board of Adjustment shall make appropriate findings on each standard, supported by substantial, material, and competent evidence in its record.
3. The Board of Adjustment may impose reasonable and appropriate conditions and safeguards upon these permits related to the installation and operation of any special use to ensure that the public health, safety and general welfare are protected. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities.
4. Violation of such conditions of approval shall be considered a violation of this Ordinance and processed accordingly

Section 12-22. Appeals of Administrative Decisions

An appeal from an order, requirement, decision or determination of the Zoning Administrator shall be decided by the Planning and Zoning Commission, Acting as Board of Adjustment, based upon findings of fact.

In exercising this power, the Board of Adjustment shall act in a prudent manner so that the purposes of the Ordinance shall be served. The Zoning Administrator must be present for the hearing.

The effect of the decision shall not be to vary the terms of the Ordinance nor to add to the list of permitted uses in the districts.

Pursuant to G.S. 160D-405 (d), the owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

Section 12-23. Appeal stays further proceedings

An appeal to the Board of Adjustment Commission from a decision or determination of the Zoning Administrator stays all proceedings and additional accrual of applicable fines in furtherance of the decision or determination appealed from, except as provided in the next section.

Section 12-24. Exceptions to stay of action

An appeal to the Commission of a determination or decision of the Zoning Administrator shall not stay further proceedings in furtherance of the decision or determination appealed from, if the Zoning Administrator certifies either:

- A. That in the opinion of the Zoning Administrator a stay would cause imminent peril to life and/or property.
- B. That the situation appealed from is transitory in nature.

In each instance, the Zoning Administrator shall place in the affidavit, facts to support the conclusion. An expedited hearing before the Commission shall be arranged, if requested by the appealing party.

Section 12-25. Appeals of Commission actions

Every decision of the Commission, when serving in its capacity as a Board of Adjustment, shall be subject to review at the instance of any aggrieved party by the Superior Court through proceedings in the nature of certiorari pursuant to G.S. 160D-1402 (a writ of Superior Court to call for the records of a public body acting in a quasi-judicial capacity). The appeal to Superior Court must be in writing and filed within thirty (30) days of the filing of the decision. The notice of appeal must clearly state the basis for the appeal.

Section 12-26. Duties of the Board of County Commissioners

Because of the quasi-judicial nature of the actions of the Commission when acting as Board of Adjustment, state law does not permit appeals of actions of the Board of Adjustment to the Board of Commissioners. The role of the Board of Commissioners is legislative in nature and confined to the adoption, amendment, and/or rescission of this Ordinance.

Section 12-27. Property Determinations

12-27.1 Notice of Determinations.

The Zoning Administrator, Planning Director and his or her designee shall provide 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. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. 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.

12-27.2 Appeal of Notice of Determination

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 sign shall contain the words "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least 6 inches high and shall identify the means to contact a local government staff member for information about the determination. Posting of signs is not the only form of constructive notice. Any such posting and notice shall be the responsibility of the landowner, applicant, or person who sought the determination. Verification of the posting and any notices sent by mail shall be provided to the staff member responsible for the determination.

Section 12-28. Changes to Approvals

After a development approval or zoning compliance permit 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 from the proper approval authority.

Section 12-29. Inspections

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

Part III Enforcement

Section 12-30. Violations

12-30.1. Notice of Violation

When staff determines work or activity has been undertaken in violation of this Ordinance or in violation of the terms of a development approval, a written notice of violation may be issued.

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. The notice of violation may also be posted on the property.

A Notice of Violation may be appealed to the Board of Adjustment.

12-30.2 Stop Work Order

Whenever any work or activity subject to regulation pursuant to this Ordinance 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. 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 therefore, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first class mail.

A stop work order may be appealed to the Board of Adjustment.

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.

Section 12-31. Remedies and Penalties

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, maintained, or any building, structure or land is used or developed in violation of this Ordinance, Cabarrus County, 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

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

The following time frames for correction and civil penalties are established for violations of this Ordinance:

Type of Citation	Penalty	Time to Correct Violation
Warning Citation	N/A	30 days
First Citation	\$450.00	15 days
Second Citation	\$550.00	15 days
Third and subsequent citations	\$750.00	15 days
Repeat offense	\$750.00	15 days

These civil penalties are in addition to any other penalties which may be imposed by a court for violation of the provisions of this Ordinance. Should Cabarrus County be required to file suit to enforce any provision of this Ordinance, it shall be entitled to recover its attorney's fees and costs from those persons who have violated the Ordinance.

Any person adjudged in violation of this ordinance shall be guilty of a Class 1 misdemeanor.

12-31.1 Repeat Offense

When a notice of violation is corrected and the case is closed, if the same violation occurs on the subject property within 18 months of the closing of the case, it shall be considered a repeat offense and fined as such.

Section 12-32. Revocation of Development Approvals

In addition to initiation of enforcement actions, development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government 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.

Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local

government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a Staff member may be appealed to the Board of Adjustment. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Ordinance, the provisions regarding stays as outlined previously shall be applicable.