

CHAPTER 15: ADMINISTRATION

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Section 15.1 Administrator

The various provisions of this Unified Development Ordinance shall be administered by the Administrator and designated Planning Staff. The Administrator may appoint any person in this Department to assume his duties. It shall be the duty of the Administrator to carry out and enforce this Ordinance, remedy violations of this Ordinance, and issue permits in compliance with this Ordinance. Throughout this Ordinance, the Administrator may be referred to as “Administrator”, “Subdivision Administrator”, or “Floodplain Administrator”.

Section 15.2 Zoning Permits

15.2.1 Zoning Permit Required

- A. No land shall be used or occupied and no building hereafter structurally altered, erected, or moved, shall be used, or its use changed, until a Zoning Permit is issued by the Administrator stating that the building and/or the proposed use complies with the provisions of this Ordinance. No Building Permit shall be issued until the Zoning Permit is issued.
- B. The Administrator shall collect such fees for the issuance of Zoning Permits as are authorized by the fee schedule as adopted by the Town Board of Aldermen.

15.2.2 Application Procedures

- A. Each application for a zoning permit shall be accompanied by a plot plan showing:
 - 1. The shape and actual dimensions of the lot to be built upon;
 - 2. The location of the said lot with respect to adjacent rights-of-way;
 - 3. The nature of the proposed use of the building or land;
 - 4. The size of the building to be erected;
 - 5. The location of the building on the lot;
 - 6. The location of existing structures on the lot (if any);
 - 7. The location and dimensions of parking and driveways; and
 - 8. Such other information as may be essential for determining whether the provisions of this zoning ordinance are being observed.
- B. Those developments that require Planning Board or Town Board of Aldermen approval shall be subject to the approval process and submittal requirements of Chapters 11 and 12 prior the issuance of a Zoning Permit.

15.2.3 Conditions of Approval

Zoning Permits issued on the basis of an application and plan approved by the Administrator authorize only the use, arrangement, and construction set forth in such approved applications and plans. Use, arrangement, or construction which differ from that authorized shall be deemed a violation of this Ordinance and shall be punishable as indicated under Section 14.4 of this Ordinance.

15.2.4 Right of Appeal

If the Zoning Permit is denied, the applicant may appeal the action of the Administrator to the Board of Adjustment as provided for herein. Such appeal shall be made within 30 days of such permit denial.

15.2.5 Expiration of Zoning Permit

Any zoning permit issued shall become invalid unless the work authorized by it shall have been commenced within six (6) months from its date of issuance, or if the work authorized by it is suspended or abandoned for a period of twelve (12) months.

15.2.6 Records Maintained

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

15.2.7 Zoning Permit Not Required

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

- A. Street construction or repair
- B. Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way
- C. Specific signs exempted in Chapter 10 of this Ordinance
- D. Mailboxes, newspaper boxes, walls, fences, birdhouses, flag poles, pump covers, and doghouses
- E. Interior alterations and renovations which do not alter the footprint, elevation, height, or use of an otherwise conforming use and/or structure

Section 15.3 Certificates of Occupancy

15.3.1 Final Zoning Inspection

The Administrator shall conduct a final zoning inspection of any new or expanded structure (except single-family residential uses) prior to the issuance of a certificate of occupancy by the Rowan County Building Inspector. During the final zoning inspection, the Administrator shall ensure that all minimum requirements and conditions of approval have been met and that the project matches the approved site plan.

15.3.2 Certificate of Occupancy Required

- A. No structure hereafter erected, moved, structurally altered or changed in use shall be used or occupied until a certificate of occupancy has been issued.
- B. A certificate of occupancy, either for the whole or a part of a building, shall be applied for at the time that the application for a zoning permit is made, and shall be issued within 10 days

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after the erection or structural alterations of that building, or part of that building, and shall have been completed in conformity with the provisions of this Ordinance. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance. If the certificate of occupancy is denied for not meeting the provisions of this Ordinance, the Administrator shall state in writing the reasons for the refusal and the applicant shall be notified of the refusal.

- C. A record of all certificates shall be kept on file in the office of the Administrator and copies shall be furnished, on request, to any person(s) having proprietary or tenancy interest in the building or land involved.

15.3.3 Temporary Certificate of Occupancy

A temporary certificate of occupancy shall not be issued for any structure or development that has not yet met all minimum requirements and conditions of approval. A temporary certificate of occupancy may only be issued for projects that have landscaping requirements and the weather is not suitable for the installation of such landscaping. A temporary certificate of occupancy shall expire after a period of 3 months. A final certificate of occupancy shall not be issued until such landscaping is installed.

Section 15.4 Penalties

- A. Nothing in this Ordinance, nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this Ordinance shall subject the violator to the penalties and remedies, either criminal or civil or both.
- B. In case any structure or use is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this Ordinance as herein provided, an action for injunction or other appropriate action to prevent such violation may be instituted by the Administrator, the Rowan County Building Inspector, any other appropriate Town authority, or any person who may be damaged by such violation.

15.4.1 Criminal Penalties

Any person, firm, or corporation convicted of violating the provisions of this Ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed 500 dollars and/or imprisoned for a period not to exceed 30 days. Each day of violation shall be considered a separate offense, provided that the violation of this Ordinance is not corrected within 10 days of receipt of the warning citation.

15.4.2 Equitable Remedy

The Administrator may apply to a court of competent jurisdiction for any appropriate equitable remedy to enforce the provisions of this ordinance. It is not a defense to the Administrator's application for equitable relief that there are other remedies provided under general law or this Ordinance.

15.4.3 Injunction

Enforcement of the provisions of this ordinance may also be achieved by injunction. When a violation occurs, the Administrator may, either before or after the institution of other authorized action, apply to the appropriate division of the General Court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

15.4.4 Order of Abatement

- A. In addition to an injunction, the Administrator may apply for and the court may enter into an order of abatement as part of the judgment in the case.
- B. An order of abatement may direct any of the following actions:
 - 1. Buildings or other structures on the property be closed, demolished, or removed;
 - 2. Fixtures, furniture or other moveable property be moved or removed entirely;
 - 3. Improvements, alterations, modifications or repairs be made; or
 - 4. Any other action be taken that is necessary to bring the property into compliance with this Ordinance.

15.4.5 Execution of Court Decisions

If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt. The Administrator may execute the order of abatement and will have a lien on the property in the nature of a mechanic's and material man's lien for the cost of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and by posting a bond for compliance with the order. The bond must be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter was heard and shall be conditioned of the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

15.4.6 Stop Work Order Issuance and Revocation of Permits

- A. Whenever a building, structure or part thereof is being constructed, demolished, renovated, altered, or repaired in substantial violation of any applicable provision of this Ordinance, the Administrator may order the specific part of the work that is in violation, or would be when the work is completed, to be immediately stopped. The stop work order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation and the action(s) necessary to lawfully resume work.
- B. The Administrator may revoke any permit by written notification to the permit holder when violations of this Ordinance have occurred. Permits may be revoked when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this Ordinance, or a permit has been mistakenly issued in violation of this Ordinance.

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15.4.7 Civil Penalty

- A. In addition to the other remedies cited in this Ordinance for the enforcement of its provisions, and pursuant to NCGS 160A-175, the regulations and standards in this Ordinance may be enforced through the issuance of civil penalties by the Administrator.
- B. Subsequent citations for the same violation may be issued by the Administrator if the offender does not pay the citation (except as otherwise provided in a Warning Situation) after it has been issued unless the offender has sought an appeal to the actions of the Administrator through the Board of Adjustment. Once the 10-day warning period has expired, each day which the violation continues shall subject the violator to additional citations to be issued by the Administrator.
- C. The following penalties are hereby established:

Citation	Civil Penalty
Warning	Correct Violation within 10 days
First	\$50.00
Second	\$100.00
Third and Subsequent	\$200.00

- D. If the offender fails to pay the civil penalties within five (5) days after having been cited, the Town may recover the penalties in a civil action in the nature of debt.

Section 15.5 Board of Adjustment

15.5.1 Powers and Duties

The zoning Board of Adjustment shall have the following power to review and decide upon the following:

- A. Appeals (Administrative Review)-To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Administrator in the enforcement of this ordinance.
- B. Conditional Use Permits- To hear and decide on Conditional Use Permits to the terms of this ordinance upon which the zoning Board of Adjustment is required to pass under this ordinance.
- C. Variances- To authorize upon appeal in specific cases such variances from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- D. Certificate of Nonconformity Adjustment-To hear and decide on Certificates of Nonconformity for alteration or replacement of a nonconforming use in accordance with Section 13.4.2 (D).

15.5.2 Establishment

- A. A zoning Board of Adjustment is hereby established. This board shall consist of 10 members as follows:
 - 1. Five (5) members shall reside within the municipal corporate limits and shall be appointed by the Town Board of Aldermen;
 - 2. Five (5) members shall reside within the town's one-mile extraterritorial jurisdictional area and shall be appointed by the Rowan County Board of Commissioners.
 - 3. The members of the zoning Board of Adjustment already serving on the board prior to the passage of this amended section shall be considered as the five members appointed by the Town Board of Aldermen, and each of these members shall serve the balance of the term to which such member was appointed.

- B. Extraterritorial board members, like in-town board members, shall serve for staggered terms of three years. Initial appointment of extraterritorial board members shall be as follows:
 - 1. Two members for terms of three years each;
 - 2. One member for a term of two years;
 - 3. Two members for terms of one year each.

- C. In addition, there shall be at least two (2) alternate members appointed to the board. At least one (1) alternate member shall be an in-town resident and at least one (1) alternate member shall be an extraterritorial resident. All alternates shall be appointed to three (3) year terms, with the initial appointment of in-town member(s) being for three (3) years and the extraterritorial member being for two (2) years. Any alternate member, while attending any meeting of the board and serving in the absence of a regular board member, shall have and may exercise all the powers and duties of a regular member. Any in-town alternate may only replace any in-town regular board member; any extraterritorial alternate may only replace any extraterritorial regular board member.

- D. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay, but may be reimbursed for the expenses incurred while representing the board.

15.5.3 Jurisdictions and decisions

The five (5) extraterritorial board members (and their alternates) shall have equal rights, privileges, and duties as the five in-town board members (and their alternates) in all matters. The concurring vote of eight (8) members of the board shall be necessary to reverse any order, requirement, decision, or determination of the zoning enforcement officer, or to decide in favor of the applicant any matter upon which it is required to pass or grant a variance from the provisions of this ordinance.

15.5.4 Rules of procedure

- A. The zoning Board of Adjustment shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year, until reelected, or until their successors are elected.

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- B. The board shall appoint a secretary, who may be a municipal officer, an employee of the Town of Granite Quarry, a member of the planning board, a member of the zoning Board of Adjustment, or any local citizen.
- C. The board shall adopt rules and bylaws in accordance with the provisions of this Ordinance and of G.S. 160A-360 et seq.
- D. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine or desire.
- E. The chairman, or in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses by subpoena.
- F. All meetings of the zoning Board of Adjustment shall be open to the public.

15.5.5 Appeals, Hearings and Notices

- A. Appeals to the zoning Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town of Granite Quarry affected by any decision of the Administrator or other town officials based on this ordinance.
- B. Such appeal shall be taken within 30 days of such decision by filing with the Administrator a written notice of appeal specifying the grounds thereof.
- C. All papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted to the zoning Board of Adjustment.
- D. The zoning Board of Adjustment shall fix a reasonable time for the hearing of appeals or other matters referred to it, and give due notice thereof to the parties in interest, and decide the same within a reasonable time. Upon a hearing, any party may appeal in person, by agent, or by attorney.

15.5.6 Stay of Proceedings

- A. An appeal stays all proceedings in furtherance of the action appealed from, with the following exceptions:
 - 1. The Administrator certifies to the zoning Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property; or
 - 2. The Administrator certifies to the zoning Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, seriously interfere with enforcement of the ordinance because the violation charged is transitory in nature.
- B. In either case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the zoning board of adjustment or by a court of record on application, on notice to the Administrator, and on due cause shown.

15.5.7 Conditional Use Permits

- A. This Ordinance provides for a number of uses to be located by right in each general zoning district subject to the use meeting certain area, height, yard and off-street parking and loading requirements. In addition to these uses, the Ordinance allows some uses on a conditional basis subject to the issuance of a Conditional Use Permit by the Board of Adjustment. The purpose of having such uses being "conditional" is to ensure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located. Those uses shown as Conditional in the Permitted Uses Table of Section 3.3 shall be subject the requirements and review process of in this Section.

- B. An application shall be filed with the Administrator and shall be accompanied by a site specific plan meeting the requirements of a Major Site Plan.

- C. Conditional uses may be permits granted by the zoning Board of Adjustment with restricting clauses, such as the length of time for which the conditional use permit is valid. Such Conditional Use Permits may be granted upon finding from the zoning Board of Adjustment that the following conditions exist:
 - 1. The use is listed among the Conditional uses in the district for which the application is made;
 - 2. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located;
 - 3. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed;
 - 4. The use will not substantially injure the value of adjoining property, or is a public necessity;
 - 5. The use will be in harmony with the area in which it is to be located; and
 - 6. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been, or are being provided.

- D. In approving an application for a Conditional Use Permit, the Board of Adjustment may attach fair and reasonable conditions to the approval. The applicant will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Adjustment. In no instance shall any of these conditions be less restrictive than the requirements of this Ordinance.

- E. The applicant has the burden of producing competent, material, and substantial evidence to establish the facts and conditions. If any person submits evidence allegedly contrary to any of the facts or conditions, the burden of proof for overcoming such evidence shall rest with the applicant.

- F. If an application for a Conditional Use Permit is approved by the Board of Adjustment, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the Conditional Use Permit or develop any other use listed as a "permitted use" for the general zoning district in which it is located. Any Conditional Use

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Permit so authorized shall be perpetually binding to the property included in such permit unless subsequently changed or amended by the Town Board of Aldermen.

- G. Unless the Board of Adjustment issues a Conditional Use Permit which either is specifically exempt from any time constraints or has some other specified time period for implementation, the applicant must secure a valid building permit within a one (1) year period from date of issuance of the Conditional Use Permit. In addition, if the project for which a Conditional Use Permit was issued is not complete and a valid building permit is not in place at the end of said one (1) year period, the Zoning Administrator shall notify the applicant of either such finding, and within 60 days of said notification, the Board of Adjustment may rescind the Conditional Use Permit.
- H. Minor changes in the detail of the approved site which:
- will not alter the basic relationship of the proposed development to adjacent property, and
 - will not increase the gross floor area of any non-residential use by more than 10 percent, and
 - will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site by greater than five (5) feet
- may be made with the approval of the Zoning Administrator on a one-time basis only. Further changes to the development may only be made by the Town Board of Aldermen by amending the Conditional Use Permit. Any request to materially change the Conditional Use Permit once it has been issued shall be reviewed in entirety through the Town Board of Aldermen approval process.
- I. If a request for Conditional Use Permit is denied by the Board of Adjustment, a similar application for the same property or any portion thereof shall not be filed until the expiration of a one (1) year period from the date of the most recent denial by the Board of Adjustment. This waiting period shall not be applicable where the application for a Conditional Use Permit is substantially different from the original application. The term "substantially different" as herein applied shall mean:
1. The proposed principal use is different than the use contained in the original application; or
 2. The gross floor area or number of units of the proposed development is more than 50 percent smaller than contained in the original application.

15.5.8 Variances

- A. The zoning Board of Adjustment may authorize in specific cases variances from the terms of the Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- B. The existence of a nonconforming use of neighboring land, buildings, or structures in the same district or of permitted or nonconforming uses in other districts shall not constitute a reason for the requested variance.

- C. Variances may be granted in such individual case of unnecessary hardship upon a finding by the zoning board of adjustment that the following conditions exist:
1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district.
 2. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.
 3. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
 4. The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare
 5. The special circumstances are not the result of the actions of the applicant.
 6. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.
 7. The variance is not a request to permit a use of land, building, or structure which is not permitted by right or by special exception in the district involved.

15.5.9 Certificate of Nonconformity Adjustment

- A. A Certificate of Nonconformity Adjustment shall be required to enlarge, expand or otherwise alter any Nonconforming Use or Structure as set forth in this Section 13.1. A Certificate of Nonconformity Adjustment shall be issued by the Board of Adjustment subject to the requirements of this section.
- B. Application for a Certificate of Nonconformity Adjustment shall be submitted on a form prescribed by the Administrator. An applicant for a Certificate of Nonconformity Adjustment shall submit a detailed plan of the existing site, showing, the degree of Nonconformity with respect to the dimensional and design regulations of this Ordinance. In the case of a Nonconforming Use the application shall include an detailed explanation of the current Use including documentation of traffic generated by the current use.
- C. After the hearing for a nonconformity adjustment, the Board of Adjustment will either approve or deny the request. The Board’s decision to approve may be based upon the applicant agreeing to site changes. The decision to approve or deny shall be made based on the following criteria:
1. Noise. Does the nonconformity create noise above and beyond levels considered normal to the area?
 2. Traffic. Does the nonconformity generate or have the potential to generate a significantly higher volume of traffic than surrounding land use?
 3. Other measurable, physical effects. Does the nonconformity generate any other negative effects including but not limited to: dust, air pollution, foul smell, etc.?
 4. Surrounding property values. Does the nonconformity detract from the prevailing property values?
 5. Aesthetics. Does the nonconformity compliment or detract from the overall aesthetic character of the area?
- D. If the Board of Adjustment, after an analysis of the facts of the situation, finds the

nonconformity cannot be adjusted, it will be handled as such and subject to those provisions of this Ordinance which deal with unreformable nonconformities. Appeals from the Board of Adjustment shall be filed with the Clerk Rowan County Superior Court within 30 days of the final decision of the Board. The Board of Adjustment's decision shall be considered a final decision after the Board approves the official minutes containing such during an official meeting.

- E. Certificates of Nonconformity Adjustment may be issued with or without conditions. Such conditions shall "run with the land" and subject all future property owners with the same restrictions.

15.5.10 Appeals of Decisions

Any person or persons, jointly or individually, aggrieved by any decision of the zoning board of adjustment, or any taxpayer, officer, department, board, or bureau of the Town of Granite Quarry may within 30 days after the filing of the decision in the office of the board, but not thereafter, present to a court of competent jurisdiction a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the ground of illegality, whereupon such decision of the Board shall be subject to review by certiorari as provided by law.

Section 15.6 Planning Board

15.6.1 Authority and Duties

The Planning Board shall have the following duties and responsibilities:

- A. To review and approve or deny requests for Major Subdivision Plans and Major Site Plans.
- B. To review, hold "courtesy hearings", and make recommendations for Vested Rights Plans, Text Amendments, and Map Amendments (Standard and Conditional Use Rezonings).
- C. To render opinions and make recommendations on all issues related to the Unified Development Ordinance, Zoning Map, Comprehensive Plan, and other land use plans which may be adopted from time to time and which require approval by the Town Board of Aldermen.

15.6.2 Membership

The Planning Board shall consist of a total of nine (9) regular members and two (2) alternate members. Representation shall be provided by appointing five (5) residents of the town limits and four (4) residents of the extraterritorial jurisdiction (ETJ). One (1) alternate member shall reside in the town limits, and one (1) shall reside in the ETJ. The total membership of the Planning Board shall include a diverse geographical representation overall. Representatives from within the Town limits shall be appointed by the Granite Quarry Town Board of Aldermen. Representatives from the ETJ area shall be appointed by the Rowan County Board of Commissioners. All members shall serve for overlapping terms of three (3) years.

15.6.3 Meetings, Hearings, and Procedures

- A. All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedure set forth in these regulations and rules of procedure adopted by the Planning Board. Such rules of procedures may be amended by the Planning Board membership.
- B. Any rules of procedure adopted by the Planning Board shall be kept on file at the offices of the Administrator and shall be made available to the public at any meeting or hearing of the Planning Board.

Section 15.7 Town Board of Aldermen

The Town Board of Aldermen shall hold the following powers and duties related to this Ordinance:

- A. To review, hold public hearings, and make decisions for Vested Rights requests, Text Amendments, and Map Amendments (Standard and Conditional Use Rezonings).
- B. To make decisions on all issues related to the Unified Development Ordinance, Zoning Map, Comprehensive Plan, and other land use plans which may be adopted from time to time.