

## 17.08 Article VIII Enforcement and Compliance

### 17.08.010 Administration and Enforcement

#### A. Zoning Enforcement Official

The provisions of this chapter shall be administered and enforced by the Zoning Officer, who may be provided with the assistance of such other persons as the governing body may direct.

1. It shall be the duty of the Zoning Officer or his/her duly authorized assistants to cause any building, plans or premises to be inspected or examined if the zoning enforcement official finds that any of the provisions of this chapter are being violated;
2. The Zoning Officer shall order discontinuance of illegal use of land, buildings or structure; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions;
3. The Zoning Officer shall have the right to enter any building or premises during the daytime in the course of his duties and shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering in writing the remedying of any conditions found to exist in violation of any provision of this chapter, or in the alternative order the prosecution of any violation as provided for by this chapter. The state violation shall then be corrected by action of the violating party, and a second inspection and approval shall be accomplished within thirty (30) days;
4. Records. It shall be the duty of the Zoning Officer to keep a record of all applications for zoning permits, a record of all permits issued, and a record of all certificates of occupancy, together with a notation of all special conditions involved and record of all complaints and actions taken. He/she shall file and safely keep copies of all plans submitted and the same shall form a part of the records of his office and shall be available for the use of the governing body and of other officials of the City;  
The Zoning Officer shall prepare a monthly report for the governing body summarizing for the period since his

last previous report all zoning permits and certificates issued. A copy of each such report shall be filed with the Tax Assessor at the time it is filed with the governing body;

5. In no case shall a permit be granted for construction, alteration or use thereof that would be in violation of any provision in this chapter.

**17.08.020 Compliance**

A. Enforcement

All rules, regulations, requirements, permits, inspections, authorizations, denials and/or initiations of any actions or proceedings shall be conducted pursuant to N.J.S.A. 40:55D-18.

B. Minimum Requirements

The provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, and general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

C. Compliance Required

1. All zoning requirements shall be met at the time of any erection, enlargement, moving or change in use. If a new structure is added to an existing complex of structures or if any existing structure has an addition, the site plan provisions of this chapter shall apply to the enlargement or new structure;
2. All developments resulting from subdivision and site plan approvals shall comply with all design and performance standards, including conditions imposed by the approving authority, as shown on the approved plat and/or included in the resolution adopted by the approving authority;
3. Construction and use shall be as detailed in applications, plans, permits and certificates of zoning compliance. Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Zoning Officer authorize only the use, arrangement and construction set forth in such approval plans and applications and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be

- deemed a violation of this chapter;
4. When an applicant fails to comply or deviates significantly from any approved plans filed with the Approving Board, the Zoning Official shall have jurisdiction to review of the aforementioned deviation. If the Zoning Official is of the determination that the deviation will result in a substantial change to the approved use, plans and resolution, the applicant shall be required to submit plans showing all proposed revisions to the original Approving Board. In any event, the Zoning Official shall make and file a report with the Approving Board noting all deviations and reasons for the Zoning Official's decision.

**17.08.030 Permits and Approvals**

A. Conformity Required

No zoning permit, building permit or certificate of occupancy shall be issued for any parcel of land or structure which was sold on which improvements were undertaken in violation of the provisions of this chapter, or for use of a lot which was created by subdivision after the effective date of, and not in conformity with, the provisions of this chapter. No site improvements, such as but not limited to excavation or construction of public or private improvements, shall be commenced except in conformance with this chapter and in accordance with plat approvals and the issuance of required permits.

B. Zoning Permit

1. For any development application, it shall be unlawful to use or occupy or permit the use or occupancy of any building or premises or both or part thereof, hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure, until a Zoning Permit shall have been issued therefore by the Zoning Official, stating that the proposed use of the building or land conforms to the requirements of this chapter and adequate planning standards;
2. The Zoning Permit shall be issued by the Zoning Official, stating that the proposed use of the building or land conforms to the requirements of this chapter and adequate planning standards;
3. No Zoning Permit shall be issued by the Zoning Official unless the application for the said Zoning Permit is in

conformity with all the provisions of this chapter or has been duly exempted by variance;

4. A Zoning Permit shall be issued by the Zoning Officer before the issuance of either a Certificate of Occupancy to a new occupant of an existing building or portion of an existing building or a building permit;
5. Failure to obtain a Zoning Permit shall be in violation of this chapter;
6. The fee to be paid for an application for a Zoning Permit shall be as follows:

Single and Two-Family Residential	\$25
Other Residential	\$100
Places of Worship or Non-Profit Social Service Agency	\$25
Retail stores, including restaurants and personal services	\$100
Office	\$100
Industrial, including auto repair/auto body	\$150

C. Building Permit

1. No permit for erection, construction, alteration, extension, enlargement, movement, remodeling, conversion, destruction or repair of any building shall be issued until a Zoning Permit has been duly issued in accordance with the provisions of this chapter;
2. No certificate shall be issued unless the land, building and use thereof comply with the provisions of this chapter; all matters incorporated on the approval subdivision or site plan have been completed and certified by the City Engineer; and the Building and Health Codes are complied with;
3. In cases involving the new use of an existing structure, no Certificate of Occupancy for the new tenant shall be issued until a Zoning Permit has been issued;
4. On the serving notice by the Zoning Officer to the owner of any violation of any of the provisions or requirements with respect to any building or use thereof or of land, as specified in this chapter, the Certificate of Occupancy for such use shall be deemed to be in violation of this chapter and subject to the penalties hereinafter prescribed. A new certificate shall be required for any further use of such building or land.

D. Temporary Use Permits

1. It is recognized that it may be in accordance with this

chapter to permit the temporary activities for a limited period of time, which activities may be prohibited by other provisions of this chapter, if such uses are of such a nature and are so located that at the time of petition that they:

- (a) Promote the general welfare of the City or the use promotes any other purpose of zoning specifically set forth in NJSA 40:55D2;
  - (b) Will not have a detrimental impact upon the adjacent properties and/or the zone; and
  - (c) Will not have a detrimental impact upon the intent and purposes of the Master Plan and Zoning Ordinance.
2. The temporary use permit shall be subject to all regulations for the issuance of building permits elsewhere specified in Section 24-7.3C. A temporary use permit shall only be valid for a period not to exceed six months. Such period may be extended not more than once for an additional period of six months.

**17.08.040 Violations and Penalties**

A. Complaints of Violations

Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Official, who shall record properly such complaint, immediately investigate and take action thereon as provided by this chapter.

B. Violations

1. In case any building or structure is erected, constructed, altered, repaired, converted or maintained, or any building, structure or land is used, in violation of this chapter or any other ordinance or regulation made under authority conferred hereby, the proper local authorities of the City or an interested party, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent any illegal act, conduct, business or use in or about such premises;
2. Separate violations. Except as otherwise provided,

each and every day in which a violation of any provision of this Ordinance exists shall constitute a separate violation.

C. Penalties

1. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no less than one hundred (\$100) dollars nor more than two thousand five-hundred (\$2,500) dollars, or be imprisoned for a period of time not exceeding thirty (30) days, or both, for each and every violation, and in addition shall pay all cost and expenses involved in the case;
2. If, before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell, except pursuant to any agreement expressly conditional on final subdivision approval, as owner or agent, any land which forms a part of a subdivision for which municipal approval is required by ordinance pursuant to this chapter, such person shall be subject to a penalty not to exceed one thousand (\$1,000) dollars, and each lot disposition so made may be deemed a separate violation as per N.J.S.A 40:55D-55;
3. In addition to the foregoing, the City may institute and maintain a civil action for injunctive relief and to set aside and invalidate any conveyance made pursuant to such a contract of sale if a Zoning Permit has not been issued in accordance with the N.J.S.A. 40:55D-38. In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the developer or his assignees or successors, to secure the return of any deposits made or purchase price paid, and also a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within two (2) years after the date of the recording of the instrument of transfer, sale or conveyance of said land, within six (6) years, if unrecorded.

**17.08.050 Exemptions**

A. Uses

The following uses shall be permitted to be located anywhere in the municipality and shall be exempt from the provisions of

this chapter except as specifically stated in this Article.

1. Outdoor telephone booths. Erection of said booths shall be subject to the approval of the Zoning Official and the City Engineer so that the same shall not constitute traffic and/or safety hazards. Such telephone booths shall be kept in a good state of repair and appearance. The erection and maintenance of said booths shall be subject to such regulations as may be prescribed from time to time by the Zoning Official and the City Engineer in the interest of health, safety, and general welfare of the public;
2. Normal and customary public utility and service and distribution lines;
3. All municipal uses and utilities;
4. Outdoor shelters for school bus children or bus patrons. Erection of such shelters shall be subject to the approval of the Zoning Official and the City Engineer as to sites and construction so that the same shall not constitute traffic and/or safety hazards. Such shelters shall be kept in a good state of repair and appearance. The erection and maintenance of such shelters shall be subject to such regulations as may be prescribed from time to time by the Zoning Official and City Engineer in the interest of health, safety, and general welfare of the public. Such shelters may not carry any advertising or other commercial display.

B. Nonconforming Lots and Structures

As applied to individual single-family units only, for any structure on a conforming or nonconforming lot which violates any bulk requirement, additions to the principal building and/or an accessory building may be constructed without any appeal for variance, provided that the total permitted building coverage regulation is not exceeded and provided the building does not create any new bulk violations of the zoning ordinance or does not further extend a previously granted variance.

**17.08.060 Site Plan Approval Required**

No building or structure shall be erected, relocated, enlarged or externally altered, or reconstructed; nor shall the use of any building or structure be changed or any land cleared or altered; nor shall the use of any land be changed, any water course diverted, or its channel or floodplain, dredged or filled; nor shall any parking area, accessory or otherwise be

constructed, installed or enlarged, nor shall any construction permit, Certificate of Occupancy for a change of use, or other required permit be issued with respect to any such structure, land, parking area or other development, except after and in accordance with the final approval of a site plan granted pursuant to this Ordinance. Anything herein to the contrary notwithstanding, individual lot applications for detached one dwelling unit or two dwelling unit buildings permitted as of right under applicable zoning regulations, and structures and uses incidental thereto, are exempted from the site plan review and approval requirements hereunder.

**17.08.070 Subdivision Approval Required**

No land may be subdivided, except after and in accordance with the final approval of a subdivision plat granted pursuant to this Ordinance. The only exemption from the requirements of this Section are those divisions of land specifically excluded from the definition of "Subdivision" pursuant to N.J.S.A. 40:55D-7.

**17.09 ARTICLE IX Additional Provisions**

**17.09.010 Zoning Map**

The attached map shall be the Official Zoning Map of the City of New Brunswick and shall be incorporated into this ordinance by reference herein.

**17.09.020 Repealer**

All ordinances inconsistent with or in conflict therewith are hereby repealed.

**17.09.030 Severability**

If any section, subsection or paragraph of this Ordinance shall be declared to be unconstitutional, invalid, or inoperative in whole or in part by a court of competent jurisdiction, such section, subsection or paragraph shall, to the extent that it is not unconstitutional, invalid or inoperative, remain in full force and effect, and no such determination shall be deemed to invalidate the remaining sections, subsections or paragraphs of this Ordinance. To this end, the provisions of each section, subsection, paragraph of this Ordinance are hereby declared to be severable.

**17.09.040 Effective Date**

This Ordinance, constituting an emergency, as provided by N.J.S.A. 40:69A-18b, shall be effective immediately upon final passage and shall be published as required by law.