



**WINTERVILLE TOWN COUNCIL AGENDA
MONDAY, DECEMBER 14, 2020 - 7:00 PM
WINTERVILLE TOWN HALL ASSEMBLY ROOM
REMOTE VIA ZOOM**

- I. CALL TO ORDER.**
- II. INVOCATION.**
- III. PLEDGE OF ALLEGIANCE.**
- IV. WELCOME.**
- V. APPROVAL OF AGENDA.**
- VI. APPOINTMENT OF MAYOR PRO-TEM.**
- VII. PRESENTATIONS:**
 1. 2019-2020 Audit Report.
- VIII. PUBLIC HEARINGS:**
 1. David Evans Property – Rezoning Request (Parcel 55092).
 2. Zoning Ordinance Amendments – Chapter 160D of the NC GS.
- IX. PUBLIC COMMENT:** *The Public Comment period of thirty minutes provides an opportunity for residents to comment on any item included in the agenda or to address the Town Council on any other matter related to the Town of Winterville. For an item included in the Public Hearing section of the agenda, residents should address the Council at the time the Mayor invites public comment on the item. No public comment may be made to the Council during the meeting, except during the Public Comment period or as part of a Public Hearing. Individual speakers are limited to a maximum of three minutes, and no more than three speakers may address the Council on a single matter. The Town Council may elect to take no action on the matter addressed by a speaker, may schedule the matter for further consideration at a future Council meeting, or may refer the matter to Town staff for disposition. Copies of the Town Public Comment Policy are available in the rear of the Assembly Room.*
- X. CONSENT AGENDA:** *The following items are considered routine in nature and will not be discussed by the Town Council unless a Councilman or citizen requests that an item be removed from the Consent Agenda for further discussion. The Mayor may allow citizens to address an item or ask questions.*
 1. Approval of the following set of Council Meeting Minutes:
 - November 9, 2020 Regular Meeting Minutes.
 2. Approval of 2021 Calendars:
 - 2021 Regular Council Meeting Calendar; and
 - 2021-2022 Budget Calendar.
 3. Designation of Applicants Agent for Hurricane Isaias.

XI. OLD BUSINESS:

1. Taxicab Final Approval.

XII. NEW BUSINESS:

1. Board of Adjustment Member Appointments.
2. NCLM Voting Delegate for the New Legislative Biennium.
3. Approval of Financing Terms and Agreement with Branch Bank and Trust.
4. Sanitary Sewer Rehabilitation 2019.

XIII. OTHER AGENDA ITEMS:

XIV. ITEMS FOR FUTURE AGENDAS/FUTURE WORK SESSIONS:

XV. REPORTS FROM DEPARTMENT HEADS:

- ❖ Minimum Housing/Code Enforcement (TLP)
- ❖ Tar Road Widening Project – Electric Engineering/Relocation (RS)
- ❖ New Electric Territory Engineering/Installation (RS)
- ❖ Fork Swamp Greenway Project (EJ)
- ❖ Multi-Purpose Building Site Plan (EJ)
- ❖ Winterville Market/Town Common Plan (BW)
- ❖ Chapman Street Culvert - Nobel Canal Drainage Basin Study (BW)
- ❖ 2018 Sewer Rehab (BW)
- ❖ Cemetery (BW)

XVI. ANNOUNCEMENTS:

1. Planning and Zoning Board Meeting: Monday, December 21, 2020 - 7 pm at Town Hall Assembly Room.
2. Board of Adjustment Meeting: Tuesday, December 22, 2020 - 7 pm at Town Hall Assembly Room.
3. Christmas Holidays: Thursday, December 24th, Friday, December 25th, and Monday, December 28th, Town Offices Closed.
4. New Year's Day: Friday, January 1, 2021, Town Offices Closed.

XVII. REPORTS FROM THE TOWN ATTORNEY, MAYOR AND TOWN COUNCIL, AND TOWN MANAGER.

XVIII. ADJOURN.

SPECIAL NOTICE: Anyone who needs an interpreter or special accommodations to participate in the meeting should notify the Town Clerk, Don Harvey at (252) 215-2344 at least forty-eight (48) hours prior to the meeting. (Americans with Disabilities Act (ADA) 1991.)



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Presentations

Meeting Date: December 14, 2020

Presenter: Anthony Bowers, Finance Director

Item to be Considered

Subject: Presentation of the 2019-2020 Audit Report.

Action Requested: Accept the Audit Report.

Attachment: Presentation is Forthcoming.

Prepared By: Anthony Bowers, Finance Director

Date: 12/1/2020

ABSTRACT ROUTING:

TC: 12/7/2020

TM: 12/10/2020

Final: tlp - 12/10/2020

Supporting Documentation

Mr. Michael Jordan will be here to present the 2019-2020 audit findings. Mr. Jordan is a partner with Carr, Riggs and Ingram LLC. Mr. Jordan is representing CRI from the Goldsboro office. We will provide the Council with the CAFR (Comprehensive Annual Financial Report) once printing has been completed

Budgetary Impact: TBD.

Recommendation: Motion to accept the Audit Report.

Town of Winterville

Comprehensive Financial Information Report

June 30, 2020

National Strength.
SOUTHERN ROOTS.



CRI CARR
RIGGS &
INGRAM

CPAs and Advisors

CRICpa.com

General Fund

- Unassigned fund balance and as a percentage of general fund expenditures:
 - 2020 \$7,102,605 – 67.78%
 - 2019 \$5,337,796 – 56.01%
 - 2018 \$5,428,585 – 59.76%
 - 2017 \$5,913,768 – 83.08%
 - 2016 \$5,214,955 – 75.67%
 - 2015 \$5,413,814 – 84.38%
 - 2014 \$4,236,207 – 63.71%
 - 2013 \$3,289,582 – 56.53%

General Fund

- Total fund balance and as a percentage of general fund expenditures:
 - 2020 \$8,831,936 – 84.28%
 - 2019 \$9,494,676 – 99.63%
 - 2018 \$9,033,638 – 99.45%
 - 2017 \$8,537,687 – 119.95%
 - 2016 \$7,893,731 – 114.54%
 - 2015 \$7,342,441 – 114.44%
 - 2014 \$6,266,010 – 94.24%
 - 2013 \$5,353,514 – 91.99%
 - Includes non-spendable, restricted, committed, assigned, unassigned

Governmental Funds [General Fund]

- Revenues:
 - 2020 \$9,310,390
 - 2019 \$8,423,925
 - 2018 \$7,939,025
 - 2017 \$7,482,114
 - 2016 \$7,220,120
 - 2015 \$7,066,950
 - 2014 \$6,816,537
 - 2013 \$6,454,118

General Fund Budgetary Data

- 2020 Budgeted vs. Actual Revenues
 - \$8,962,888 vs. \$9,310,390
- 2019 Budgeted vs. Actual Revenues
 - \$8,433,208 vs. \$8,423,925
- 2018 Budgeted vs. Actual Revenues
 - \$7,650,584 vs. \$7,939,025
- 2017 Budgeted vs. Actual Revenues
 - \$7,326,837 vs. \$7,482,114
- 2016 Budgeted vs. Actual Revenues
 - \$7,157,779 vs. \$7,220,120
- 2015 Budgeted vs. Actual Revenues
 - \$6,599,544 vs. \$7,066,950

General Fund Budgetary Data

- 2020 Budgeted vs. Actual Expenditures
 - \$13,240,284 vs. \$10,478,881
- 2019 Budgeted vs. Actual Expenditures
 - \$13,848,030 vs. \$9,529,204
- 2018 Budgeted vs. Actual Expenditures
 - \$11,572,701 vs. \$7,812,619
- 2017 Budgeted vs. Actual Expenditures
 - \$8,603,869 vs. \$7,117,437
- 2016 Budgeted vs. Actual Expenditures
 - \$8,232,171 vs. \$6,891,432
- 2015 Budgeted vs. Actual Expenditures
 - \$7,586,472 vs. \$6,416,230

Proprietary Fund Net Position

- Water Fund:
 - 2020 Unrestricted \$1,807,462
 - 2019 Unrestricted \$1,249,180
 - 2018 Unrestricted \$1,380,010
 - 2017 Unrestricted \$1,571,623
 - 2016 Unrestricted \$1,550,091
- Electric Fund:
 - 2020 Unrestricted \$7,424,873
 - 2019 Unrestricted \$7,159,927
 - 2018 Unrestricted \$7,143,123
 - 2017 Unrestricted \$6,554,801
 - 2016 Unrestricted \$5,934,482

Proprietary Fund Net Position

- Sewer Fund:
 - 2020 Unrestricted \$637,928
 - 2019 Unrestricted \$318,986
 - 2018 Unrestricted \$981,214
 - 2017 Unrestricted \$920,453
 - 2016 Unrestricted \$830,223
- Stormwater Fund:
 - 2020 Unrestricted \$591,515
 - 2019 Unrestricted \$350,246
 - 2018 Unrestricted \$213,325
 - 2017 Unrestricted \$113,303
 - 2016 Unrestricted \$160,195

Cash Balances & Investments

- Governmental Funds:
 - Unrestricted
 - 2020 \$10,798,865
 - 2019 \$8,226,380
 - 2018 \$11,768,236
 - 2017 \$7,113,798
 - 2016 \$6,396,794
 - 2015 \$5,946,334
- Proprietary Funds:
 - Unrestricted
 - 2020 \$6,109,383
 - 2019 \$7,500,358
 - 2018 \$4,400,749
 - 2017 \$7,725,958
 - 2016 \$7,343,054
 - 2015 \$5,946,334

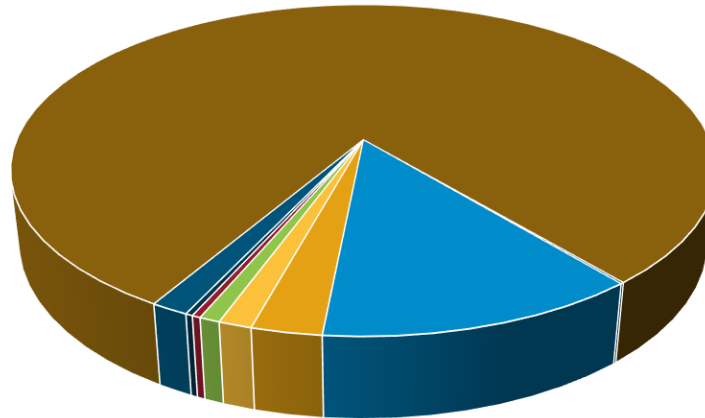
Powell Bill Fund

- 2020:
 - Cash balance \$241,969
 - State Distribution \$258,124
- 2019:
 - Cash balance \$379,837
 - State Distribution \$257,450
- 2018:
 - Cash balance \$964,355
 - State Distribution \$259,072
- 2017:
 - Cash balance \$808,216
 - State Distribution \$260,092
- 2016:
 - Cash balance \$1,076,372
 - State Distribution \$264,282

Fund Balance – General Fund

Town of Winterville, North Carolina

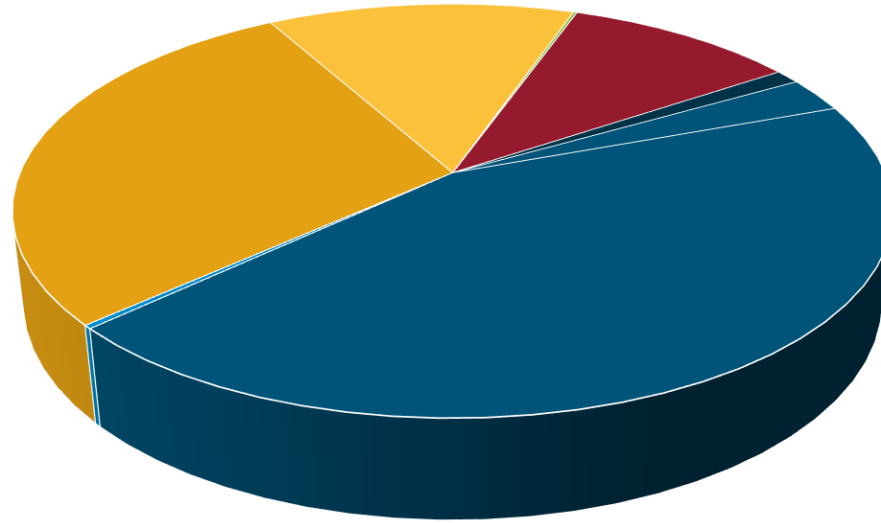
General Fund - Fund Balance



- Inventories \$11,311
- Reserved by State Statute \$1,106,195
- Restricted Streets \$241,969
- Restricted Public Safety \$114,413
- Restricted Recreation \$71,097
- Committed Housing \$29,305
- Committed OPEB \$25,000
- Assigned - FBA \$130,021
- Unassigned \$7,102,605

General Fund Revenues

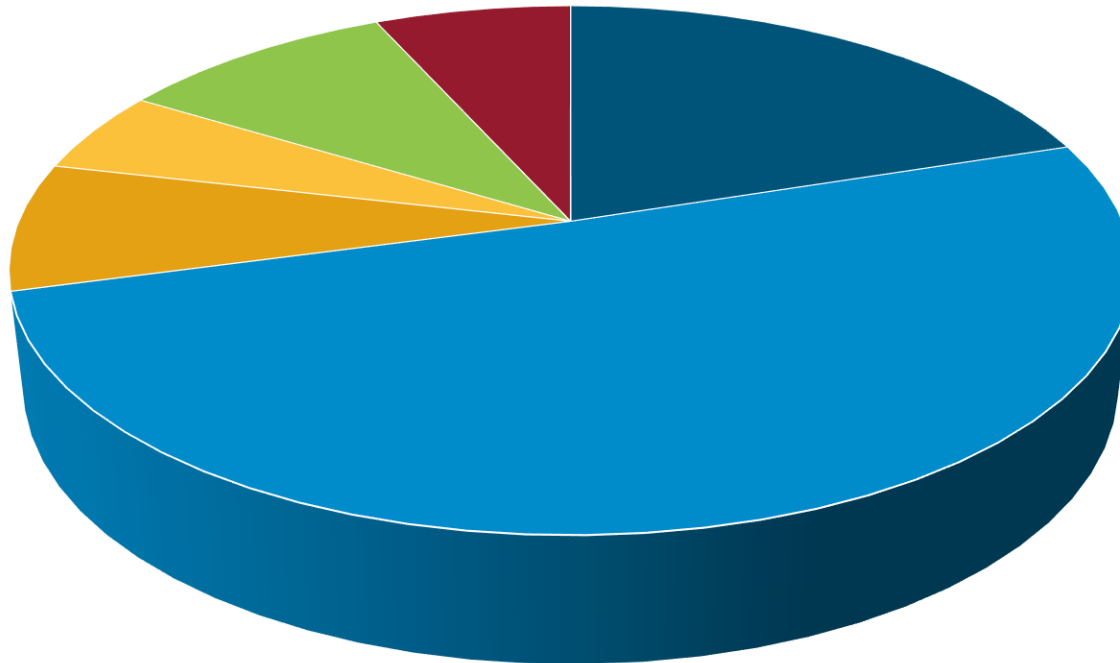
Town of Winterville, North Carolina General Fund Revenues



- Ad valorem taxes - \$4,061,837
- Unrestricted intergovernmental - \$2,655,675
- Permits and fees - \$14,862
- Investment earnings - \$102,824
- Other taxes and licenses - \$25,251
- Restricted intergovernmental - \$1,252,460
- Sales and services - \$944,257
- Miscellaneous - \$253,224

General Fund Expenditures

Town of Winterville, North Carolina
General Fund Expenditures



- General government \$2,098,548
- Public safety \$5,320,092
- Transportation \$819,554
- Environmental protection \$532,194
- Cultural and recreation \$1,000,797
- Debt service \$707,696

TODAY'S PRESENTER

Michael C. Jordan, CPA, Partner
Goldsboro
919-751-8297
mjordan@cricpa.com

Text **CRI** to **66866** to receive CRI News and Alerts.

CARR, RIGGS & INGRAM, LLC



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Public Hearings

Meeting Date: December 14, 2020

Presenter: Bryan Jones, Planning Director

Item to be Considered

Subject: David Evans Property – Rezoning Request (Parcel 55092).

Action Requested: Hold Public Hearing for the Rezoning Request.

Attachment: Rezoning Application, Rezoning Map, Legal Description, Public Hearing Notice, Notification to Adjacent Property Owners, List of Address of Adjacent Property Owners, Staff Report, and Ordinance 20-O-121.

Prepared By: Bryan Jones, Planning Director

Date: 12/1/2020

ABSTRACT ROUTING:

TC: 12/7/2020

TM: 12/10/2020

Final: tlp - 12/10/2020

Supporting Documentation

Applicant: David A. Evans, Jr.

Location: Church Street Ext at its intersection with Park Road.

Parcel Number: 70857

Site Data: 33.4 acres

Current Zoning District: AR

Proposed Zoning District: R-8 CD

*****Condition** – To allow development of a subdivision for construction of single-family residences with a condition that the minimum lot size will be 10,000 square feet minimum.

- ❖ Planning and Zoning Board unanimously recommended approval to Town Council on October 19, 2020.
- ❖ Public Hearing Notice was published in the Daily Reflector on December 2, 2020 and December 9, 2020.
- ❖ Notice of the Public Hearing was mailed to adjacent property owners on November 18, 2020.

Budgetary Impact: TBD.

Recommendation: Hold the Public Hearing.



**REZONING APPLICATION
TOWN OF WINTERVILLE**

2571 Railroad Steet
P O Box 1459
Winterville, NC 28590
Phone: (252) 756-2221

Staff Use Only
Appl. # _____

OWNERSHIP INFORMATION:

Applicant: David A. Evans, Jr

Address: 211 Dalebrook Circle, Greenville, NC 27858

Phone #: 252-754-1175

Owner: David Evans Jr., Anne Evans Brewer, and Suzanne Brewer Harmon

Address: 211 Dalebrook Circle, Greenville, NC 27858

Phone #: 252-754-1175

PROPERTY INFORMATION

Parcel #: 70857 Area (square feet or acres): 33.4 acres

Current Land Use: Farm land

Location of Property: 3252 Church Street Extension

ZONING REQUEST

Existing Zoning: AR Requested Zoning: R8 CUD

Reason for zoning change: To allow development of a subdivision for construction of single family residences with a condition that the minimum lot size will be 10,000 square feet .

This application shall be accompanied by the following items:

- A map drawn to a scale of not less than 400 feet to the inch and not more than 20 feet to the inch showing the land covered by the proposed amendment;
- A legal description of the property;
- A list of the names and addresses of all owners of property involved in the map change and all adjoining property owners as shown on County tax records;
- A filing fee according to a regularly adopted Fee Schedule of the Town.

OWNER/AGENT STATEMENT

I, David Evans Jr., being the Owner or Agent (if Agent, complete section below) request that the attached rezoning request be placed on the agenda of the Planning and Zoning Board meeting scheduled for October/19/2020.

I understand that failure to address any item in the zoning amendment application requirements of the zoning ordinance my result in the rezoning request not meeting the minimum submission requirements and will be returned to me for revision and resubmission at the next regular review cycle.

David A Evans Jr
Signature

October 1 2020
Date

NOTE: AGENTS ACTING ON BEHALF OF THE PROPERTY OWNER MUST HAVE A NOTARIZED STATEMENT FROM THE PROPERTY OWNER GIVING THEM THE AUTHORITY TO ACT ON THE OWNER'S BEHALF.

I, Judy R. Stroud, being the Owner of the property described herein, do hereby authorize _____ as agent for the purpose of this application.

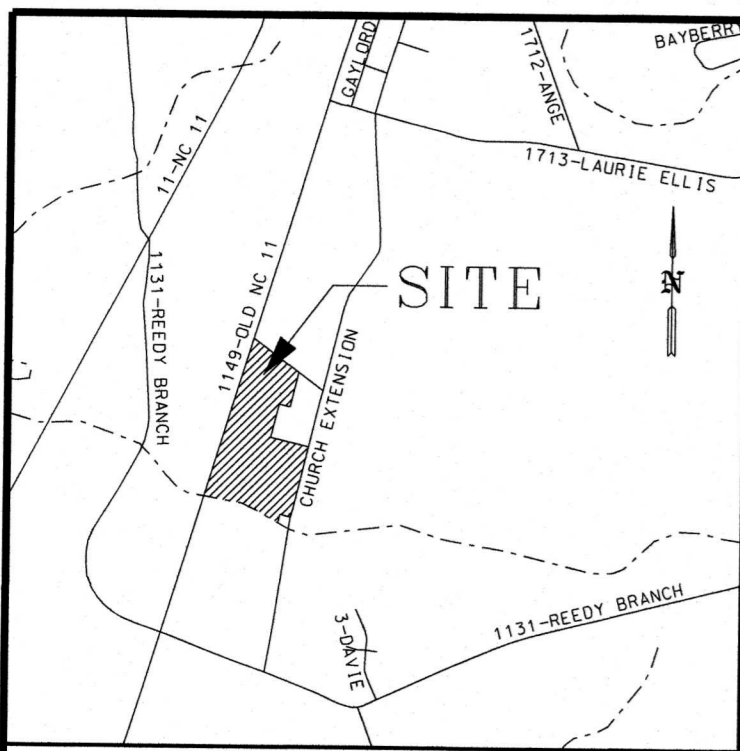
Signature

Date

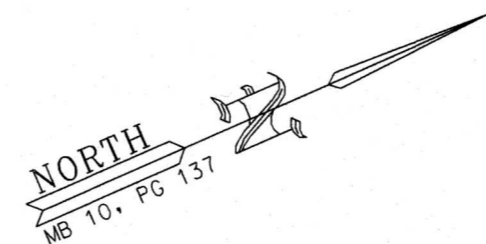
Sworn to and subscribed before me, this _____ day of _____, 20____.

Notary Public

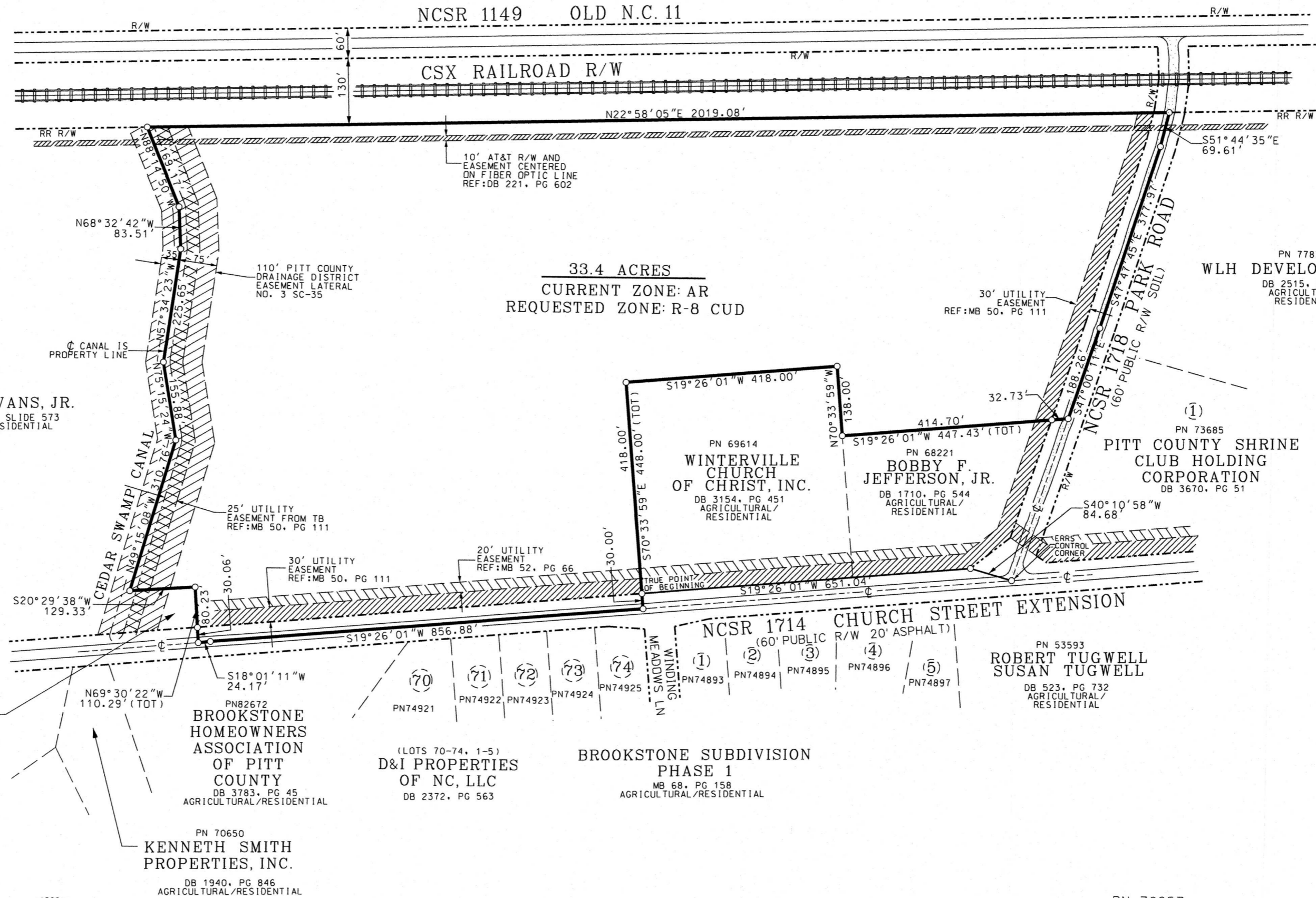
My Commission Expires:



VICINITY MAP



LEGEND
 ERRS= EXISTING RAILROAD SPIKE
 R/W= RIGHT-OF-WAY
 C= CENTERLINE



PN 07203
DAVID A. EVANS, JR.
 ESTATE FILE 00E, SLIDE 573
 AGRICULTURAL/RESIDENTIAL

PN 59384
TOWN OF WINTERVILLE
 DB 852, PG 346
 MB 50, PG 114
 AGRICULTURAL/RESIDENTIAL

PN82672
BROOKSTONE HOMEOWNERS ASSOCIATION OF PITT COUNTY
 DB 3783, PG 45
 AGRICULTURAL/RESIDENTIAL

(LOTS 70-74, 1-5)
D&I PROPERTIES OF NC, LLC
 DB 2372, PG 563

BROOKSTONE SUBDIVISION PHASE 1
 MB 68, PG 158
 AGRICULTURAL/RESIDENTIAL

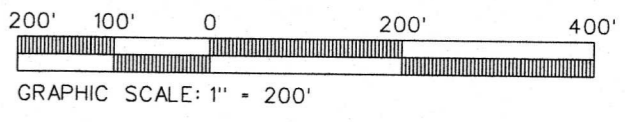
PN 69614
WINTERVILLE CHURCH OF CHRIST, INC.
 DB 3154, PG 451
 AGRICULTURAL/RESIDENTIAL

PN 68221
BOBBY F. JEFFERSON, JR.
 DB 1710, PG 544
 AGRICULTURAL/RESIDENTIAL

PN 73685
PITT COUNTY SHRINE CLUB HOLDING CORPORATION
 DB 3670, PG 51

CHARLES WHITE SUBDIVISION
 MB 66, PG 127
 AGRICULTURAL/RESIDENTIAL

PN 53593
ROBERT TUGWELL SUSAN TUGWELL
 DB 523, PG 732
 AGRICULTURAL/RESIDENTIAL



I, **DEBORAH T. BOYETTE**, CERTIFY THAT THIS SURVEY IS OF ANOTHER CATEGORY AND IS AN EXCEPTION TO THE DEFINITION OF A SUBDIVISION.
 Deborah T. Boyette
 PROFESSIONAL LAND SURVEYOR L-4146



BOUNDARY TAKEN FROM MAP DONE BY BALDWIN AND ASSOCIATES ENTITLED "BOUNDARY SURVEY FOR CHARLES WHITE, CHURCH STREET & PARK ROAD" DATED 7-22-03 BY BRIAN L. SOUVA, PLS L-3873.

PROJECT NO. P1309-002
 DRAWING NO. 001

PN 70857

REZONING MAP FOR
DAVID A. EVANS, JR.

REFERENCE: BEING THE PROPERTY RECORDED IN DEED BOOK 1979, PAGE 672 OF THE PITT COUNTY REGISTRY

WINTERVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA

OWNER: DAVID A. EVANS, JR. ETALS	SURVEYED: N/A
ADDRESS: 211 DALEBROOK CIRCLE GREENVILLE, NC 27858	DRAWN: DTB/LHJ
PHONE: (252) 754-1175	APPROVED: DTB
STROUD ENGINEERING, P.A. 107B COMMERCE ST. GREENVILLE, NC (252) 756-9352 LICENSE NO. C-0647	DATE: 10/1/2020
	SCALE: 1" = 200'
	SHEET 1 OF 1

LEGAL DESCRIPTION

For

Parcel No. 70857

Lying and being in Winterville Township, Pitt County, North Carolina, lying north and east of NCSR 1131 Reedy Branch Road and south of NCSR 1713 Laurie Ellis Road, and beginning at an existing railroad spike in the centerline intersection of NCSR 1718 Park Road and NCSR 1714 Church Street Extension, thence from the railroad spike S40-10-58W – 84.68' to a point on the western right-of-way of NCSR 1714 Church Street Extension, thence along the right-of-way of Church Street Extension S19-26-01W – 651.04' to the southeast corner of the Winterville Church of Christ, Inc. property as recorded in Deed Book 3154, Page 451 with map recorded in Deed Book 1825, Page 613 of the Pitt County Registry, the true point of beginning.

Thence from the true point of beginning, leaving the right-of-way of NCSR 1714 Church Street Extension S70-33-59E – 30.00' to a point in the centerline of Church Street Extension, thence along the centerline of Church Street Extension S19-26-01W – 856.88', thence S18-01-11W – 24.17', thence leaving the centerline of Church Street Extension N69-30-22W – 30.06' to a point on the western right-of-way of Church Street Extension, the northeast corner of the property owned by the Town of Winterville as recorded in Map Book 50, Page 114, thence leaving the right-of-way of Church Street Extension and following the line common to the Town of Winterville N69-30-22W – 80.23', thence S20-29-38W – 129.33' to a point in the centerline of Cedar Swamp Canal, thence leaving the Town of Winterville property down the centerline of Cedar Swamp Canal the following calls: N49-15-08W – 310.76', thence N75-15-24W – 155.88', thence N57-34-23W – 225.65', thence N68-32-42W – 83.51', thence N88-14-50W – 169.17' to a point on the eastern right-of-way of the CSX Railroad, thence along the railroad right-of-way N22-58-05E – 2019.08' to a point in the centerline of NCSR 1718 Park Road, thence along the centerline of Park Road S51-44-35E – 69.61', thence S47-47-45E – 377.97', thence S47-00-11E – 188.26', thence leaving the centerline of Park Road S19-26-01W – 32.73' to a point on the southern right-of-way of Park Road, the northwest corner of the Bobby F. Jefferson, Jr. property as shown on map recorded in Deed Book 1710, Page 547 of the Pitt County Registry, thence leaving the right-of-way of Park Road and following the western line of the Jefferson property, S19-26-01W – 414.70' to a point in the northern line of the Winterville Church of Christ, Inc. property, thence along the Winterville Church boundary N70-33-59W – 138.00', thence S19-26-01W – 418.00', thence S70-33-59E – 418.00' to a point on the western right-of-way of NCSR 1714 Church Street Extension, the true point of beginning, containing 33.4 Acres, being Parcel Number 70857 as filed with the Pitt County Tax Assessor's Office and also a portion of Tract 1 as shown on map entitled "Boundary Survey For Charles White" prepared by Baldwin and Associates, Greenville, North Carolina dated July 22, 2003.

Deborah T. Boyette

Deborah T. Boyette, PLS L-4146

Date 10-1-20



**NOTICE OF PUBLIC HEARING
Town of Winterville**

NOTICE IS HEREBY GIVEN that the Winterville Town Council will meet on Monday, December 14, 2020 at 7:00 pm in the Town Hall Assembly Room at 2571 Railroad Street, to hold a Public Hearing on the following proposal:

David A. Evans, Jr. has submitted a rezoning application to rezone 3252 Church Street Ext (Parcel 70857 – 33.4 Acres) from Agricultural Residential to R-8 Conditional District. Per the application the condition for the zoning district will be that minimum lot size will be 10,000 square feet. The R-8 Residential District is a quiet, medium density neighborhood consisting of single-family residences along with limited home occupations and private and public community uses.

Copies of the Ordinance are on file at the Planning Department Office in the Town Hall and are available for public inspection by contacting bryan.jones@wintervillenc.com or the Winterville Planning Department at (252) 215-2358.

The Town of Winterville will be keeping measures in place in an ongoing effort to mitigate the spread of COVID-19. These measures include barring physical attendance at the meeting, employing social distancing, and implementing remote participation. The public is encouraged to watch the Town Council's meeting live on YouTube (www.wintervillenc.com/videos). Those that wish to address the Town Council during the Public Hearing should contact the Town Clerk at (252) 215-2344 to register by **one business day before the meeting at 5:00 p.m. Prior to or within 24-hours following a public hearing, the public may submit written comments to the Town Clerk's office, 2571 Railroad Street, Winterville, NC 28590, or via email to don.harvey@wintervillenc.com. Please include your name and address.

Notes to Publisher:

Legal Advertisements
legals@apgenc.com
(252) 329-9521

Subject: Winterville Pubic Hearing – David Evans, Jr. Property Rezoning Request

Please place the above legal advertisement in the Daily Reflector on Wednesday December 2, 2020 and Wednesday, December 9, 2020. Should you have any questions please contact me.

Please forward the invoice and Affidavit of Publication to me to assist with payment.

Thanks,

Donald Harvey, Town Clerk
Town of Winterville
2571 Railroad Street/PO Box 1459
Winterville, NC 28590
(252) 215-2344 – Phone
don.harvey@wintervillenc.com



2571 Railroad Street
PO Box 1459
Winterville, NC 28590

Phone (252)215-2358
Fax (252)756-3109
www.wintervillenc.com

**Town Council
Rezoning Request**

NOTICE IS HEREBY GIVEN that the Winterville Town Council will meet on Monday, December 14, 2020 at 7:00 pm in the Town Hall Assembly Room at 2571 Railroad Street, in order to consider the following request:

David A. Evans, Jr. has submitted a rezoning application to rezone 3252 Church Street Ext (Parcel 70857 – 33.4 Acres) as shown on the attached map from Agricultural Residential to R-8 Conditional District. Per the application the condition for the zoning district will be that minimum lot size will be 10,000 square feet. The R-8 Residential District is a quiet, medium density neighborhood consisting of single-family residences along with limited home occupations and private and public community uses.

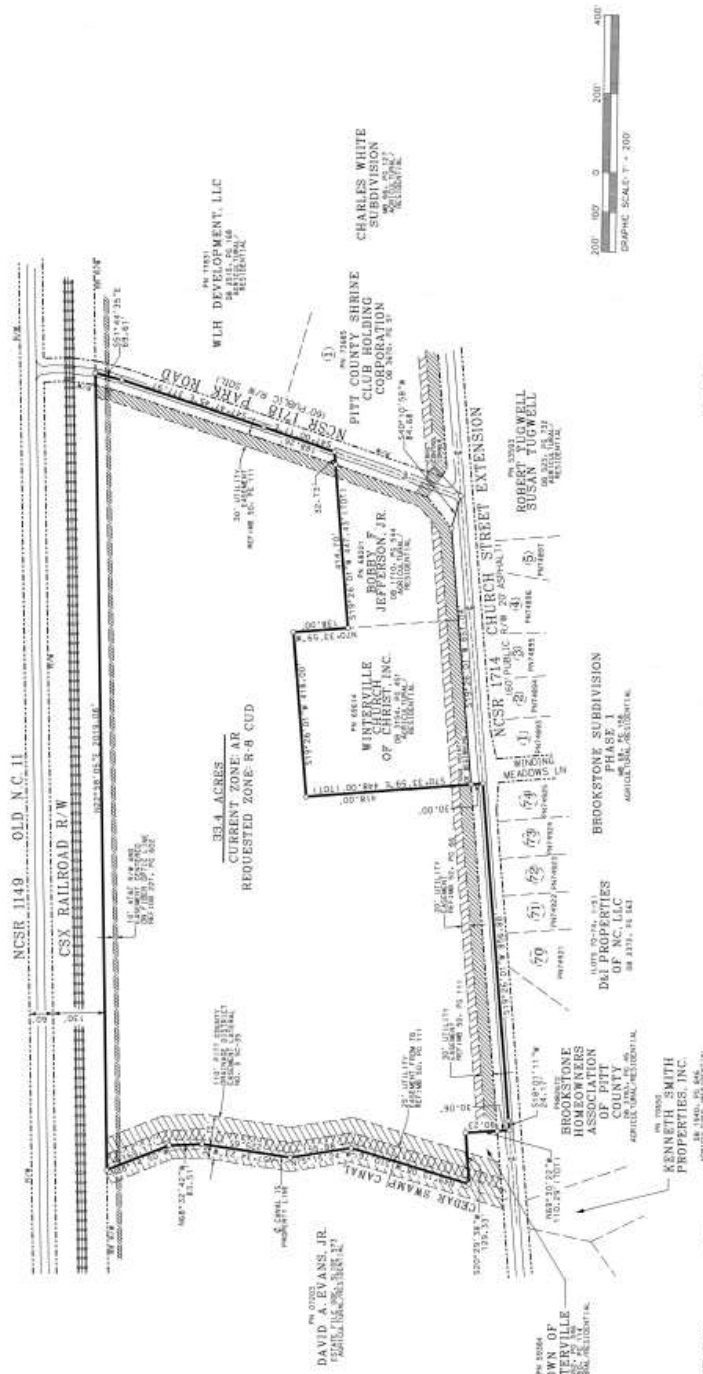
Copies of the Zoning Ordinance and Map are on file at the Planning Department Office in the Town Hall and are available for public inspection by contacting bryan.jones@wintervillenc.com or the Winterville Planning Department at (252) 215-2358 or at wintervillenc.com.

The Town of Winterville will be keeping measures in place in an ongoing effort to mitigate the spread of COVID-19. These measures include barring physical attendance at the meeting, employing social distancing, and implementing remote participation. The public is encouraged to watch the meeting live on YouTube (www.wintervillenc.com/videos). Those that wish to address the Town Council during the Public Hearing should contact the Town Clerk at (252) 215-2344 to register by **one business day before the meeting at 5:00 p.m. The public may submit written comments to the Town Clerk's office, 2571 Railroad Street, Winterville, NC 28590, or via email to don.harvey@wintervillenc.com. Please include your name and address.



VICINITY MAP

LEGEND
 --- EXISTING RAILROAD
 --- EXISTING HIGHWAY
 --- PROPOSED HIGHWAY
 --- CENTER LINE



DEBORAH T. BUCHHEIT, CERTIFY THAT THIS SURVEY IS AN ACCURATE REPRESENTATION TO THE DEFINITION OF A SUBDIVISION.
 DEBORAH T. BUCHHEIT
 PROFESSIONAL LAND SURVEYOR L-1494



BOUNDARY TAKEN FROM MAP SOME BY BALDWIN CHARLES WHITE, CHURCH STREET & PARK ROAD FOR DATED 7-22-01 BY BRIAN L. SIDRA, PLS L-3813.

PN 70857

REZONING MAP FOR
DAVID A. EVANS, JR.
 REFERENCE BEING THE PROPERTY RECORDED IN DEED BOOK 4375- PAGE 617
 OF THE PITT COUNTY REGISTRY

WINERYVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA

OWNER: DAVID A. EVANS, JR. ETALS
 ADDRESS: 811 SALEMBOCK CIRCLE
 GREENVILLE, NC 27654
 PHONE: (252) 754-1175

APPROVED DTB

DATE: 09/20/2000

SCALE: 1" = 200'

SHEET 1 OF 1

STROUD ENGINEERING, P.A.
 107B COMMERCE ST.
 GREENVILLE, NC 27654
 LICENSE NO. C-0647

WLH DEVELOPMENT, LLC
227 CHURCHILL DRIVE
GREENVILLE, NC 27858

BOBBY JEFFERSON
DENISE JEFFERSON
527 JIMMIES CREEK DRIVE
NEW BERN, NC 28568

JOYCE BYRUM MCLAWHORN
623 SECOND STREET
AYDEN, NC 28513

NATHAN EDWARDS
3138 STREAMSIDE LANE
WINTERVILLE, NC 28590

D'ANDREA VANESSA WALKER
3150 STREAMSIDE LANE
WINTERVILLE, NC 28590

KRISTINA SMITH
3178 STREAMSIDE LANE
WINTERVILLE, NC 28590

MUSHABBAR KARIMI
NAZEMA KARIMI
3196 STREAMSIDE LANE
WINTERVILLE, NC 28590

CHARLES WHITE
139 VERNON WHITE ROAD
WINTERVILLE, NC 28590

WINTERVILLE CHURCH OF
CHRIST INC
3170 CHURCH STREET EXT
WINTERVILLE NC 28590

ROBERT TUGWELL
SUSAN TUGWELL
2436 TRELIS CT
RALEIGH, NC 27604

MAILED ON
11/18/2020

ZSHAKEDRIA BROWN
3158 STREAMSIDE LANE
WINTERVILLE, NC 28590

MERCI NAGI
3184 STREAMSIDE LANE
WINTERVILLE, NC 28590

BROOKSTONE HOMEOWNERS
ASSOCIATION OF PITT COUNTY
INC
3345 BRIDGE ROAD, STE 924
SUFFOLK, VA 23455

PITT COUNTY SHRINE CLUB
HOLDING CORP
PO BOX 1845
GREENVILLE, NC 27858

DAVID EVANS, JR
ANNE BREWER EVANS
PO BOX 2548
GREENVILLE NC 27836

MATTHEW GABOR
3132 STREAMWIDE LANE
WINTERVILLE NC 28590

ANDRES RAFALE MENDEZ
3144 STREAMSIDE LANE
WINTERVILLE NC 28590

MARGO BROWN
CLAYTON BROWN
3168 STREAMSIDE LANE
WINTERVILLE, NC 28590

RUSSELL ENNIS
SHARON ENNIS
3192 STREAMSIDE LANE
WINTERVILLE, NC 28590

ALLEN BEST
CARMEN BEST
3198 STREAMSIDE LANE
WINTERVILLE, NC 28590



**Town of Winterville Planning Department
Zoning Staff Report**

GENERAL INFORMATION

APPLICANT	David A. Evans, Jr
HEARING TYPE	Rezoning Request
REQUEST	Agricultural Residential (AR) to R-8 CD
CONDITIONS	10,000 sq ft minimum lot size
LOCATION	3252 Church Street Extension
PARCEL ID NUMBER(S)	70857
PUBLIC NOTIFICATION	Adjacent property owners were mailed notification of the rezoning request on October 5, 2020. Notification was posted on site on June 30, 2020. 20 properties were mailed notification.
TRACT SIZE	33.4 acres
TOPOGRAPHY	Flat
VEGETATION	Cleared / Agricultural

SITE DATA

EXISTING USE	Agricultural / Vacant
---------------------	-----------------------

ADJACENT PROPERTY	ZONING	ADJACENT LAND USE
N	OI	Shrine Club (Civic Organization)
E	R-15	Residential
W	AR	Railroad Tracks /Agricultural/ Residential
S	AR	Agricultural

ZONING DISTRICT STANDARDS

DISTRICT SUMMARIES	EXISTING	REQUESTED
ZONING DISTRICT DESIGNATION	Agricultural Residential (AR)	General Business (CN)
MAX DENSITY	n/a	n/a
TYPICAL USES	Large residential lots to accommodate septic systems	R-8 = Medium Density, single – family residences. Limited home occupations.



SPECIAL INFORMATION

OVERLAY DISTRICT	N/A
ENVIRONMENTAL / SOILS	N/A
FLOODPLAIN	N/A
STREAMS	Stream feature located along southern property line (50' Riparian Buffer along tributary off of Swift Creek).
OTHER	If >1 acre is disturbed, site must meet Phase 2 stormwater requirements and provide Soil Erosion and Sedimentation Control Permit
SITE PLAN REQUIREMENTS	Subdivision plan required

**These regulations may not reflect all requirements for all situations. See the Town of Winterville Zoning Ordinance for all applicable regulations for site requirements for this zoning district.

LANDSCAPING & BUFFER REQUIREMENTS

Development must meet requirements of the Zoning Ordinance (Article X-A. Vegetation and Buffering Requirements).

TRANSPORTATION

STREET CLASSIFICATION	NC 11 S – NCDOT Road NC 903 S – NCDOT Road
SITE ACCESS	All access must be designed and constructed to meet the Town of Winterville / NCDOT standards.
TRAFFIC COUNTS (per NCDOT Annual Average Daily Traffic Map)	Church Street Ext – 180 Park Road – N/A
TRIP GENERATION	N/A
SIDEWALKS	Required.
TRAFFIC IMPACT STUDY (TIS)	TBD
STREET CONNECTIVITY	N/A
OTHER	N/A



IMPACT ANALYSIS

Land Use Compatibility

The proposed R-8 conditional zoning district would allow land uses that are compatible with the general character of the area.

Town of Winterville Comprehensive Land Use Plan Policies

The Future Land Use Map designates this property as a Suburban Residential character area. The requested **R-8 Conditional District** zoning district is generally consistent with this character area as defined by the future land use designation.

Comprehensive Land Use Plans - Recommendations & Implementation

Suburban Residential - General Character:

- Low to medium density single family residential. This land use type was identified as one that is appropriate and valued. This flexible land use type is appropriate for many parts of the planning area.

STAFF ANALYSIS AND RECOMMENDATION

Community Outreach

Applicant is encouraged to discuss this proposed rezoning with owners of surrounding properties.

Staff Analysis

The 33.4 acre property is currently being used for agriculture. The property North of the request is zoned Office and Institutional (Shrine Club – civic organization). West of the request is zoned AR and is bound by the railroad tracks. South of the request is zoned AR and is currently being used for agriculture. East of the request is across is zoned R-15 and is a single-family subdivision (Brookstone).

The R-8 Conditional District rezoning request is consistent with the intent and purpose of the Zoning Ordinance, the Future Land Use Plan and is generally compatible with the existing development and trends in the surrounding area. Some details unique to this site to consider are the fact that Park Road to the north is not paved and the railroad tracks border the property along the west property line.

Planning and Zoning Board / Staff Recommendation

The Planning and Zoning Board unanimously recommended approval to Town Council on October 19, 2020.

Staff recommends **approval** of the rezoning request for the 33.4 acres from AR to R-8 Conditional District.

**AN ORDINANCE TO AMEND CHAPTER 155
ZONING ORDINANCE OF THE
CODE OF ORDINANCES OF THE
TOWN OF WINTERVILLE, NORTH CAROLINA
OFFICIAL ZONING MAP**

WHEREAS, David A. Evans, Jr. has requested amendment of the Zoning Ordinance of the Town of Winterville by rezoning of the property described herein of Agricultural Residential (AR) to R-8 Conditional District; and

WHEREAS, a public hearing on the question of this zoning amendment was held, at the Winterville Town Hall at 7:00 p.m. on December 14, 2020, after due notice publication on December 2, 2020 and December 9, 2020; and

WHEREAS, due notice of said public hearing was also given by first class mail to the owners of all parcels, as shown on the County Tax Records, adjoining the parcel under consideration, certification of which has been to the Winterville Town Council; and

WHEREAS, due notice of said public hearing was also given by posting a rezoning request notice on the subject property;

WHEREAS, the Winterville Town Council finds that the proposed rezoning is in compliance with the Town of Winterville's Comprehensive Land Use Plan;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Winterville, North Carolina that:

Section 1. The Town of Winterville Zoning Ordinance, Official Zoning Map, is hereby amended by rezoning the following described track from Agricultural Residential to R-8 CD. Conditions for the zoning district are as follows: Minimum lot size will 10,000 square feet.

*David A. Evans, Jr., a 33.4-acre tract land located on **Church Street Ext., Tax Parcel 70857**, and being more particularly described on the attached legal description provided below.*

**LEGAL DESCRIPTION OF PROPERTY
REZONED FROM AR to R-8 CD
DAVID A. EVANS, JR.
WINTERVILLE TOWNSHIP, PITT, NC**

Lying and being in Winterville Township, Pitt County, North Carolina, lying north and east of NCSR 1131 Reedy Branch Road and south of NCSR 1713 Laurie Ellis Road, and beginning at an existing railroad spike in the centerline intersection of NCSR 1718 Park Road and NCSR 1714 Church Street Extension, thence from the railroad spike S40-10-58W - 84.68' to a point on the western right-of-way of NCSR 1714 Church Street Extension, thence along the right-of-way of Church Street Extension SI9-26-01W - 651.04' to the southeast corner of the Winterville Church of Christ, Inc. property as recorded in Deed Book 3154, Page 451 with map recorded in Deed Book 1825, Page 613 of the Pitt County Registry, the true point of beginning.

Thence from the true point of beginning, leaving the right-of-way of NCSR 1714 Church Street Extension S70-33-59E- 30.00' to a point in the centerline of Church Street Extension, thence along the centerline of Church Street Extension S19-26-01W - 856.88', thence S18-01-11W - 24.17', thence leaving the centerline of Church Street Extension N69-30-22W - 30.06' to a point on the western right-of-way of Church Street Extension, the northeast corner of the property owned by the Town of Winterville as recorded in Map Book 50, Page 114, thence leaving the right-of-way of Church Street Extension and following the line common to the Town of Winterville N69-30-22W - 80.23', thence S20-29-38W-129.33' to a point in the centerline of Cedar Swamp Canal, thence leaving the Town of Winterville property down the centerline of Cedar Swamp Canal the following calls: N49-15-08W - 310.76', thence N75-15-24W -155.88', thence N57-34-23W -225.65', thence N68-32-42W - 83.51', thence N88-14-50W -169.17' to a point on the eastern right-of-way of the CSX Railroad, thence along the railroad right-of-way N22-58-05E- 2019.08' to a point in the centerline of NCSR 1718 Park Road, thence along the centerline of Park Road S51-44-35E- 69.61', thence S47-47-45E- 377.97', thence S47-00-11E- 188.26', thence leaving the centerline of Park Road S19- 26-01W - 32.73' to a point on the southern right-of-way of Park Road, the northwest corner of the Bobby F. Jefferson, Jr. property as shown on map recorded in Deed Book 1710, Page 547 of the Pitt County Registry, thence leaving the right-of-way of Park Road and following the western line of the Jefferson property, S19-26-01W -414.70' to a point in the northern line of the Winterville Church of Christ, Inc. property, thence along the Winterville Church boundary N70-33-59W-138.00', thence S19-26-01W- 418.00', thence S70-33-59E- 418.00' to a point on the western right-of-way of NCSR 1714 Church Street Extension, the true point of beginning, containing 33.4 Acres, being Parcel Number 70857 as filed with the Pitt County Tax Assessor's Office and also a portion of Tract 1 as shown on map entitled "Boundary Survey For Charles White" prepared by Baldwin and Associates, Greenville, North Carolina dated July 22, 2003.

End of Legal Description

Section 2. This action shall be shown on the Official Zoning Map.

Section 3. This ordinance shall become effective upon adoption.

Adopted this 14th day of December 2020.

Douglas A. Jackson, Mayor

ATTEST:

Donald Harvey, Town Clerk



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Public Hearings

Meeting Date: December 14, 2020

Presenter: Bryan Jones, Planning Director

Item to be Considered

Subject: Zoning Ordinance Amendments – Chapter 160D of the NC GS.

Action Requested: Hold the Public Hearing for the Zoning Ordinance Amendments.

Attachment: Zoning Ordinance Amendments Summary, Chapter 160D Checklist of Changes.

Prepared By: Bryan Jones, Planning Director

Date: 12/1/2020

ABSTRACT ROUTING:

TC: 12/7/2020

TM: 12/10/2020

Final: tlp - 12/10/2020

Supporting Documentation

Chapter 160D of the North Carolina General Statutes is the first major recodification and modernization of city and county development regulations since 1905. The new Chapter 160D consolidates the previous county enabling statutes (153A) and the city enabling statutes (160A) into a single, unified chapter. The intent of this consolidation is to have a uniform set of statutes applicable to cities and counties and common to all development regulations.

This is a complete re-write of the NC Planning and Zoning Statutes, requiring an update to every local ordinance in the State. To conform to the new law, all city and all county development ordinances must be updated by July 1, 2021. Overall, it refines procedures, aligns terminology, and confirms authority that was assumed under the old statutes.

- The Planning and Zoning Board unanimously recommended approval of the Zoning Ordinance amendments on October 19, 2020.

Budgetary Impact: TBD.

Recommendation: Hold the Public Hearing.



Zoning Ordinance Amendments – Summary

~~Text Removed~~ (red letter/strike through)

Text Added/Amended (bold/highlighted)

UNC School of Government Checklist

*****Must update any references to provisions in G.S. Chapter 160A or 153A to indicate relevant provisions in Chapter 160D. (See appendixes B and C in the Chapter 160D book.)**

Section 1.2 Authority

This Ordinance is enacted pursuant to the authority conferred by Article 19 of Chapter ~~160A~~ **160 D** of the General Statutes of North Carolina. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 12.2 Proceedings of the Zoning Board of Adjustment

The Board of Adjustment shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected or until their successors are elected. The Board shall appoint a secretary, who may be a municipal officer, an employee of the Town, or a member of the Board of Adjustment. The Board shall adopt rules and by-laws in accordance with the provisions of this Ordinance and of Chapter ~~160A~~ **160D** of the General Statutes of North Carolina.

Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 13.5 Town Council Action

The Zoning Administrator shall present any proposed amendments to the Town Council at its next regular scheduled meeting, following Planning Board action, at which it hears rezoning proposals. The Zoning Administrator shall transmit to the Town Council the Planning Board's record of action on the proposed amendments.

The Town Council shall take such lawful action on such proposals as it may deem advisable provided that no

zoning amendment shall be adopted until after a public hearing shall have been held. Notwithstanding the provisions of Section 13.6, a simple majority vote of the Town Council shall be required to amend this ordinance. Notice of public hearing shall be given as required by N.C.G.S. ~~160A, Article 19, Part 3 (Zoning) 160D.~~ (05-0-172, adopted 07/11/2005)

Section 14.4 Zoning Compliance Certificate With Vested Rights

1. In any case where the applicant for a Zoning Compliance Certificate desires to obtain a vested right, as authorized by NCGS ~~160A-385.1~~ **160D-102;-100(d)**, the applicant shall observe the following procedures:

5. Status at Expiration of Term

A right which has been vested shall terminate at the end of the two-year vesting period with respect to buildings and uses for which no valid Building Permit applications have been filed. Upon issuance of a Building Permit, the provisions of G.S. ~~160A-418~~ **160D-403(c);-1109** and G.S. ~~160A-422~~ **160D-403(f);-1113** shall apply except that a Building Permit shall not expire or be revoked because of the running of time while a vested right under this Section is outstanding. Any development constructed pursuant to a Zoning Compliance Certificate With Vested Rights for which the vested term has expired and which is not in conformance with all the terms of this Ordinance because of changes made in the provisions of this Ordinance, including the Zoning Map, after the issuance of such Certificate shall be subject to the provisions of the Ordinance relating to non-conformities the same as any other non-conformity.

6. Annexation Declaration

Any landowner who signs an annexation petition to the Town pursuant to ~~G.S. 160A-31~~ or ~~G.S. 160A-58.1~~ **POSSIBLY REPLACE WITH 160D -200;-202;-903 (CHECK OTHER MUNICIPALITIES LANGUAGE – Kannapolis, Apex, Clayton)** shall, as part of that petition, file a signed statement declaring whether or not vested rights with respect to the property subject to the petition have been established under G.S. ~~160A-385.1~~ or ~~G.S. 153A-344.1~~ **160D-102;-100(d)**. If the statement declares that such rights have been established, the Town may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established by law shall be binding on the landowner and any such vested rights shall be terminated. (2000 Zoning Ordinance, O-51-02149900, adopted 02/14/2000)

******Must align ordinance terminology with Chapter 160D terminology for conditional zoning and special use permits; must delete use of the terms conditional use permit, special exception, conditional use district zoning, and special use district zoning. (See G.S. 160D-102.)**

Section 4.2 Overlay Zoning Districts Established: Purposes Set Forth

The primary and conditional ~~use~~ Zoning Districts established in this Article may also be zoned in one or more Overlay Districts as designated herein and as shown on the Official Zoning Map. In such case, the land is subject to not only the requirements of the underlying primary or conditional ~~use~~ Zoning District but also the additional requirements of the Overlay District. (2000 Zoning Ordinance, O-51-02149900, adopted

Section 4.3 Conditional Use Districts Zoning Established: Purposes Set Forth

There is also established a ~~Conditional Use District (CUD)~~ **Conditional District (CD)** which corresponds to each of the districts authorized by this ordinance as follows:

- | | | | | | | | |
|--------|---|----------------|-----------|----|---|----------------|-----------|
| AR | - | CUD | CD | MR | - | CUD | CD |
| R-20 | - | CUD | CD | OI | - | CUD | CD |
| R-15 | - | CUD | CD | CB | - | CUD | CD |
| R-12.5 | - | CUD | CD | GB | - | CUD | CD |
| R-10 | - | CUD | CD | IC | - | CUD | CD |
| R-8 | - | CUD | CD | CN | - | CUD | CD |
| R-6 | - | CUD | CD | I | - | CUD | CD |

It is recognized that certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the Conditional Use District is a means by which such special conditions can be imposed in the furtherance of the purpose of this Ordinance. The Conditional Use District classification will be considered for rezoning only upon request of a property owner. If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this Ordinance that the authorization of such Conditional Use Permit shall be null and void and of no effect and that proceedings shall be instituted to rezone the property to its previous zoning classification.

~~Within a CUD Pursuant to the Conditional District,~~ only those uses authorized as permitted or conditional uses in the zoning district with which the ~~CUD~~ **CD** corresponds shall be permitted, and all other requirements of the corresponding district shall be met as minimum standards. In addition, ~~within a CUD no use shall be permitted except subject to a Conditional Use Permit authorized by the Town Council, which shall specify the use or uses authorized~~ **no Conditional District shall be permitted without the approval of Town Council.** ~~Such permit~~ **The Conditional Zoning** may further specify the location on the property of the proposed use and uses, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request, but not to include conditions not generally a part of land development controls. ~~In granting a Conditional Use Permit the Town Council may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance be served, public welfare secured and substantial justice done.~~ *(2000 Zoning Ordinance, D-51-02149900, adopted 02/14/2000)*

Section 4.3.1. Conditional Use District with a Site Specific Development Plan

Subject to the provisions of Section 4.3 of this ordinance, the applicant ~~for rezoning to a conditional use district may request Conditional Use District with~~ **may submit a Site Specific Development Plan as part of a Conditional District request.** In such case, the applicant shall submit a ~~site specific development plan~~ **Site Specific Development Plan** and ~~development in accordance with the site plan,~~ upon approval **from Town Council,** the site shall be developed in accordance with the plan. ~~shall be a condition of the conditional use district.~~ The site plan shall include the following information:

Section 4.6 Determining Permitted and Conditional Special Uses, Principal Uses and Mixed Uses

The listing of Permitted and **Conditional Special** Uses in the various Districts in this Ordinance are considered to be specific in regard to the types of uses intended for each of the various Districts. In determining proposed uses, the Zoning Administrator shall refer to the latest edition of the Standard Industrial Classification (SIC) Manual published by the United States Department of Labor as a guide. When a proposed use is not specifically listed in the Table of Permitted and **Conditional Special** Uses, the Zoning Administrator shall use the SIC Manual to determine if the use is the same as, or manifestly similar to, a listed use in form and function. If the Zoning Administrator finds that the proposed use is the same as, or manifestly similar to, a listed use, he shall classify the proposed use as the listed use. If the Zoning Administrator finds that a proposed use is not the same as, or is not manifestly similar to, a listed use, he shall classify the proposed use as not permitted. In each case, the Zoning Administrator shall maintain a written record of such determinations.

Section 5.2 Agricultural-Residential District (AR)

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

Section 5.3 R-20 Residential District

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

Section 5.4 R-15 Residential District

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

Section 5.4.A R-12.5 Residential District

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

Section 5.5 R-10 Residential District

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

Section 5.6 R-8 Residential District

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

Section 5.7 R-6 Residential District

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

Section 5.8 Multi-Family Residential District (MR)

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

Section 5.9 Office and Institutional District (OI)

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

Section 5.10 Central Business District (CB)

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

Section 5.11 General Business District

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

Section 5.11.A Intermediate Commercial District

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

Section 5.12 Neighborhood Commercial (CN)

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

Section 5.13 Industrial District (I)

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

~~**Section 5.15 Conditional Use District**~~

~~A. Requirements within a Conditional Use District. Only those uses authorized as permitted uses or conditional uses in the zoning district with which the CUD corresponds shall be eligible to be permitted, and all other requirements of the corresponding district shall be met as minimum standards. In addition, within a CUD no use shall be permitted except pursuant to a Conditional Use Permit authorized by the Town Council, which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use and uses, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request, but not to include conditions not generally a part of land development controls. In granting a Conditional Use Permit the Town Council may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance be served, public welfare secured and substantial justice done. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)~~

ARTICLE VI. TABLE OF PERMITTED AND **CONDITIONAL SPECIAL USES**

Section 6.1 General

The table of Permitted and **Conditional Special** Uses which follows contains a listing of uses which may be permitted in one or more of the various Zoning Districts established by this Ordinance. Uses are listed in alphabetical order in nine functional categories. The categories in the order of listing are:

Section 6.2 Entries

The District or Districts in which a particular listed use may be permitted is indicated by an “x” or **“S”** in the District column(s) opposite the listed use. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

Section 6.3 Meaning of Entries

The meaning of the entrees in the Table are as follows:

1. “x” indicates the use is permitted by right and a Zoning Compliance Certificate may be obtained.
2. “e” “S” indicates the use requires approval of a Conditional Use Permit in accordance with the procedures of Section 12.5.

The column on the far right labeled “SR” (Special Requirement) means that there are special additional performance requirements that the use must comply with in its development. These requirements are contained in Section 6.5, “Special Requirements to the Table of Permitted and **Conditional Special** Uses”. For any use subject to a **Conditional Special** Use Permit, the Special Requirement shall represent the minimum conditions for issuance of a **Conditional Special** Use Permit.

The 1987 Standard Industrial Classification Manual was utilized in the preparation of this table and shall be consulted as a guide for purposes of determination by the Zoning Administrator. The Reference SIC column refers to SIC classifications. Entries with “0000” in the Reference SIC column do not correspond to any classification in the SIC Manual.

3. The listing of a use in the of Table Permitted and **Conditional Special** Uses in no way relieves that use of having to meet all local, State and Federal laws pertaining to the establishment and operation of that use. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

***** **Changed Heading: TABLE OF PERMITTED & ~~CONDITIONAL~~ SPECIAL USES** *****

Section 6.4 Table of Permitted and ~~Conditional~~ Special Uses.(See Table) (((REPLACED “C” WITH “S” IN TABLE)))

USE TYPES	LU C	SI C	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
Residential Uses bed and breakfast inns	2	0000	S	S	S	S	S	S			X	X	X				1
dwelling, conventional or modular: multi-family (including single family attached of more single family detached	2 1	000 0000	S X	X	X	X	X	X	X	X	S X	S S					2 / 42
two-family (Including single family attached of no more than 2 attached units	1	0000	S					S	X	X	S						2
dwelling, mobile home on class A single-family class B single-family	1	000000	S						X								3 4
family care home (6 or less)	2	8354	X	X	X	X	X	X	X	X	X	X	X		X	X	5
family day-care home (3-5)	*	8322	S	S	S	S	S	S	S	S	S						5
home occupation, customary	*	000	S	S	S	S	S	S	S	S	S						6
mobile home park	2	000	S							S							7
planned unit development	2	000															8

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
Recreational Uses																	
Amusement arcades and indoor places of entertainment; including bowling alleys, pool rooms, skating rinks & batting cage, tennis courts	3	7999										X	X			X	
amusement or water parks	4	7996											X			X	10
associations or organizations; social & fraternal	2	8640	S								X		X	X		X	11
auditorium, assembly hall; indoor theaters, public	3	0000									X	X	X			X	
batting cages, outdoor	3	7999											X			X	10
bingo games	3	7999										X	X			X	
dance studios & schools, including aerobics	3	7911										X	X	X		X	
dance halls, including night clubs	4	5810										X	X			X	23
fortune tellers, astrologers	3	7999										X	X			X	
go-cart, motorcycle & similar vehicles tracks	4	7999														X	10
golf courses, including pro shop	1	7997	X	X	X	X	X	X	X	X	X	X	X		X	X	12
golf driving ranges	3	7999	S										X			X	10
internet sweepstakes	3												X			X	44
marinas	4	4493											X			X	
martial arts instructional schools	3	7999										X	X	X		X	
miniature golf facilities	3	7999											X			X	10
physical fitness centers	3	7991								X	X	X	X	X	X	X	
public parks	2	7990	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
recreation facilities, public	2	7999	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
recreation facilities, private: including country clubs, private neighborhood parks & multi-family recreation areas where the principal use is permitted in the zoning district	2	7997	S	S	S	S	S	S	S	S	S						12
saddle, hunting, fishing, boating and similar private clubs	4	7999	S										X			X	12
shooting ranges, indoor	3	7999											X			X	
shooting ranges, outdoor, local government only	4	7999														X	
swim and tennis clubs	3	7997	X	X	X	X	X	X	X	X	X	X	X	X	X	X	13
swimming pool, private	3	7997	X	X	X	X	X	X	X	X	X	X	X	X	X	X	13

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
Educational & Institutional Uses																	
ambulance services	3	4119									X	X	X			X	
cemetery	3	0000	C													X	14
churches, synagogues & other associated activities	2	8661	X	X	X	X	X	X	X	X	X	X	X	X		X	
colleges or universities	3	8220	X								X	X	X			X	
correctional institutions	3	9223														X	
day care centers, (6 or more)	3	8322	S					S	S	X	X	X	X	X	S	X	15/43
governmental offices & facilities	3	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
hospitals, public & private	3	8026									X	X	X			X	
libraries	3	8231									X	X	X	X	X	X	
museums or art galleries	3	8412									X	X	X	X	X	X	
congregate or convalescent care facility	3	8050							S	S	S		S			S	16
group care facility	3	8050								S			S			S	16
nursing home	3	8050							S	S	S		S			S	16
orphanages	2	8361									X	X	X				
philanthropic institutions	3	8399									X	X	X	X		X	
post offices	3	0000								X	X	X	X	X	X	X	
retreat centers	3	0000	X							X	X	X	X				
schools, including public schools & private schools, having a curriculum similar to those given in public schools	3	8210	X	X	X	X	X	X	X	X	X	X	X			X	
schools, specialty training, such as cosmetology, vocation or trade services, not elsewhere classified, where no retail, wholesale, or repair is conducted	3	8240									X	X	X			X	

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
Business, Professional & Personal Services																	
accounting, auditing, or bookkeeping	3	8721									X	X	X	X	X	X	
administrative or management services	3	8740									X	X	X	X		X	
advertising agencies or representatives	3	7310									X	X	X	X		X	
agencies & offices rendering specialized services not involving retail trade such as real estate, insurance, advertising, architecture, engineering, & accounting and not listed elsewhere	3	0000									X	X	X	X	X	X	
animal clinics and hospitals; including totally enclosed kennels operated in connection with animal clinics or hospitals	4	0742	S								X		X			X	17
animal kennels	4	0000	S										X			X	18

automobile parking lots & facilities for permitted uses in the district	3	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
automobile parking (commercial)	3	7521										X	X			X	
automobile rental or leasing	4	7510										X	X	X		X	
automobile repair & service (excluding storage of wrecked or junked vehicles)	4	0000										X	X			X	
automobile storage	4	0000														X	19
automobile towing & storage services	4	7549														X	19
automobile washing facilities	4	7542										X	X			X	
automobile wrecking or junk yards	5	5093														X	19
banking, including loan offices & investment houses	3	6000									X	X	X	X	X	X	
barber and beauty shops	3	7241									X	X	X	X	X	X	
building maintenance services	4	7349											X			X	
bus stations	4	4100										X	X			X	
chiropractors' offices	3	8041									X	X	X	X	X	X	
clothing alterations or repairs	3	0000										X	X	X	X	X	
communicative facilities, including radio & television broadcasting excluding towers that exceed the height limits	3	0000									X	X	X			X	
computer services	3	0000									X	X	X	X	X	X	
contractors' facilities with open storage	4	0000	S										X			X	41
contractors' offices (no storage)	3	0000	S								X	X	X			X	41
USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
convenience food stores: not operating between 11pm-6am	3	5411										X	X			X	
operating 11pm-6am, 24hr	4	5411										X	X			X	
dental offices and laboratories	3	8071									X	X	X	X	X	X	
doctors' offices & laboratories	3	8000									X	X	X	X	X	X	
drive-in theaters	4	7833														X	
dry cleaning & laundry facilities	3	7211										X	X		X	X	
economic, social, or educational research	3	8732									X	X	X			X	
employment agencies, personnel agencies	3	7360									X	X	X			X	
engineering, architectural, surveying services	3	0000									X	X	X	X		X	
equipment rental & leasing	4	7350											X			X	
equipment repairs, heavy	4	7690														X	
equipment repairs, light	4	7690											X			X	
exterminating services	3	7342											X			X	
farm related enterprises such as vegetable stands, fishing ponds, horticulture. (*Does not include: landscaping services, farm supplies, or stables. Items removed 11/2017)	3	0000	X														
finance or loan offices	3	6100									X	X	X	X	X	X	

fraternal organizations	2	8640	S									X	X	X	X		X	11
freezer lockers	3	0000															X	
funeral homes	3	7261						S	S			X	X	X	X		X	20
insurance agencies	3	6411										X	X	X	X		X	
internal service facilities, incidental to permitted uses, including cafeterias, day care facilities, snack bars, pharmacies, optical stores & similar retail activities when conducted solely for use of employees, patrons, or occasional visitors; provided, such activities are within the principal building & advertising for it is not permitted beyond the premises	3	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
interior decorator	3	0000										X	X	X	X		X	
Laundromats	3	7215										X	X	X	X	X	X	
law offices	3	8111										X	X	X	X	X	X	
locksmith shops, including repair	3	7690										X	X	X			X	
USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR	
medical, dental, or related offices	3	8000									X	X	X	X	X	X		
medical or dental laboratories	3	8071									X	X	X	X	X	X		
mini-warehouses	4	0000								S		X	X	X	X	X	21	
motels & hotels	3	7011											X				X	
motion picture productions	3	7810										X	X		X	X		
noncommercial research organizations	3	8733									X	X	X		X	X		
office, not classified elsewhere (no retail)	3	0000									X	X	X	X	X	X		
optometrists & ophthalmologists	3	8000									X	X	X	X	X	X		
photocopying & duplicating services	3	7334									X	X	X	X	X	X		
photo finishing laboratories	3	7384										X	X	X	X	X		
photography studio	3	7221									X	X	X	X	X	X		
picture framing shop	3	7699									X	X	X	X	X	X		
psychologists' offices	3	8000									X	X	X	X	X	X		
real estate offices	3	0000									X	X	X	X	X	X		
recreational vehicle parks or campsites	4	7033															X	22
refrigerator or large appliance repairs	4	7623											X				X	41
rehabilitation or counseling services	3	8300										X	X	X			X	
repair shops not classified elsewhere	4	0000											X				X	
research, development, or testing services	3	8730											X				X	
septic tank services	3	7699											X				X	
service stations (not including truck stops)	4	7530										X	X	X	X	X		
shoe repair or shoeshine shops	3	7251										X	X	X	X	X		
signs as regulated by Article IX	*		X	X	X	X	X	X	X	X	X	X	X	X	X	X		
stock, security or commodity brokers	3	6200									X	X	X	X	X	X		

structures & uses clearly incidental to a permitted use	3	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
tanning salons	3	7299										X	X	X	X	X	
tattooing	3	7299											X			X	45
taxi terminals	4	4121										X	X			X	
taxidermists	3	7699											X			X	
tire recapping	4	7534											X			X	
travel agencies	3	4720									X	X	X	X	X	X	
truck driving schools	3	8249														X	
truck & utility trailer rental, sales & leasing, light	4	0000											X			X	
USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
truck & utility trailer rental, sales & leasing, heavy	4	0000											X			X	
truck washing	4	7542														X	
upholstering & furniture refinishing	4	7641											X			X	
utility company offices	3	0000									X	X	X	X	X	X	
veterinary services (no outside kennels)	3	0740									X		X			X	
vocational, business, secretarial schools	3	8240									X	X	X			X	
watch, clock, jewelry repair shops	3	7631	C									X	X	X	X	X	41

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
<u>Retail Trade</u>																	
ABC sales for on premises consumption	3	0000										X	X	X		X	23
antique shops	3	5936	S									X	X	X	X	X	24
apparel sales	3	5600										X	X	X	X	X	
appliance sales & service	3	5722	S									X	X	X		X	41
art studio & galleries	3	8412										X	X	X	X	X	
arts & craft sales; similar specialty retail	3	0000	S									X	X	X	X	X	24
auction houses	3	0000											X			X	
automobile & trucks dealers; new and used	4	7510											X			X	
automobile parts & supply store	3	5531										X	X	X		X	
bakeries; retail	3	5461										X	X	X	X	X	
bicycle sales & repair	3	5941										X	X	X	X	X	
boat dealers; sales & repair	4	5551											X			X	
book stores	3	5942									X	X	X	X	X	X	
building supply dealers	4	5211											X			X	
camera & photography; sales & service	3	5946										X	X	X		X	
candy stores	3	5441										X	X	X	X	X	
carpet sales & storage	3	5710										X	X			X	
clothing shops	3	5600										X	X	X		X	

catalogue stores	3	5961										X	X		X	X	
computer sales	3	5734										X	X	X	X	X	
dairy products stores	3	5451										X	X		X	X	
department & variety stores	3	5300										X	X	X	X	X	
drug stores & pharmacies	3	5912								X		X	X	X	X	X	
electronic product sales	3	5730										X	X	X	X	X	
fabric or piece goods stores	3	5949										X	X	X	X	X	
farm machinery sales & service	4	5083											X				X
farmer's or produce markets	3	5430										X	X				X
farm supplies	4	0000										X	X				X
flea market	3	5999											X				X
floor covering, drapery or upholstery	3	5710										X	X	X	X	X	
florist shop	3	5992	S								X	X	X	X	X	X	41
fuel oil sales	4	5980											X				X
furniture sales	3	5712										X	X				X
furniture repair, including upholstery	4	7641											X				X
garden centers or retail nurseries	3	5261											X	X	X	X	
USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
gift, novelty & souvenir shop	3	5947	S									X	X	X		X	24
grocery store	3	5400										X	X	X	X	X	
hardware store	3	5251										X	X	X	X	X	
hobby & toy stores	3	5945										X	X	X	X	X	
home furnishings, miscellaneous	3	5719										X	X	X			X
jewelry sales & repair	3	5944										X	X	X	X	X	
leather goods sales	3	5948										X	X	X	X	X	
lighting goods sales	3	5948										X	X	X			X
liquor stores	3	5921										X	X	X			X
mirobrewery & brewpub	3	2082									S	X	X	X		X	23
miscellaneous retail sales	3	5999										X	X				X
mobile home sales & services	4	5271											X				X
motorcycle sales	4	5571											X				X
music stores including instrument repair	3	5736										X	X	X	X	X	
newsstand, magazines	3	5994										X	X	X	X	X	
office supply store	3	5999										X	X	X	X	X	
optical goods sales	3	5995										X	X	X	X	X	
paint, glass, and wallpaper stores	3	0000										X	X	X			X
pawn shop	3	0000										X	X				X
pet stores	3	5999										X	X	X			X
radio & television, stores & repairs	3	5731										X	X	X			X
record, tape, cd stores	3	5735										X	X	X	X	X	
recreation vehicles sales & service	4	5561											X				X
restaurants (with drive-through)	4	5812										X	X				X
restaurants (w/o drive-through)	3	5812									X	X	X	X	X	X	

retail sales & service where not classified elsewhere, and where all retail sales & services are conducted within an enclosed building	3	0000										X	X	X	X	X	41
retail sales & services not classified elsewhere including outdoor storage	3	0000											X			X	
service stations, gasoline	4	5541										X	X	X	X	X	
shoe sales and or repair	3	0000										X	X	X	X	X	
shopping centers & malls	3	0000											S		S	X	25
sporting goods stores	3	5941										X	X	X	X	X	
tire dealers & services	4	5531											X			X	
tobacco stores	3	5993										X	X	X	X	X	
USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
truck shops	4	0000														X	
video tape rental & sales	3	7841										X	X	X	X	X	
wine & craft beer shop	3	5921										X	X	X	X	X	
woodworking shops, retail	4	5999										X	X	X	X	X	

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
<u>Wholesale Trade</u>																	
agriculture chemicals/pesticides/fertilizers	4	5191	S													X	26
agriculture products, other	4	5159	S										X			X	26
ammunition	3	5099														X	
animals & animal products, other	4	5159														X	
apparel, piece goods & notions	3	5130											X			X	
bakeries; wholesale	4	2050											X			X	
books, periodicals, & newspaper	3	5192											X			X	
bulk mail & packaging	3	4212											X			X	
chemicals & allied products	4	5169														X	
courier services, central facility	3	4215											X			X	
courier service substations	4	4215											X			X	
drugs & sundries	3	5122											X			X	
durable goods, other	3	5099											X			X	
electrical goods	4	5060											X			X	
farm supplies, others	4	5191											X			X	
flowers, nursery stock & florist supplies	4	5193											X			X	
forest products	4	5099											X			X	
furniture & home furnishings	3	5020											X			X	
groceries & related products	3	5140											X			X	
hardware	3	5072											X			X	
jewelry, watches, precious stones & metals	3	5094											X			X	
livestock	4	5154	S													X	27
lumber & other construction materials	4	5030											X			X	

machinery, equipment & supplies	4	5080											X			X	
market showrooms (furniture, apparel, etc.)	4	0000										X	X			X	
metals & minerals	4	5050											X			X	
motor vehicles, parts & supplies	4	5010											X			X	
movers & storage operations	4	4214											X			X	
paints & varnishes	4	5198											X			X	
paper & paper products	4	5110											X			X	
petroleum & petroleum products	4	5170														X	
plastics materials	4	5162											X			X	
plumbing & heating equipment	4	5070											X			X	
USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
professional & comm. Equipment & supplies	4	5040											X			X	
Regional Brewery (15,000 - 6,000,000 barrels/year)	4											S	S	S		X	23
resins	4	5162											X			X	
scrap & waste materials, recycling	4	5093														X	19
sporting & recreational goods & supplies	4	5091											X			X	
tobacco & tobacco supplies	3	5194											X			X	
toys & hobby goods & supplies	3	5092											X			X	
trucking or freight terminals	4	4210														X	
utility equipment & storage yards	4	0000											X			X	
wallpaper & paintbrushes	4	5198											X			X	
warehousing & storage, not including storage of any hazardous materials or waste as determined by any agency of the federal, state or local government	4	0000											X			X	

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
Public Works																	
electric transmission distribution poles, towers supporting cable, lines & related appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
governmental public works facilities, utilities, infrastructure & appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
natural gas distribution lines & related appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
power generation, natural gas plants & similar production facilities	5	0000														X	

radio, television & similar transmitting towers that exceed height but not including wireless telecommunications towers	4	0000	X											X			X	35
sewage collection lines, pump stations & appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
sewage treatment plants, non government public	4	0000	X	S	S	S	S	S	S	S	S	S	X	X			X	36
telephone & television cable poles, towers, supporting cable, lines & related appurtenances.	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
water distribution lines, booster pumps, storage facilities & appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
water treatment plants, non-government public	4	0000	X	S	S	S	S	S	S	S	S	S	X	X			X	36
wireless telecommunication towers & facilities	4	0000	S							S		S	S				X	37

Section 6.5 Special Requirements to the Table of Permitted and Conditional Special Uses

The Table of Permitted and Conditional Special Uses of Article VI contains a column on the far right labeled “SR” for Special Requirements. In any case where a use listed in the Table of Permitted and Conditional Special Uses has a number in the SR column opposite the use, the use must comply with the additional Special Requirements contained in this section corresponding to the Special Requirement number. For example, the use “Mobile Home Park” has the number “7” in the SR column opposite the use, therefore, the development of a Mobile Home Park must meet the special requirements for SR 7 Mobile Home Park of this section.

SR 8. Planned Unit Development

- a. PUD’s shall be permitted only when requested as a Conditional Use District and accompanied by a rezoning request to one of the following Zoning Districts: CUD-AR; CUD -R-20; CUD -R-15; CUD -R-12.5; CUD -R-10; CUD -R-8; and CUD -R-6.
- b. Application for PUD shall be approved only if the following findings area made:
 - 1. That application of planned unit development requirements to the property will produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern;
 - 2. That application of planned unit development requirements to the property will encourage innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible, and environmentally sensitive design;
 - 3. The application of planned unit development requirements to the property will produce a development functioning as a cohesive, unified project; and
 - 4. That application of planned unit development requirements to the property will not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the Town.
- c. An approved PUD Conditional Use-Permit District and the approved verified development plan shall govern all uses and development activities in a PUD.
- d. Except as otherwise provided by this SR, a PUD shall be subject to all the applicable standards, procedures and regulations of the other parts of this

ordinance.

- e. Minimum Size: No PUD shall be approved for a site of less than that shown in the following table. The site must be contiguous property under unified ownership or control.

Districts	Minimum
CU-AR; CU-R-20; CU-R-15; CU-R-12.5 CU-R-10	12 acres
CU-R-8; CU-R-6	6 acres

- f. USES: Uses permitted in a PUD shall be in accordance with the following schedule, provided, that uses to be in a PUD shall be stated in the **Conditional use permit District**.

- 7. Unified Development Plan: The application for a PUD **Conditional Use Permit as part of a Conditional Use District** rezoning shall be accompanied by a unified development plan in the form of a site specific development plan.

SR 37. Wireless Telecommunication Towers and Facilities

- e. Towers with a height of two hundred and fifty (250) feet or greater in any district shall be subject to Board of Adjustment approval as a **Conditional Special Use Permit**.

L. Off-Premises Signs

- 3) The use posting such signage must be located within an Agricultural- Residential Zoning District and must be a legal Permitted Use or approved **Conditional Special Use** within the Zoning Ordinance. Nonconforming uses established prior to the date of adoption of this ordinance shall not be eligible uses for the purposes of this section.

Section 12.5 Powers and Duties of the Board of Adjustment

- 4. **Conditional Special Use Permits**.

To hear and decide, in particular cases, and subject to appropriate conditions and safeguards, permits for conditional uses as authorized by Article VI. In granting a **conditional Special Use Permit** the Board shall make the following affirmative findings:

- a. The Use requested is among those listed as an eligible ~~Conditional~~ Special Use in the District in which the subject property is located;
- b. That the ~~Conditional~~ Special Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed;
- c. That the ~~Conditional~~ Special Use meets all required conditions and specifications;
- d. That the ~~Conditional~~ Special Use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- e. That the location and character of the ~~Conditional~~ Special Use if developed according to the plan as proposed will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the Town and its environs.

In granting a ~~Conditional~~ Special Use Permit, the Board may impose such additional restrictions and requirements upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of the ~~Conditional~~ Special Use Permit, otherwise the Permit shall be denied. Any ~~Conditional~~ Special Use Permit so authorized shall be perpetually binding upon the property included in such Permit unless subsequently change or amended by the Board, as provided for in this Article.

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

No proposal to amend or change any ~~Conditional~~ Special Use Permit shall be considered within three (3) months of the date of the original authorization of such Permit or within three (3) months of hearing of any previous proposal to amend or change such Permit.
(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

ARTICLE XIII. AMENDMENT PROCEDURES; CONDITIONAL ~~USE~~ DISTRICTS

Section 13.1 **General**

The Town Council may amend, supplement or change the Zoning Ordinance text and zoning district lines and designations according to the following procedure. It is the intent of this Ordinance that the applicant for rezoning to any district other than a Conditional ~~Use~~ District shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property. If the applicant believes that the development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with the principles underlying the Town's comprehensive zoning plan, he shall apply for rezoning to the appropriate Conditional ~~Use~~ District. ~~and simultaneously apply for Conditional Use Permit specifying the nature of his proposed development. No permit shall be issued for any development within a Conditional Use District except in accordance with an approved Conditional Use Permit. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)~~

Section 13.2 **Amendment Initiation**

Applications to change, supplement or amend this Ordinance may be initiated by:

1. Textual Amendment
 - a. The Town Council;
 - b. The Planning Board;
 - c. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.

2. Map Amendment
 - a. The Town Council;
 - b. The Planning Board;
 - c. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person. Provided, however, map amendments involving Conditional ~~Use~~ Districts may only be initiated by the owner or authorized agent of the owner. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

Section 13.3 **Submittal**

All applications for amendments to this Ordinance shall be in writing, signed and filed with the Zoning Administrator.

The Zoning Administrator, before scheduling any application for amendment for consideration by the Planning Board, shall ensure that it contains all the required information as specified in this Ordinance and on the application form. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance shall not be scheduled by the Zoning Administrator, but shall be returned to the applicant with a notation of the deficiencies in the application.

Completed applications shall be received a minimum of ten (10) days prior to the Planning Board meeting at which the proposed amendment is scheduled to be considered.

All applications for amendment shall contain, as a minimum, a description of the proposed change and if it would require a change of the zoning maps, the application shall include a map drawn to a scale of not less than four hundred (400) feet to the inch and not more than twenty (20) feet to the inch showing the land covered by the proposed amendment, a legal description of the property and a list of names and addresses of all owners of property involved in the map change and all adjoining owners as shown on County tax records.

~~Any application requesting a change to a Conditional Use District shall be accompanied by a Conditional Use Permit application showing the use or uses proposed and any conditions being proposed by the applicant. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)~~

Section 13.5 Town Council Action

The Zoning Administrator shall present any proposed amendments to the Town Council at its next regular scheduled meeting, following Planning Board action, at which it hears rezoning proposals. The Zoning Administrator shall transmit to the Town Council the Planning Board's record of action on the proposed amendments.

The Town Council shall take such lawful action on such proposals as it may deem advisable provided that no zoning amendment shall be adopted until after a public hearing shall have been held. Notwithstanding the provisions of Section 13.6, a simple majority vote of the Town Council shall be required to amend this ordinance. Notice of public hearing shall be given as required by N.C.G.S. ~~160A, Article 19, Part 3 (Zoning)~~ **160D.**

Section 13.6 ~~Protest Petition~~

~~In case, however, of a protest against such change, signed by the owners of twenty percent (20%) or more either of the area of the lots included in a proposed change, or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of the opposite lots, an amendment shall not become effective except by favorable vote of three fourths of all the members of the Town Council. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the Ordinance as a result of annexation or otherwise.~~

~~No protest against any change in or amendment to the Zoning Map shall be valid or effective for the purposes of this Article unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Town Clerk in sufficient time to allow the Town at least two normal work days, excluding Saturdays, Sundays, and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. All protest petitions shall be on a form prescribed and furnished by the Town, and such form may prescribe any reasonable information deemed necessary to permit the Town to determine the sufficiency and accuracy of~~

~~the petition. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)~~

Section 13.7 Special Provisions for Conditional Use Districts and Conditional Use Permits

Proposals for rezoning to any Conditional Use District shall be requested during a rezoning. ~~always be accompanied by a request for a Conditional Use Permit.~~ Such proposals and requests shall be processed and considered in in the same procedure as conventional rezoning proposals, except as otherwise set forth herein, and the voting shall be the same as that required for zoning matters.

~~Any proposal for a Conditional Use District rezoning and its accompanying request for a Condition Use Permit shall be heard and considered simultaneously. If the Town Council should determine that the property involved in the proposal should be rezoned and the Conditional Use Permit issued, it shall adopt an Ordinance rezoning the property and authorizing the issuance of the Conditional Use Permit. Otherwise the proposal shall be denied. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)~~

In ~~granting~~ **approving** a Conditional ~~Use Permit~~ **District**, the Town Council shall make the following affirmative findings:

1. That the Use(s) requested is among those listed as an eligible ~~Conditional~~ Use in the ~~Conditional Use District in which the subject property is located.~~ corresponding General ~~Use~~ **Zoning** District.
2. That the Use Limitations and Conditions as proposed and/or imposed for the Conditional ~~Use Permit~~ **District** meet or exceed and/or are at least as restrictive as the minimum standards for the corresponding General ~~Use~~ **Zoning** District.
3. That the Use Limitations and Conditions as proposed and/or imposed for the requested Conditional ~~Use Permit~~ **District** can reasonably be implemented and enforced for the subject property.
4. That when implemented the proposed and/or imposed use limitations and conditions will mitigate specific land development issues that would likely result if the subject property were zoned to accommodate all those uses and the minimum standards of the corresponding General ~~Use~~ Zoning District.
5. That the applicant has agreed to the use limitations and conditions as proposed and/or imposed for the requested Conditional ~~Use Permit~~ **District**. *(00-02, adopted 08/14/2000)*

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

Any Conditional **Use Permit District** so authorized shall be perpetually binding upon the property involved in such Permit unless subsequently changed or amended by the Town Council, as provided for in this Article.

The Town Council may change or amend any Conditional **Use Permit District**, after a public hearing upon recommendation by the Planning Board and subject to the same consideration as provided for in this section for the original issuance of a Conditional **Use Permit District**.

No proposal to amend or change any Conditional **Use Permit District** shall be considered within twelve (12) months of the date of the original authorization of such Permit or within twelve (12) months of hearing of any previous proposal to amend or change any such Permit. *(2000 Zoning Ordinance, 0- 51-02149900, adopted 02/14/2000)*

Section 14.1 Administrative Officer

- D. To make and keep all records necessary and appropriate to the office including record of issuance and denial of all Zoning Compliance Certificates, **Conditional Special** Use Permits, Amendments, Variances, Appeals, and of receipt of complaints of violations of this ordinance and action taken on the same.

Section 14.4 Zoning Compliance Certificate With Vested Rights

In granting such Permit, the Board of Adjustment shall make the following affirmative findings:

- 1) The use requested is among those listed as a Permitted or **Conditional Special** Use in the District in which the subject property is located or is to be located and complies with all the requirements of this Ordinance and other applicable ordinances.
- 2) The requested Permit is either essential or desirable for the public convenience or welfare.
- 3) The requested Permit will not impair the integrity or character of the surrounding or adjoining Districts, and will not be detrimental to the health, safety or welfare of the community.
- 4) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.

In granting a Zoning Compliance Certificate With Vested Rights, the Board of Adjustment may impose such additional restrictions and requirements upon such Certificate as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. Approval of a site specific development plan with the condition that a variance, ~~Conditional~~ **Special** Use Permit or modification be obtained shall not confer a vested right unless and until the necessary variance, ~~Conditional~~ **Special** Use Permit or modification is obtained. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of the Certificate, otherwise the Certificate shall be denied. Any Permit so authorized shall remain vested for a period of two years from the date of the action granting the Certificate.

Section 15.3 Effects Upon Outstanding Building Permits, Zoning Compliance Permits and ~~Conditional~~ **Special Use Permits**

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Building Inspector prior to the time of passage of this Ordinance or any amendment thereto; provided, however, that where construction is not begun under such outstanding permit within a period of one hundred eighty (180) days subsequent to the passage of this Ordinance or any amendment thereto, or where it has not been prosecuted to completion within eighteen (18) months subsequent to passage of this Ordinance or any amendment thereto, any further construction or use shall be in conformity with the provisions of this Ordinance or any such amendment.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any ~~Conditional~~ **Special** Use Permit which has been granted prior to the adoption of this Ordinance and which ~~Conditional~~ **Special** Use is no longer carried forth on this Ordinance provided that a Building Permit has been obtained and construction begun within one hundred eighty (180) days of the date of the approval of such Permit and provided that such Building Permit is prosecuted to completion as approval of such Permit and provided that such Building Permit is prosecuted to completion as provided above. Such valid ~~Conditional~~ **Special** Uses including those already existing for non-continued uses may be constructed, continued and reconstructed the same as any permitted use subject to such use limitations and other conditions as provided for in the original issuance of the ~~Conditional~~ **Special** Use Permit. Any such ~~Conditional~~ **Special** Use that is changed to any permitted use for any period of time shall not be permitted to resume the ~~Conditional~~ **Special** Use. *(2000 Zoning Ordinance, D-51-02149900, adopted 02/14/2000)*

Section 15.4 Definitions

Conditional District. A zoning district in which site plans or individualized development conditions are imposed.

~~Conditional Special Use.~~ 1) Uses listed in the Section 6.4 -Table of Permitted and ~~Conditional Special~~ Uses - of this ordinance which require approval of a ~~Conditional Special~~ Use Permit in accordance with the procedures of Section 12.5;

~~2) A use of land permitted in a Conditional Use District upon approval by the Town Council as part of the Conditional Use rezoning process.~~

((***MOVED ALPHABETICALLY FROM C’s TO S’s))

****Must ensure that ordinance definitions for the flowing terms are not inconsistent with the definition provided in state law and regulation: *building, dwelling, selling unit, bedroom, and sleeping unit* (S.L. 2019-111, § 1.17.)**

****May align ordinance terminology with Chapter 160D terminology, including for the following terms: *administrative decision, administrative hearing, determination, developer, development, development approval, development regulation, dwelling, evidentiary hearing, legislative decision, legislative hearing, planning and development regulation jurisdiction, and quasi-judicial decision.* (G.S. 160D-102.)**

Section 15.4 Definitions

Administrative decision. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

Administrative hearing. A proceeding to gather facts needed to make an administrative decision.

Bedroom: A room designated as sleeping or bedroom on the plans and permit application.

Building. ~~See “structure”-~~ Any structure used or intended for supporting or sheltering any use or occupancy.

Determination. A written, final, and binding order, requirement, or determination regarding

an administrative decision.

Developer. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

Development. Unless the context clearly indicates otherwise, the term means any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in G.S. 160D-8-2.
- d. The initiation or substantial change in the use of land or the intensity of use of land

Development approval. An administrative or quasi-judicial approval made pursuant to G.S. 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to G.S. 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued.

Development regulation. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this G.S. 160D, or a local act or charter that regulates land use or development.

Dwelling. A building intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

Evidentiary hearing. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under G.S. 160D.

Legislative decision. The adoption, amendment, or repeal of a regulation under G.S. 160D or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of G.S. 160D.

Legislative hearing. – A hearing to solicit public comment on a proposed legislative decision.

Planned unit development. A tract(s) of land under single corporation, firm, partnership or association ownership, or otherwise unified ownership or control, planned and developed as integral unit in a single development scheme or a well defined series of development operations in accordance with an approved site plan.

Planning and development regulation jurisdiction. The geographic area defined in Part 2 of G.S. 160D within which a city or county may undertake planning and apply the development regulations authorized by G.S. 160D.

Quasi-judicial decision. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

Sleeping Unit. A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

**** Must adopt broadened conflict-of-interest standards for governing and advisory boards. (G.S. 160D-109.)**

Section 15.4A Conflicts of Interest (G.S. 160D-1-9)

- a) Governing Board. – A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- b) Appointed Boards. – Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

- c) Administrative Staff. – No staff member shall make a final decision on an administrative decision required by G.S. 160D if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under G.S. 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.
- d) Quasi-Judicial Decisions. – A member of any board exercising quasi-judicial functions pursuant to G.S. 160D shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- e) Resolution of Objection. – If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- f) Familial Relationship. – For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

****Must not exclude manufactured homes based on the age of the home. (G.S. 160D-910.)**

Mobile home, class "A". A multi-sectional mobile home ~~constructed after July 1, 1976~~, that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the additional criteria for Class "A" mobile homes contained in Article IX.

Mobile home, class "B". A mobile home ~~constructed after July 1, 1976~~ that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect as the time of construction.

**** Must prohibit third-party down-zonings; may process local government-initiated down-zonings (S.L. 2019-111, Pt. I.)**

Section 13.2 Amendment Initiation

Applications to change, supplement or amend this Ordinance may be initiated by:

3. Textual Amendment
 - a. The Town Council;
 - b. The Planning Board;
 - c. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.
 - d. Third party down-zonings are prohibited. The Town Council and/or the Planning Board may initiate down-zonings (S.L. 2019-111, Pt. 1).

4. Map Amendment
 - a. The Town Council;
 - b. The Planning Board;
 - c. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person. Provided, however, map amendments involving Conditional Use Districts may only be initiated by the owner or authorized agent of the owner. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*
 - d. Third party down-zonings are prohibited. The Town Council and/or the Planning Board may initiate down-zonings (S.L. 2019-111, Pt. 1).

**** Must obtain applicant's/landowner's written consent to conditions related to a conditional-zoning approval to ensure enforceability. (S.L. 2019-111, Pt. I.)**

Section 13.3 Submittal

All applications for amendments to this Ordinance shall be in writing, signed and filed with the Zoning Administrator. Applications for conditional zonings shall be considered the applicant's/landowner's written consent to the conditions related to the conditional-zoning.

ARTICLE VIII. OFF-STREET PARKING AND LOADING

B. Definition of a Parking Space

The storage space of one (1) automobile. The size of a parking space shall be in accordance with geometric design principles for the type space and lot. (~~See Table I, Geometric Design Standards~~ in accordance with the Town of Winterville Design Manual).

** (REMOVED TABLE 1 – GEOMETRIC DESIGN STANDARDS FOR PARKING)

G.S. Chapter 160D Checklist of Changes to Local Ordinances, Policies, and Practices

August 2020 Update

This checklist outlines provisions in the new Chapter 160D of the North Carolina General Statutes (hereinafter G.S.) as well as related statutory changes that will be incorporated into Chapter 160D. The changes to the statutes affect the language of local ordinances, the options for local decision processes, and the administrative practices related to development regulations.

This checklist is one piece of a larger set of resources and training materials, including an explanatory book, *Chapter 160D: A New Land Use Law for North Carolina*. Each item on this checklist is described more thoroughly in those additional resources. Section headers in this checklist note the corresponding chapter and section of the Chapter 160D book [in brackets]. Check nc160D.sog.unc.edu for additional resources and training.

The checklist has specific notations, which are accompanied by specific icons, as follows:

- Denotes legislative changes for which local governments **must** take action (statutory citations are in parentheses) (Many changes may already be reflected in the local ordinance. If so, no additional change is necessary for the ordinance.)
- Denotes permissive legislative changes for which local governments **may** take action
- △ Denotes notable legislative changes that do not require local action but of which local governments must **be aware**

Session Law 2020-25 (S.B. 720) amended Chapter 160D to incorporate other legislative changes from 2019 and make technical corrections. Those changes are noted in this updated checklist with new language underlined and cut language shown with strikethrough. Notably, S.L. 2020-25 altered the effective date of Chapter 160D. All powers and actions authorized under Chapter 160D are available as of June 19, 2020 (local ordinances may be updated and made effective immediately), but local governments have until July 1, 2021, to update local ordinances and policies to comply with the requirements of Chapter 160D. For that reason, the asterisks from the original checklist are removed. For the time before a local government amends its ordinances to comply with Chapter 160D, the rules and requirements of Chapter 160A (for municipalities) or Chapter 153A (for counties) will effectively remain controlling for that local government.

~~*For items noted with an asterisk, local governments do not have authority for the change until January 1, 2021, unless legislation authorizes earlier effectiveness. Noted changes may be incorporated into ordinances and policies, but they must not be effective until 2021. All other changes may be adopted and effective immediately.~~

I. Terminology and Citations [Chapter 1, Section III]

- Must** update any references to provisions in G.S. Chapter 160A or 153A to indicate relevant provisions in Chapter 160D. (See appendixes B and C in the Chapter 160D book.)
- Must** align ordinance terminology with Chapter 160D terminology for *conditional zoning* and *special use permits*; must delete use of the terms *conditional use permit*, *special exception*, *conditional use district zoning*, and *special use district zoning*. (See G.S. 160D-102.)
- Must** ensure that ordinance definitions for the following terms are not inconsistent with definitions provided in state law and regulation: *building*, *dwelling*, *dwelling unit*, *bedroom*, and *sleeping unit*. (G.S. 160D-706; S.L. 2019-111, § 1.17.)
- May** align ordinance terminology with Chapter 160D terminology, including for the following terms: *administrative decision*, *administrative hearing*, *determination*, *developer*, *development*, *development approval*, *development regulation*, *dwelling*, *evidentiary hearing*, *legislative decision*, *legislative hearing*, *planning and development regulation jurisdiction*, and *quasi-judicial decision*. (G.S. 160D-102.)

II. Geographic Jurisdiction [Chapter 2, Section I]

- For extension of extraterritorial jurisdiction (ETJ), a municipality **must** provide mailed notice thirty days prior to ETJ hearing; municipality **may** hold one hearing (with single mailed notice) regarding ETJ and initial zoning amendment. (G.S. 160D-202(d).)
- Municipality **may** hold hearings in anticipation of change in jurisdiction. (G.S. 160D-204.)
- For a parcel in two jurisdictions, the owner and the jurisdictions **may** agree for development regulations from one jurisdiction to apply to the entire parcel. (G.S. 160D-203.)
- In ETJ, the county **may** elect to exercise development regulations that the municipality is not exercising. (G.S. 160D-202(b).)
- For counties, the county **may** apply zoning and subdivision regulations to all or part of the county's planning and development regulation jurisdiction. Cities with zoning must apply zoning jurisdiction-wide. (G.S. 160D-201; S.L. 2020-25.)

III. Boards [Chapter 2, Section II]

A. In General

- Must** adopt broadened conflict-of-interest standards for governing and advisory boards. (G.S. 160D-109.)
- Must** keep minutes of proceedings of each board. (G.S. 160D-308.)
- Must** have each board member take an oath of office before starting his or her duties. (G.S. 160D-309.)

- Must** update ETJ population estimate, at least with each decennial census (also calculation for proportional representation is simplified and process for appointment is clarified). (G.S. 160D-307.)
- Must** provide proportional representation for ETJ on preservation commission if any districts or landmarks are designated in the ETJ. (G.S. 160D-307.)
- May** have detailed rules of procedure for each board; **may** be adopted by governing board; if not, then **may** be adopted by individual board; if adopted, **must** maintain board rules of procedure (by clerk or other officer as set by ordinance) and **must** post board rules of procedure to website, if the jurisdiction has a website. (G.S. 160D-308.)
- May** establish reasonable procedures to solicit, review, and make appointments; governing board typically makes appointments but may delegate that appointment-making authority. (G.S. 160D-310.)
- May** establish additional advisory boards related to development regulations. (G.S. 160D-306.)

B. Planning Board

- May** assign to planning board the coordination of citizen engagement for planning. (G.S. 160D-301.)
- May** assign planning board to serve as preliminary forum for review and comment on quasi-judicial decisions, provided that no part of the preliminary forum or recommendation may be used as a basis for the deciding board. (G.S. 160D-301.)

C. Board of Adjustment

- May** assign board of adjustment to hear and decide matters under any development regulation, not just zoning. (G.S. 160D-302.)
- May** assign duties of housing appeals board to board of adjustment. (G.S. 160D-305.)

IV. Land Use Administration [Chapter 2, Section III]

A. In General

- Must** incorporate new staff conflict-of-interest standards into ordinance or policy. (G.S. 160D-109.)
- Must** maintain in paper or digital format current and prior zoning maps for public inspection. (G.S. 160D-105.)
- Must** maintain in paper or digital format any state or federal agency maps incorporated by reference into the zoning map. (G.S. 160D-105.)

- **May** enact ordinances, procedures, and fee schedules relating to administration and enforcement of development regulations. (G.S. 160D-402(b).)
- **May** charge reasonable fees for support, administration, and implementation of development regulation; **must** use any such fees for that purpose, not for other purposes. (G.S. 160D-402(d).)

B. Enforcement

- **Must** issue notices of violation (NOVs) in conformance with statutory procedures (must deliver to permittee and landowner if different; may deliver to occupant or person undertaking the activity; delivery by hand, email, or first-class mail; may be posted onsite; administrator to certify NOV for the file.) (G.S. 160D-404(a).)
- If inspecting, **must** enter the premises during reasonable hours and upon presenting credentials; **must** have consent of premises owner or an administrative search warrant to inspect areas not open to the public. (G.S. 160D-403(e).)
- For revocation of development approval, **must** follow the same process as was used for the approval. (G.S. 160D-403(f).)
- **May** perform inspections for other development approvals to ensure compliance with state law, local law, and the terms of the approval; **must** perform (or contract for) inspections for building permits. (G.S. 160D-1113; -403(e).)
- **May** perform inspections for general code compliance and enforcement (inspections unrelated to a development approval). (G.S. 160D-402(b).)
- **May** require a certificate of compliance or occupancy to confirm that permitted work complies with applicable laws and terms of the permit; still **must** require certificate of occupancy for work requiring a building permit. (G.S. 160D-403(g).)
- **May** issue stop-work orders for illegal or dangerous work or activity, whether related to a permit or not. (G.S. 160D-404(b).)
- **May** continue to use general enforcement methods, including civil penalties, fines, court ordered actions, and criminal prosecution. (G.S. 160D-404(c).)
- △ **Be aware** that a local government must bring a court action in advance of the applicable five- and seven-year statutes of limitation. (G.S. 1-51 and -49; established prior to Chapter 160D.)
- △ **Be aware** that a local government must comply with existing rules for uses that were previously nonconforming situations. If a use loses its nonconforming status, by amortization or change of use or otherwise, the local government must bring an enforcement action within ten years of the loss of nonconforming status. (160D-1405(c1); established prior to Chapter 160D.)

V. Substance of Zoning Ordinance [Chapter 3, Section I]

- Must** maintain current and prior zoning maps for public inspection (local government clerk or other office may be the responsible office); **may** adopt and maintain in paper or digital format. (G.S. 160D-105.)
- Must** eliminate conditional use district zoning; existing conditional use district zoning converts to conditional district ~~on January 1, 2021~~ upon adoption of updated local ordinances or July 1, 2021. (G.S. 160D-703; S.L. 2020-25; S.L. 2019-111, § 2.9(b).)
- Must not set a minimum square footage for structures subject to the One- and Two-Family Residential Building Code.** (G.S. 160D-703; S.L. 2019-174.)
- May** incorporate maps officially adopted by state or federal agencies (such as flood-insurance rate maps (FIRMs)) into the zoning map; **may** incorporate *the most recent officially adopted version* of such maps so that there is no need for ordinance amendment for subsequent map updates; **must** maintain current effective map for public inspection; **may** maintain in paper or digital format. (G.S. 160D-105.)
- May** require certain dedications and performance guarantees for zoning approvals to the same extent as for subdivision approvals. (G.S. 160D-702.)
- May** use form-based codes. (G.S. 160D-703(a)(3).)
- May** allow administrative minor modification of conditional zoning, special use permits, and other development approvals; if allowed, **must** define “minor modification” by ordinance, **must** not include modification of use or density, and major modifications **must** follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)
- May** apply zoning standards jurisdiction-wide, not just on a zoning district by zoning district basis. (G.S. 160D-703(d).)
- May** regulate development over navigable waters, including floating homes. (G.S. 160D-702(a).)

VI. Substance of Other Development Ordinances [Chapter 3, Section II]

- Must** conform subdivision performance guarantee requirements with statutory standards. (G.S. 160D-804.1; S.L. 2020-25; S.L. 2019-79 (S.B. 313), ~~to be incorporated into G.S. Chapter 160D-~~)
- Must** conform subdivision procedures for expedited review of certain minor subdivisions. (G.S. 160D-802, established prior to G.S. Chapter 160D.)
- Must not require a developer, as a condition to subdivision approval, to bury a power line existing above ground and outside of property to be subdivided.** (G.S. 160D-804; S.L. 2019-174.)

- Must** exempt farm use on bona fide farm in ETJ from city zoning to the same extent it would be exempt from county zoning; Chapter 160D clarifies that other municipal development regulations may still apply. (G.S. 160D-903(c).)
- Must** not exclude manufactured homes based on the age of the home. (G.S. 160D-910.)
- Must** follow standardized process for housing code enforcement to determine owner’s abandonment of intent to repair and need for demolition. (G.S. 160D-1203(6).)
- May** adopt moratoria for development regulations (subject to limitation on residential uses); moratoria do not affect rights established by permit choice rule. (G.S. 160D-107.)
- Municipalities may petition court to appoint a receiver for vacant structures. (160D-1130.)

A. Historic Preservation

- Must** follow standard quasi-judicial procedures for preservation certificates of appropriateness. (G.S. 160D-947(c).)
- Must** frame preservation district provisions as “standards” rather than “guidelines.” (G.S. 160D-947(c).)
- May** choose for appeals of preservation commission decisions to go to board of adjustment. Default rule is that preservation appeals go directly to superior court rather than to board of adjustment. (G.S. 160D-947(e).)

B. Development Agreements

- Must** process a development agreement as a legislative decision. (G.S. 160D-105.)
- Must** have a local government as a party to a development agreement (a water and sewer authority may enter an agreement as a party, but not independently). (G.S. 160D-1001(b).)
- May** consider a development agreement concurrently with a rezoning, subdivision, or site plan; **may** consider a development agreement in conjunction with a conditional zoning that incorporates the development agreement. (G.S. 160D-1001(d).)
- May** address fewer topics in development agreement content (list of mandated topics is shortened). (G.S. 160D-1006.)
- May** mutually agree with a developer for the developer to provide public improvements beyond what could have been required, provided such conditions are included in the development agreement. (G.S. 160D-1006(d).)
- May** include penalties for breach of a development agreement in the agreement or in the ordinance setting the procedures for development agreements; either party may bring legal action seeking an

injunction to enforce a development agreement. (G.S. 160D-1008.)

VII. Comprehensive Plan [Chapter 4, Section I]

- Must** adopt a comprehensive plan or land-use plan by July 1, 2022, to maintain zoning (no need to re-adopt a reasonably recent plan). (G.S. 160D-501(a).)
- Must** adopt a plan or a plan update following the procedures used for a legislative decision. (G.S. 160D-501(c).)
- Must** reasonably maintain a plan. (G.S. 160D-501(a).)
- May** coordinate a comprehensive plan with other required plans, such as Coastal Area Management Act (CAMA) plans. (G.S. 160D-501(a).)
- May** coordinate with other local governments, state agencies, or regional agencies on planning processes. (G.S. 160D-503(a).)

VIII. Legislative Decisions [Chapter 4, Section II]

A. Notice

- Must** follow applicable procedures for legislative decisions under any development regulation authorized under Chapter 160D, not just zoning; **must** adopt any development regulation by ordinance, not by resolution. (G.S. 160D-601.)
- For zoning map amendments, **must** provide notice not only to immediate neighbors but also to properties separated from the subject property by street, railroad, or other transportation corridor. (G.S. 160D-602.)
- For zoning map amendments, **must** provide posted notice during the time period running from twenty-five days prior to the hearing until ten days prior to the hearing. (G.S. 160D-602(c).)
- For extension of ETJ, **may** use single mailed notice for ETJ and zoning-map amendment pursuant to statutory procedures. (G.S. 160D-202.)
- For zoning map amendments, **may** require applicant to notify neighbors and hold a community meeting and **may** require report on the neighborhood communication as part of the application materials. (G.S. 160D-602(e).)

B. Planning Board Comment

- Must** refer zoning amendments to the planning board for review and comment; **must** not have governing board handle planning board duty to review and comment on zoning amendments. (G.S. 160D-604(c), (e).)

- Must** have planning board consider any plan adopted according to G.S. 160D-501 when making a comment on plan consistency. (G.S. 160D-604(d).)
- May** refer development regulation amendments (other than zoning) to the planning board for review and comment. (G.S. 160D-604(c).)

C. Plan Consistency

- When adopting an amendment to the zoning ordinance, **must** adopt a brief statement describing whether the action is consistent or inconsistent with approved plans. (G.S. 160D-605(a).) (*This eliminates the 2017 requirement that statements take one of three particular forms.*)
 - May** adopt plan consistency statement when acting upon the zoning amendment or as a separate motion. (G.S. 160D-605(a).)
 - May** meet the requirement for plan consistency even without formal adoption of a written statement if the minutes of the governing board meeting reflect that the board was fully aware of and considered the plan. (G.S. 160D-605(a).)
 - May** concurrently consider a comprehensive plan amendment and a zoning amendment; must not require a separate application or fee for plan amendment. (G.S. 160D-605(a).)
- Must** note on the applicable future land use map when a zoning map amendment is approved that is not consistent with the map; the future land use map is deemed amended when an inconsistent rezoning is approved. (G.S. 160D-605(a).) (*This clarifies that a rezoning inconsistent with a plan does not amend the text of the plan, but it does amend the future land use map.*)
- For a future land use map that is deemed amended, if it is a CAMA plan, then such amendment is not effective until it goes through the CAMA plan-amendment process. (G.S. 160D-501.)
- Must** adopt a statement of reasonableness for zoning *map* amendments; for such statements, **may** consider factors noted in the statutes; **may** adopt a statement of reasonableness for zoning *text* amendments. (G.S. 160D-605(b).)
 - May** consider and approve a statement of reasonableness and a plan consistency statement as a single, combined statement. (G.S. 160D-605(c).)

D. Voting

- Must** permit adoption of a legislative decision for development regulation on first reading by simple majority; no need for two-thirds majority on first reading, as was required for cities under prior law. (G.S. 160A-75; S.L. 2019-111, § 2.5(n).)

E. Certain Legislative Decisions

- Must** prohibit third-party down-zonings; **may** process down-zonings initiated by the local government or landowner (G.S. 160D-601; S.L. 2019-111, Pt. I.)
- Must** obtain applicant's/landowner's written consent to conditions related to a conditional zoning approval to ensure enforceability. (G.S. 160D-703(b); S.L. 2019-111, Pt. I.)
- May** use purely legislative conditional zoning and/or quasi-judicial special use permitting; **must** not use combined legislative and quasi-judicial process, such as conditional use district zoning. (G.S. 160D-102.)
- With applicant's written consent, **may** agree to conditional zoning conditions that go beyond the basic zoning authority to address additional fees, design requirements, and other development considerations. (G.S. 160D-703(b); S.L. 2019-111, Pt. I.)
- May** allow administrative minor modification of conditional zoning, special use permits, and other development approvals; if allowed, **must** define "minor modification: by ordinance, **must** not include modification of use or density, and major modifications **must** follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)

IX. Quasi-Judicial Decisions [Chapter 4, Section III]

A. Procedures

- Must** follow statutory procedures for all quasi-judicial development decisions, including variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. (G.S. 160D-102(28).)
- Must** hold an evidentiary hearing to gather competent, material, and substantial evidence to establish the facts of the case; the evidentiary hearing **must** have testimony under oath; **must** establish written findings of fact and conclusions of law. (G.S. 160D-406.)
- Board chair **must** rule at the evidentiary hearing on objections to inclusion or exclusion of administrative material; such ruling **may** be appealed to the full board. (G.S. 160D-406(d).)
- Must** allow parties with standing to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments; **may** allow non-parties to present competent, material, and substantial evidence that is not repetitive. (G.S. 160D-406(d).)
- May** continue an evidentiary hearing without additional notice if the time, date, and place of the continued hearing is announced at a duly noticed hearing that has been convened; if quorum is not present at a meeting, the evidentiary hearing is automatically continued to the next regular meeting of the board with no notice. (G.S. 160D-406(b).)

- **May** distribute meeting packet to board members in advance of the evidentiary hearing; if this is done, then **must** distribute the same materials to the applicant and landowner at the same time; **must** present such administrative materials at the hearing and make them part of the hearing record. (G.S. 160D-406(c).)
- **May** have the planning board serve as a preliminary forum for review in quasi-judicial decisions; if this is done, the planning board must not conduct a formal evidentiary hearing, but must conduct an informal preliminary discussion of the application; the forum and recommendation must not be used as the basis for the decision by the board—the decision must still be based on evidence presented at the evidentiary hearing. (G.S. 160D-301.)
- **May** require recordation of special use permits with the register of deeds. (G.S. 160D-705(c).)
- △ **Be aware** that the definition of *close family relationship* as used for conflicts of interest includes spouse, parent, child, brother, sister, grandparent, or grandchild (including step, half, and in-law relationships). (G.S. 160D-109(f).)
- △ **Be aware** that even if there is no objection before the board, opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value and traffic impacts. (S.L. 2019-111, § 1.9.)

B. Certain Quasi-Judicial Decisions

- **Must** not impose conditions on special use permits that the local government does not otherwise have statutory authority to impose. (G.S. 160D-705(c); S.L. 2019-111, Pt. I.)
- **Must** obtain applicant's/landowner's written consent to conditions related to a special use permit to ensure enforceability. (G.S. 160D-1402(k); G.S. 160D-1403.2; S.L. 2019-111, Pt. I.)
- **Must** set a thirty-day period to file an appeal of any administrative determination under a development regulation; **must** presume that if notice of determination is sent by mail, it is received on the third business day after it is sent. (G.S. 160D-405(c).)
- **May** adjust variance standards to provide for reasonable accommodation under the federal Fair Housing Act. (G.S. 160D-705(c).)
- **May** use purely legislative conditional zoning and/or quasi-judicial special use permitting; **must** not use combined legislative and quasi-judicial process, such as conditional use district zoning. (G.S. 160D-102.)
- **May** allow administrative minor modification of conditional zoning, special use permits, and other development approvals; if allowed, **must** define "minor modification" by ordinance, **must** not include modification of use or density, and major modifications **must** follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)

X. Administrative Decisions [Chapter 4, Section IV]

A. Development Approvals

- Must** provide development approvals in writing; **may** provide in print or electronic form; if electronic form is used, then it **must** be protected from further editing. (G.S. 160D-403(a).)
- Must** provide that applications for development approvals must be made by a person with a property interest in the property or a contract to purchase the property. (G.S. 160D-403(a).)
- Must** provide that development approvals run with the land. (G.S. 160D-104.)
- For revocation of development approval, **must** follow the same process as was used for the approval. (G.S. 160D-403(f).)
- May** require community notice or informational meetings as part of the decision-making process for administrative development approvals (quasi-judicial and legislative decisions already had notice and hearing requirements). (G.S. 160D-403(h).)
- May** set expiration of development approvals if work is not substantially commenced; default rule is twelve months, unless altered by state or local rule. (G.S. 160D-403(c).) Building permits expire after six months, as under prior law (no change to building permits). (G.S. 160D-1111.)
- May** extend expiration for development approvals for which construction is commenced and then is discontinued; default rule is that such approvals are valid for 24 months after discontinuation. (G.S. 160D-108(d).) Building permits for which work has been discontinued expire after twelve months, as under prior law (no change to building permits). (G.S. 160D-1111.) ~~**May** set expiration of development approvals if work is discontinued; default rule is twelve months, unless altered by state or local rule. (G.S. 160D-403(c).) **Be aware** that legislation will clarify the provisions on duration of development approvals. (G.S. 160D-403(c); S.L. 2019-111, § 1.3.)~~
- May** authorize administrative staff to approve minor modifications of development approvals and conditional-zoning approvals; if this is done, then **must** define “minor modifications” by ordinance and **must** not include modification of permitted use or density of development; major modifications **must** go through full applicable approval process. (G.S. 160D-403(d); -703(b); -705(c).)

B. Determinations

- Must** provide written notice of determination by personal delivery, electronic mail, or first-class mail to the property owner and party seeking determination, if different from the owner. (G.S. 160D-403(b).)
- May** designate an official to make determinations for a particular development regulation. (G.S. 160D-403(b).)

- **May** require owner to post notice of determination on the site for ten days; if such is not required, then owner has option to post on the site to establish constructive notice. (G.S. 160D-403(b).)

C. Appeals of Administrative Decisions

- **Must** allow administrative decisions of any development regulations (not just zoning) to be appealed to the board of adjustment, unless provided otherwise by statute or ordinance. (Appeals relating to erosion and sedimentation control, stormwater control, or building code and housing code violations are not made to the board of adjustment unless specified by local ordinance.) (G.S. 160D-405.)
- **Must** set a thirty-day period to file an appeal of any administrative determination under a development regulation; must presume that if notice of determination is sent by mail, it is received on the third business day after it is sent. (G.S. 160D-405(c).)
- **Must** require the official who made the decision (or his or her successor if the official is no longer employed) to appear as a witness in the appeal. (G.S. 160D-406.)
- **Must** pause enforcement actions, including fines, during the appeal. (G.S. 160D-405.)
- **May** assign the duty of hearing appeals to another board (other than the board of adjustment); if this is done, such board must follow quasi-judicial procedures. (G.S. 160D-405.)
- **May** designate that appeals be filed with the local government clerk *or* another official. (G.S. 160D-405.)

XI. Vested Rights and Permit Choice [Chapter 5, Section I]

A. Vested Rights

- **Must** recognize that building permits are valid for six months, as under prior law. (G.S. 160D-1111 ~~G.S. 160D-108(d)(1).~~)
- **Must** recognize the default rule that development approvals/permits are valid for twelve months, unless altered by statute or extended by local rule ~~adjusted by statute or local rule.~~ (G.S. 160D-108(d)(2).)
- **Must** identify site-specific vesting plans (formerly site-specific development plans) with vesting for two to five years, as under prior law, except for specified exceptions. (G.S. 160D-108.1 ~~G.S. 160D-108(d)(3); 108(f).~~)
- **Must** recognize multi-phase developments—long-term projects of at least 25 acres—with vesting up to seven years, except for specified exceptions (160D-108(c)(~~d~~)(4); -108(f).) (The previously authorized phased-development plan is obsolete and should be deleted from ordinance.)
- **May** provide for administrative determination of vested rights and for appeal to the board of adjustment. (G.S. 160D-108(h)(~~e~~), -405.)

- △ **Be aware** that a person claiming vested rights may bring an original civil action in court, skipping administrative determination and board of adjustment consideration. (G.S. 160D-108(h); 160D-405(c).)
- △ **Be aware** that vested rights run with the land, except for state-permitted outdoor advertising permits that run with the owner of the permit. (G.S. 160D-108(i)(g); S.L. 2019-111, Pt. I.)

B. Permit Choice

- **Must** not make an applicant wait for final action on the proposed change before proceeding if the applicant elected determination under prior rules. (G.S. 143-755; G.S. 160D-108(b).)
- △ **Be aware** that if a local development regulation changes after an application is submitted, the applicant may choose the version of the rule that applies; but **may** require the applicant to comply with new rules if the applicant delays the application for six months. (G.S. 143-755; G.S. 160D-108(b); S.L. 2019-111, Pt. I.)
- △ **Be aware** that an application for one development permit triggers permit choice for permits under any development regulation; such permit choice is valid for eighteen months after approval of the initial application. (G.S. 143-755; G.S. 160D-108(b); S.L. 2019-111, Pt. I.)

XII. Judicial Review [Chapter 5., Section II]

A. Declaratory Judgments

- △ **Be aware** that an individual may bring a declaratory judgment action to challenge legislative zoning decisions, vested rights claims, and challenges to land use authority related to administrative decisions, subject to specified procedures. (G.S. 160D-1401; G.S. 160D-1403.1)
- △ **Be aware** that other civil actions may be authorized—G.S. Chapter 160D does not limit availability of other actions. (G.S. 160D-1404.)

B. Appeals of Quasi-Judicial Decisions

- **Must** update ordinance to address appeals of certificates of appropriateness for historic landmarks and historic districts; default rule is that such appeals go straight to court; local government may opt for such appeals to go to the board of adjustment, as under prior statutes. (G.S. 160D-947.)
- **Must** provide that appeals of certificates of appropriateness must be filed within thirty days after the decision is effective or written notice is provided, the same as for appeals of other quasi-judicial decisions. (G.S. 160D-947; -1405.)
- △ **Be aware** that on appeal a party may request a stay of the approval or enforcement action. (G.S. 160D-1402(e).)

- △ **Be aware** that a local government may seek a stay in favor of itself (to prevent development under an approval). (G.S. 160D-1402(e).)
- △ **Be aware** that if, in the absence of a stay, an applicant proceeds with development, the person does so at his or her own risk. (G.S. 160D-1402(l).)
- △ **Be aware** that on appeal, the superior court now must allow for supplementing the record on questions of standing, conflicts of interest, constitutional violations, or actions in excess of statutory authority. (G.S. 160D-1402; S.L. 2019-111, § 1.9.)
- △ **Be aware** that even if there is no objection before the board, opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value and traffic impacts. (G.S. 160D-1402; S.L. 2019-111, § 1.9.)
- △ **Be aware** of specific judicial instructions for decisions of appeals of quasi-judicial decisions. (G.S. 160D-1402(k); S.L. 2019-111, § 1.9.)

C. Subdivision Decisions

- **May** establish a rule that administrative subdivision decisions are appealed to the board of adjustment. (G.S. 160D-1405.)
- △ **Be aware** that appeals of administrative subdivision decisions may be appealed directly to superior court. (G.S. 160D-1403.)
- △ **Be aware** that quasi-judicial subdivision decisions are appealed to superior court in the nature of certiorari. (G.S. 160D-1402.)

D. Attorneys' Fees

- △ **Be aware** that a court *shall* award attorneys' fees if the court finds that a city or county violated a statute or case law setting forth unambiguous limits on its authority. (G.S. 6-21.7; S.L. 2019-111, Pt. I.)
- △ **Be aware** that a court *shall* award attorneys' fees if the court finds that a local government took action inconsistent with, or in violation of, the permit choice ~~and vested rights~~ statutes. (G.S. 6-21.7; S.L. 2019-111, Pt. I.)
- △ **Be aware** that a court *may* award attorneys' fees in other matters of local government litigation. (G.S. 6-21.7; S.L. 2019-111, Pt. I.)

E. Additional Judicial Rules

- △ **Be aware** that a court may join a civil action challenging an ordinance with an appeal in the nature of certiorari. (G.S. 160D-1402(m).)

- △ **Be aware** that a local government **must** not assert the defense of estoppel to enforce conditions to which an applicant did not consent in writing. (G.S. 160D-1403.2; S.L. 2020-25; S.L. 2019-111, Pt. I.)

- △ **Be aware** that an action is not rendered moot if the party loses the relevant property interest as a result of the local government action being appealed, subject to applicable case law limits. (G.S. 160D-1402(j1); S.L. 2019-111, Pt. I.)



WINTERVILLE

A slice of the good life!

**CHAPTER 155 ZONING ORDINANCE OF THE
CODE OF ORDINANCES OF THE TOWN OF
WINTERVILLE, NORTH CAROLINA**

Originally adopted February 14, 2000

Incorporates amendments adopted up to date of printing.

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**AN ORDINANCE AMENDING
CHAPTER 155 OF THE CODE OF ORDINANCES
OF THE TOWN OF WINTERVILLE**

BE IT ORDAINED by the Town Council of the Town of Winterville, North Carolina, that the Code of Ordinances of the Town of Winterville is hereby amended by rewriting Article XV, Chapter 155, Zoning Code, in its entirety to read as follows:

**‘Chapter 155
Zoning Ordinance
Town of Winterville**

ARTICLE I. PURPOSE, AUTHORITY AND TITLE

Section 1.1 Purpose

The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan and for the purpose of (1) Promoting the public health, safety, morals, and general welfare; (2) Promoting the orderly growth and development of the Town of Winterville and the surrounding area; (3) Lessening congestion in the streets and roads; (4) Providing adequate light and air; (5) Securing safety from fires, panic, and other dangers; (6) Preventing the overcrowding of land; (7) Avoiding undue congestion of population; (8) Facilitating the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things to the character of each Zoning District and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Jurisdiction. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 1.2 Authority

This Ordinance is enacted pursuant to the authority conferred by Article 19 of Chapter 160 D of the Generals Statutes of North Carolina. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 1.3 Title

This ordinance shall be known as the “Zoning Ordinance of the Town of Winterville, North Carolina” and may be referred to as the “Zoning Ordinance”. The map referred to herein is identified by the title “Official Zoning Map, Winterville, North Carolina” and may be known as the “Zoning Map”. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

ARTICLE II. JURISDICTION MAP

Section 2.1 Territorial Jurisdiction

For the purpose of this Zoning Ordinance, the zoning jurisdiction of the Town of Winterville shall include the land within the corporate limits of the Town and that land located between these limits and the boundaries established in the municipal ordinance establishing extraterritorial jurisdiction boundaries, as now or hereafter fixed. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 2.2 Incorporation of Zoning Map

The Official Zoning Map, Winterville, North Carolina and all notations, references and other information shown on the map are hereby incorporated and made a part of this Ordinance. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

ARTICLE III. APPLICATION; GENERAL PROVISIONS; EXCEPTIONS AND MODIFICATIONS

Section 3.1 Zoning Affects Every Building and Use; Bona Fide Farms Exempt

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this Zoning Ordinance. Bona fide farms, with the exception of swine farm operations, are not affected by these regulations but any use of farm property for non-farm purpose is subject to these regulations. Swine farm operations as defined herein are prohibited within the jurisdiction of this Ordinance. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.2 Relationship of Buildings to Lot

Every building hereafter erected, moved or placed shall be located on a lot and in no case shall there be more than one (1) residential building on a lot except as otherwise provided for in this Ordinance. In any case where more than one principal building is permitted on a lot, such buildings shall be separated by a minimum of twenty (20) feet unless a lesser distance is otherwise specifically permitted by this Ordinance. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.3 Street Access

No building, structure or use of land shall be established on a lot nor shall any lot be created that does not abut upon a public street as defined herein to which it has legal access for a distance of not less than thirty-five (35) feet. Provided, the following exceptions shall apply to the access requirement:

1. The access requirement shall not apply to lawfully existing lots of record with a minimum of thirty-five (35) feet of frontage on a dedicated but not maintained street.
2. The access requirement shall not apply to developments exempt from public street access by Article VI.
3. The access requirement shall not apply to lots on approved private streets.

(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

Section 3.4 Lot of Record

Where the owner of a lawfully existing lot of official record in any residential district or the owner's successor in title thereto does not own sufficient contiguous land to enable the owner to conform to the minimum lot size requirements of this Ordinance, such lot may be used as a residential building site, where permitted, provided, however, that the other requirements of the district are complied with or a variance is obtained from the Board of Adjustment.

Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in a single ownership at any time after the adoption of this Ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as one or more lots which meet the minimum requirements of this Ordinance for the district in which such lots are located. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.5 Open Space Requirements

No part of a yard, court or other open space provided around any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space required under this Ordinance for another building or structure. Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except as provided for in this section. However, certain accessory structures are permitted to be placed in the required yard areas as provided for in the Schedule of District Regulations and this section. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.6 Reduction of Lot and Yard Areas Prohibited

No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth in this Ordinance. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.7 Water and Sewer Requirements

The lot sizes required for the various Districts in this Ordinance were drawn based upon the assumption that adequate water supply and sewage disposal systems are available to each and every lot. The lack of adequate systems for one or both facilities may require larger lot areas or, in some instances, because of Health Department Standards, may not permit development as intended. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.8 Height Limitation Exceptions

The height limitations of this Ordinance shall not apply to public buildings, churches, temples, schools, hospitals, belfries, cupolas and domes not intended for residential purposes, or to monuments, water towers, observation towers, power and communication transmission towers, flag poles and similar structures, provided such structures meet the required North Carolina Building Code. Height limitations shall apply to cellular telephone towers as regulated herein. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.9 Building Setback Exceptions

Setback distances shall be measured from the property line or street right-of-way line to the nearest portion of any building or structure excluding:

1. Unenclosed porches, attached carports, balconies or decks which do not project into any required yard more than three (3) feet; and
2. Chimneys, flues, coves, roof overhangs, window sills and bay windows which do not project into any required yard more than three (3) feet; and
3. Patios, drives, walkways, if no portion of the same extends more than twelve (12) inches off the ground; and
4. Any structure that is a mere appendage to a building, such as a flagpole or fountain.

(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

Section 3.10 Fences and Walls

Unless otherwise specified within this Ordinance, fences and walls shall be exempt from setback and yard requirements provided they comply with the visibility requirements of Section 3.15 and the following standards:

A. General Standards

Easements - Fences shall not be installed within nor encroach upon any drainage and/or utility easement unless specifically authorized through issuance of an Encroachment Permit as provided under Article VII, Section 7.2 of this ordinance.

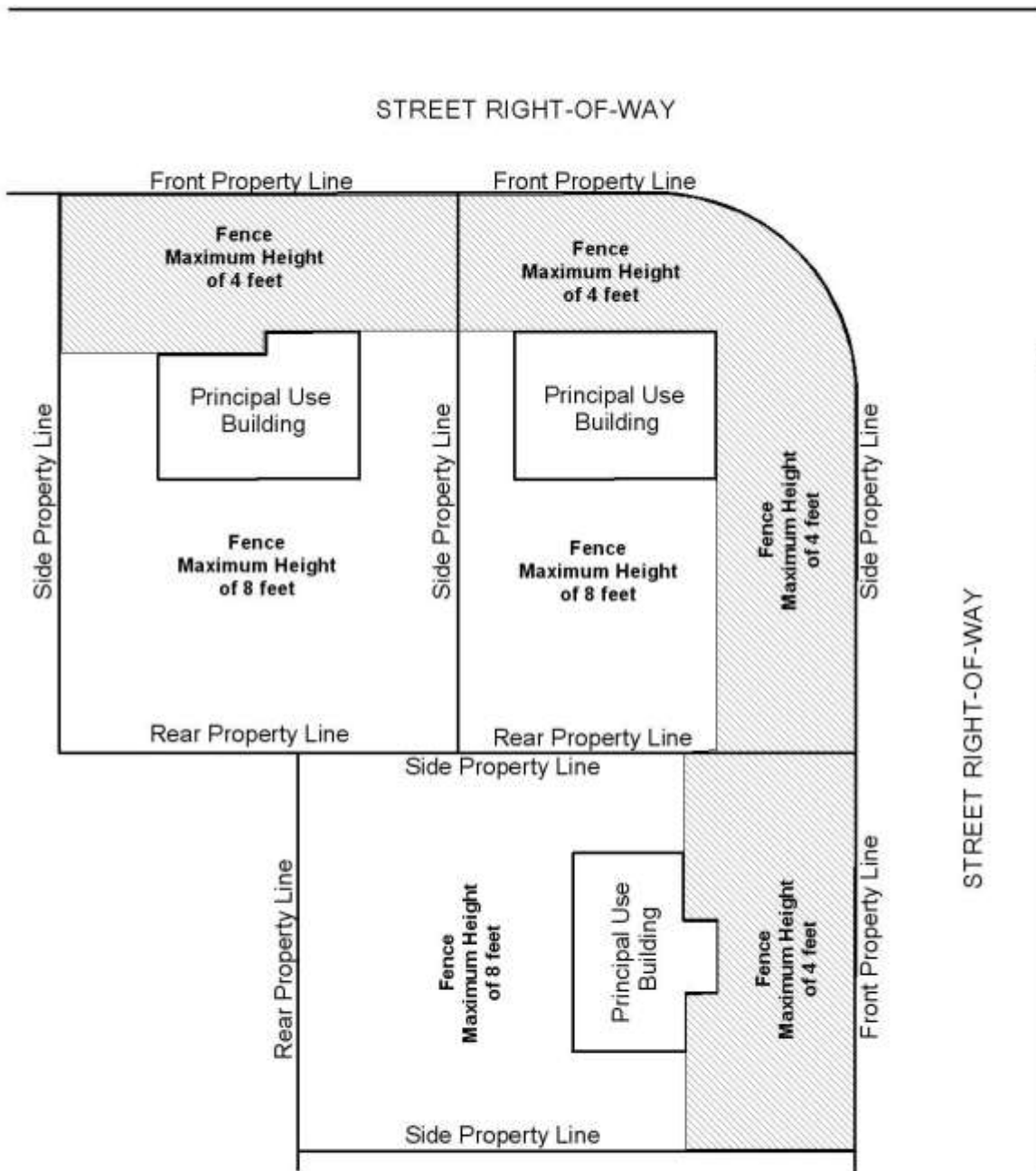
Zoning Compliance Certificate - No fence shall be erected until a Zoning Compliance Certificate shall have been issued by the Zoning Administrator as specified under Article XIV, Section 14.3 of this ordinance.

Height - Fences in non-residential districts are limited to eight (8) feet in height. *(09-0-136, adopted 04/13/2009)*

B. Residential Lot Fence Standards

1. Front Yard - Fences shall be limited to a maximum height of four (4) feet within the front yard. For the purposes of this section, “front yard” shall be defined as the area lying between the front property line and the front wall of the principal use building extended to the side property lines and running perpendicular to the adjoining side wall as per the below illustration titled “*Residential Lot Fence Standards Illustration*”.
2. Corner Lot Street Side Yard - Fences shall be limited to a maximum height of four (4) feet within the side yard adjacent to the street. For the purposes of this section, “side yard adjacent to the street” shall be defined as the area lying between the side street property line and the side wall of the principal use building extended to the rear property line and running parallel to the side property line as per the below illustration titled “*Residential Lot Fence Standards Illustration*”. *(12-0-288, adopted 05/14/2012)*

3. Other Areas - fences in other areas of the lot shall be limited to a maximum of eight (8) feet.
4. Maintenance - The owner of the property (or other party responsible for maintenance) on which the fence is located shall be required to maintain the fence in a safe and attractive condition. This shall mean the following:
 - a) No fence shall have more than 20 percent of its surface area material disfigured, cracked, ripped or with peeling paint or other material;
 - b) A fence shall not have bent or broken supports, including loose or missing appendages;
 - c) Fences shall be plumb (vertical) to the ground; and
 - d) Replacement of non-conforming fences shall comply with all the requirements of this section.
5. Materials / Design
 - a) Materials such as plywood, particleboard, sheet metal, concrete slabs, and concrete barriers shall not be used for fencing.
 - b) Barbed-wire and similar fence materials may only be used in conjunction with a permitted agricultural use or the permitted keeping of horses.
 - c) All fencing shall be finished on the side facing a public or private right-of-way or adjacent properties. *(09-0-136, adopted 04/13/2009)*



Residential Lot Fence Standards Illustration

(09-D-136, adopted 04/13/2009, 12-D-288, adopted 05-14-12)

Section 3.11 Accessory Buildings and Structures

No accessory buildings shall be erected in any front yard whether required or provided.

Accessory buildings may be located in a side or rear yard not adjacent to a street within five (5) feet of the property line. Accessory buildings to be located in the street side yard shall meet the principal building setback for that side. No separate accessory building shall be erected within five (5) feet of any other building. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

No accessory buildings shall be erected within nor encroach upon any drainage and/or utility easement unless specifically authorized through issuance of an Encroachment Permit as provided under Article VII, Section 7.2 of this ordinance. *(05-0-198, adopted 12/05/2005)*

All accessory buildings for residential use shall not exceed fifty percent (50%) of the gross floor area of the principal use building and/or cover more than thirty percent (30%) of the rear yard, whichever is lesser. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.12 Corner Lot Yards

In any residential, O-I, or C-N district, the side yard requirements for corner lots along the side street right-of-way shall have an extra width of ten (10) feet. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.13 Double Frontage Lots

In all Zoning Districts, Double Frontage Lots shall provide the minimum yard requirements for Front Yards along both street fronts. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.14 Front Yard Setbacks for Dwellings

For dwellings in residential districts, where lots located on either side of a center lot are improved with buildings having a front yard setback of less than twenty-five (25) feet, and the structures are no more than two-hundred (200) feet apart, the required setback of the center lot shall be the average of the setback of the two adjacent main buildings. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.15 Visibility at Intersections

On a corner lot in any district other than the C-B Central Business District, no planting, structure, sign, fence, wall or obstruction to vision more than three (3) feet in height measured from the centerline of the street shall be placed or maintained within the triangular area formed by the intersecting street right of way lines, and a straight line connecting the points on said street right-of-way lines, each of which is twenty (20) feet distance from the point of intersection. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.16 Temporary Buildings

Temporary buildings, including mobile structures, incidental to a construction project may be permitted to be used concurrent with the permit for permanent building(s) or construction. Such temporary building shall be removed promptly upon completion of construction. No such building shall be used for dwelling purposes. Temporary buildings shall be located at least twenty-five (25) feet from any property used for residential purposes. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.17 Computing the Number of Multi-Family Type Dwelling Units

In computing the number of multi-family type units (including attached units) permitted for a given area of land, subtract the amount of land area in square feet required for the first dwelling unit from the total net land area and then divide the remainder by the amount of land required for each unit over one. The quotient plus one is the number of dwelling units permitted for the given area of land. For example, on a land area of 54,000 square feet located in the M-R Residential District:

54,000	(Total Net Land)
<u>4,000</u>	(First Dwelling Unit)
50,000	(Remainder)

50,000 divided by 2,500 (each additional two or more bedroom unit) = 20
20 + 1 = 21

Therefore, twenty-one (21) multi-family two or more bedroom units may be placed on the 54,000 square foot property. Fractional units over one-half (1/2) may be rounded to the next higher whole number when the base number of units is twenty (20) or more.

On projects with one building per lot, the computation must be repeated for each lot separately. On projects with more than one building on a lot, the computation need only be made one time. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.18 Entrances/Exits to Public Streets

Entrances and exits to public streets shall be placed and constructed in accordance with the “Policy on Street and Driveway Access to North Carolina Highway” adopted by the North Carolina Department of Transportation (NCDOT), as amended.

No portion of any entrance driveway leading from a public street shall be closer than twenty (20) feet to the corner of any intersection measured from the right-of-way line. The width of any entrance driveway leading from the public street shall not exceed thirty (30) feet at its intersection with curb or street line. No two driveways on a single lot leading from a public street shall be within twenty (20) feet of each other measured along the right-of-way. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.19 Projections into Front Yards in Commercial and Industrial Districts

In commercial and industrial districts, open, unenclosed gasoline pump canopies, gasoline filling and related equipment and similar facilities may project into one-half (1/2) the front yard setback requirement for the district. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.20 Outdoor Lighting

Outdoor lighting fixtures shall be installed in a manner to protect the street and neighboring properties from direct glare or hazardous interference of any kind. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.21 Performance Standards

No use in any District shall violate any of the following performance standards:

Section 3.21.1 Air Pollution

No activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation, or other forms of property. No activity shall emit any liquid or solid particle in concentrations exceeding 0.3 grains per cubic foot of the conveying gas nor any color visible smoke equal to or darker than No. 2 on the Ringlemann Chart described in the United States Bureau of Mines Information Circular 7718.

Section 3.21.2 Fire and Explosive Hazards

All activities involving the manufacturing, utilization, processing or storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire fighting and fire suppression equipment and devices that are standard with the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The above ground storage capacity of materials that produce inflammable or explosive vapors shall not exceed the following:

<u>Closed Cup Flash Point</u>	<u>Gallons</u>
Over 187' F.	400,000
105' F. to 187' F.	200,000
Below 105' F.	100,000

Section 3.21.3 Glare and Heat

No activity shall emit glare or heat that is visible or measurable at the boundaries of the lot on which the principal use is located. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

Section 3.21.4 Water Quality Protection

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that would be likely to run off, seep, percolate or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant or aquatic life.

Section 3.21.5 Noise

No activity shall produce a sound level outside the boundary that exceeds the following sound levels measured by a sound level and associated octave band filter:

<u>Octave Band Frequency</u> <u>Cycle per Second</u>	<u>Sound Level</u> <u>Decibels</u>
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1200	46
1200 to 2400	40
2400 to 4800	34
above 4800	32

All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character, or shrillness.

Section 3.21.6 Odors

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside their premises. The guide for determining odor measurement and control shall be Chapter 13, Air Pollution Abatement Manual 1960, prepared by the Manufacturing Chemists Association, Inc., Washington, D.C.

Section 3.21.7 Vibration

No activity shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

	Displacement (inches)	
<u>Frequency</u> (Cycles per Second)	<u>Outside of</u> <u>Premises</u>	<u>Outside of</u> <u>District</u>
0 to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and over	.0002	.0001

(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

Section 3.22 Class C Mobile Homes Prohibited

After the effective date of this Ordinance no Class C Mobile Home shall be placed in the jurisdiction of this Ordinance nor shall any Class C Mobile Home that is existing within the jurisdiction of this Ordinance be moved and placed at any other location within the jurisdiction of this Ordinance. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.23 Use of Mobile Homes for Storage Prohibited

The use of mobile homes or travel trailers for storage purposes shall be expressly prohibited in all zoning districts. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.23.A Use of Recreational Vehicle as Dwelling Prohibited

Recreational vehicles and travel trailers may be parked or stored on any residential lot which contains a legal principal use, subject to the provisions of Winterville Code of Ordinances Chapter 72, provided such units are not utilized for the purposes of living, sleeping or cooking.

No recreational vehicle, travel trailer, motor home or tent may serve as a dwelling except as otherwise specifically provided in this ordinance.

Festivals & Major Events - the provisions of this section shall not prohibit the temporary use of recreational vehicles as part of approved festivals and/or major events provided that such use is located on the specific premise(s) authorized for such festival or major event and provided that such use may occur only for the duration of the festival or major event. *(09-0-108, adopted 01/12/09)*

Section 3.24 Minimum Requirements

Regulations set forth by this Ordinance shall be minimum regulations. If the requirements set forth in this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinance, the more restrictive or higher standards shall govern. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 3.25 Fees

Applicants for permits and other procedures as provided for by this Ordinance may be required to pay such fees as may be established by the Town Council in the Schedule of Fees and Charges. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

ARTICLE IV. ESTABLISHMENT OF ZONING DISTRICTS

Section 4.1 Primary Zoning Districts Established: Purposes Set Forth

For the purposes of this Ordinance, the Town of Winterville, North Carolina, and the area comprising its extraterritorial zoning jurisdiction are hereby divided into the following primary use districts:

Section 4.1.1 Agricultural-Residential District (A-R)

The Agricultural-Residential District (AR) is established as a district to promote a compatible mixture of low-density residential and agricultural uses where urban development is expected to occur. The purpose of this district is to maintain lots of sufficient size to insure that residential development dependent upon septic tank systems for sewage disposal and individual wells for water will occur at sufficiently low density to insure a healthful environment. The minimum lot size established for this district, however, does not guarantee sufficient space for on-site water and/or sewer systems. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.1.2 R-20 Residential District

The R-20 Residential District is a quiet, low-density neighborhood consisting of single-family residences along with limited home occupations and private and public community uses. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.1.3 R-15 Residential District

The R-15 Residential District is a quiet, low-density neighborhood consisting of single-family residences along with limited home occupations and private and public community uses. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.1.3A R-12.5 Residential District

The R-12.5 Residential District is a quiet, medium-density neighborhood consisting of single-family residences along with limited home occupations and private and public community uses. *(03-0-09, adopted 04/14/2003)*

Section 4.1.4 R-10 Residential District

The R-10 Residential District is a quiet, medium-density neighborhood consisting of single-family residences along with limited home occupations and private and public community uses. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.1.5 **R-8 Residential District**

The R-8 Residential District is a quiet, medium-density neighborhood consisting of single-family residences along with limited home occupations and private and public community uses. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.1.6 **R-6 Residential District**

The R-6 Residential District is a quiet, relatively high-density neighborhood consisting of single-family and two-family dwellings along with limited home occupations and private and public community uses. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.1.7 **MR – Multifamily Residential District**

The MR – Multifamily Residential District (MR) is intended to provide a quiet, relatively high density neighborhood consisting mostly of apartment complexes and mobile home parks along with limited home occupations and private and public community uses. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.1.8 **Office and Institutional District (OI)**

The Office and Institutional District (OI) is a district in which the principal use of land is for residences, general business offices and professional offices, and institutional types such as hospitals and medical clinics which do not materially detract from nearby residential areas. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.1.9 **Central Business District (CB)**

The purpose of the Central Business District (CB) is to maintain and enhance a compact business area for the retailing of durable and convenience goods and personal services for the surrounding community. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.1.10 **General Business District (GB)**

The purpose of the General Business District (GB) is to accommodate those business that serve the traveling public, require large amounts of land for display and parking, and are not oriented to the pedestrian shopper. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.1.10A **Intermediate Commercial District (IC)**

The Intermediate Commercial District (IC) is intended for regional and local retail and personal services of limited size and service area that provide for the regular needs and convenience of local residents residing in the community. These are generally small-medium in area and contain businesses that are generally considered “low intensity” such as grocers, drug stores, household supplies, restaurants, and the furnishing of personal services. It is intended that uses in this district not produce a significant increase in traffic, noise, or other public nuisance,

and be developed with adequate off street parking space for customers and employees with appropriate landscaping and screening. *(0-08-98, adopted 09/08/2008)*

Section 4.1.11 **Neighborhood Commercial District (CN)**

The purpose of the Neighborhood Commercial District (CN) is to provide convenient shopping facilities consisting primarily of necessary goods and personal services required to serve a neighborhood. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.1.12 **Industrial District (I)**

The Industrial District (I) is to provide and protect areas suited for industrial, warehousing, and storage uses which do not create an excessive amount of noise, smoke, dust, odor, or other objectionable characteristics which might be detrimental to the surrounding area. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.2 **Overlay Zoning Districts Established: Purposes Set Forth**

The primary and conditional Zoning Districts established in this Article may also be zoned in one or more Overlay Districts as designated herein and as shown on the Official Zoning Map. In such case, the land is subject to not only the requirements of the underlying primary or conditional Zoning District but also the additional requirements of the Overlay District *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.2.1 **Thoroughfare Protection Overlay District (TP)**

The purpose of the Thoroughfare Protection Overlay District (TP) is to provide for the protection and preservation of thoroughfare corridors to avoid undue congestion and significant deterioration of service levels. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.2.1A **Central Business Transition Overlay District (CBTO)**

The purpose of the Central Business Transition Overlay District (CBTO) is to provide for the appropriate allocation of off-street parking, setbacks, and buffering in areas surrounding the downtown Central Business District; to provide for a transitional area between residentially zoned properties and the downtown Central Business District; and to facilitate the redevelopment of certain areas, as identified by the Horizon Land Use Plan, from residential use to non-residential use. *(04-0-126, adopted 10/11/2004)*

Section 4.3

Conditional Zoning Established: Purposes Set Forth

There is also established a Conditional District (CD) which corresponds to each of the districts authorized by this ordinance as follows:

AR	-	CD	MR	-	CD
R-20	-	CD	OI	-	CD
R-15	-	CD	CB	-	CD
R-12.5	-	CD	GB	-	CD
R-10	-	CD	IC	-	CD
R-8	-	CD	CN	-	CD
R-6	-	CD	I	-	CD

It is recognized that certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the Conditional District is a means by which such special conditions can be imposed in the furtherance of the purpose of this Ordinance. The Conditional District classification will be considered for rezoning only upon request of a property owner. If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this Ordinance that the authorization of such Conditional Permit shall be null and void and of no effect and that proceedings shall be instituted to rezone the property to its previous zoning classification.

Pursuant to the Conditional District, only those uses authorized as permitted or conditional uses in the zoning district with which the CD corresponds shall be permitted, and all other requirements of the corresponding district shall be met as minimum standards. In addition, no Conditional District shall be permitted without the approval of Town Council. The Conditional Zoning may further specify the location on the property of the proposed use and uses, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request, but not to include conditions not generally a part of land development controls. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.3.1. Conditional District with a Site Specific Development Plan

Subject to the provisions of Section 4.3 of this ordinance, the applicant may submit a Site Specific Development Plan as part of a Conditional District request. In such case, the applicant shall submit a Site Specific Development Plan and, upon approval from Town Council, the site shall be developed in accordance with the plan. The site plan shall include the following information:

- a. A boundary survey and vicinity map showing the property’s total acreage, its zoning classification(s), the general location in relation to major streets, railroads, and/or waterways, the date, and north arrow;
- b. All existing easements, reservations, and rights-of-way;
- c. Approximate location on the site of proposed buildings, structures and other improvements;

- d. Approximate dimensions, including height of proposed buildings and other structures;
- e. Building elevations and exterior features of proposed development;
- f. Proposed use of all land and structures;
- g. All existing and proposed points of access to public streets;
- h. Parking and circulation;
- i. Required and proposed screening, buffers and landscaping;
- j. Such other information as deemed necessary to demonstrate compliance with applicable regulations and proposed conditions. *(08-0-103, adapted 12/08/08)*

Section 4.4 District Boundaries Shown on Zoning Map

The boundaries of the districts are shown on the map accompanying this Ordinance and made a part hereof entitled “Official Zoning Map, Winterville, North Carolina”. The Zoning Map and all notations, references and amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described as set out herein. The Zoning Map is posted at the Winterville Town Hall and is available for inspection by the public. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.5 Rules Governing Boundaries

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street or railroad right-of-way-lines or such lines extended, such center lines, street or railroad right-of-way lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow platted lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways, or railroads, or right-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by use of the scale shown on said Zoning Map.
- D. Where any street or alley is hereafter officially closed, vacated or abandoned, the zoning district adjoining each side of the street or alley shall be automatically

extended to the center of the street or alley, and all lands which are included in the closed portion shall thereafter be subject to the regulations of the extended districts.

- E. Boundaries indicated as approximately following Town limit lines shall be construed to follow such Town limit lines.
- F. Where district boundaries are indicated as following topographic contours, drainage divides or specific measured distances such features shall be construed as such boundaries.
- G. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
- H. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- I. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or if further uncertainty exists as to the location of boundaries or applicability of zoning district, the Board of Adjustment shall interpret the intent of the Zoning Map as to the location of such boundaries, and the applicability of such districts.
- J. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance the Board of Adjustment may permit the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 4.6 Determining Permitted and Special Uses, Principal Uses and Mixed Uses

The listing of Permitted and Special Uses in the various Districts in this Ordinance are considered to be specific in regard to the types of uses intended for each of the various Districts. In determining proposed uses, the Zoning Administrator shall refer to the latest edition of the Standard Industrial Classification (SIC) Manual published by the United States Department of Labor as a guide. When a proposed use is not specifically listed in the Table of Permitted and Special Uses, the Zoning Administrator shall use the SIC Manual to determine if the use is the same as, or manifestly similar to, a listed use in form and function. If the Zoning Administrator finds that the proposed use is the same as, or manifestly similar to, a listed use, he shall classify the proposed use as the listed use. If the Zoning Administrator finds that a proposed use is not the same as, or is not manifestly similar to, a listed use, he shall classify the proposed use as not permitted. In each case, the Zoning Administrator shall maintain a written record of such determinations.

In determining what is a principal use, the principal use shall be considered as the primary purpose or function that a lot or structure serves or is proposed to serve. An accessory use shall be considered a structure or use that:

- 1) is clearly incidental to and customarily found in connection with a principal building or use;
- 2) is subordinate to and serves a principal building or a principal use;
- 3) is subordinate in area, extent, or purpose to the principal building or principal use
- 4) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and
- 5) is located on the same lot and zones the same as the principal building or use served.

Two or more principal uses may, in some cases, be permitted to occupy the same land or building as long as each use is a permitted use and the building separation required by Section 3.2 is provided. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

ARTICLE V. SCHEDULE OF DISTRICT REGULATIONS

Section 5.1 **General**

Within the districts established by this Ordinance, the requirements as set forth in this section shall be complied within in addition to any other general or specific requirements of this Ordinance. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 5.2 **Agricultural-Residential District (AR)**

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.
- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Signs shall be regulated by the requirements of Article IX.
(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)
- F. Bufferyards. Bufferyards shall be provided in accordance with the requirements of Article XA. *(07-0-291, adopted 10/08/2007)*

Section 5.3 **R-20 Residential District**

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.
- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Signs shall be regulated by the requirements of Article IX.
(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)
- F. Bufferyards. Bufferyards shall be provided in accordance with the requirements of Article XA. *(07-0-291, adopted 10/08/2007)*

Section 5.4 R-15 Residential District

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.
- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Signs shall be regulated by the requirements of Article IX.
(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)
- F. Bufferyards. Bufferyards shall be provided in accordance with the requirements of Article XA. *(07-0-291, adopted 10/08/2007)*

Section 5.4.A R-12.5 Residential District

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.
- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Signs shall be regulated by the requirements of Article IX.
(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)
- F. Bufferyards. Bufferyards shall be provided in accordance with the requirements of Article XA. *(07-0-291, adopted 10/08/2007)*

Section 5.5 R-10 Residential District

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.

- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Signs shall be regulated by the requirements of Article IX.
(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)
- F. Bufferyards. Bufferyards shall be provided in accordance with the requirements of Article XA. *(07-0-291, adopted 10/08/2007)*

Section 5.6 R-8 Residential District

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.
- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Signs shall be regulated by the requirements of Article IX.
(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)
- F. Bufferyards. Bufferyards shall be provided in accordance with the requirements of Article XA. *(07-0-291, adopted 10/08/2007)*

Section 5.7 R-6 Residential District

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.
- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Signs shall be regulated by the requirements of Article IX.
(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

- F. Bufferyards. Bufferyards shall be provided in accordance with the requirements of Article XA. *(07-0-291, adopted 10/08/2007)*

Section 5.8 Multi-Family Residential District (MR)

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.
- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Signs shall be regulated by the requirements of Article IX. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*
- F. Bufferyards. Bufferyards shall be provided in accordance with the requirements of Article XA. *(07-0-291, adopted 10/08/2007)*

Section 5.9 Office and Institutional District (OI)

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.
- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Signs shall be regulated by the requirements of Article IX. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*
- F. Bufferyards. Bufferyards shall be provided in accordance with the requirements of Article XA. *(07-0-291, adopted 10/08/2007)*

Section 5.10 Central Business District (CB)

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.
- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading is not required in this District
- E. Signs. Signs shall be regulated by the requirements of Article IX. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 5.11 General Business District

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.
- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Signs shall be regulated by the requirements of Article IX. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*
- F. Bufferyards. Bufferyards shall be provided in accordance with the requirements of Article XA. *(07-0-291, adopted 10/08/2007)*

Section 5.11.A Intermediate Commercial District

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.
- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.

- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Signs shall be regulated by the requirements of Article IX.
- F. Bufferyards. Bufferyards shall be provided in accordance with the requirements of Article XA. (08-0-98, adopted 09/08/2008)

Section 5.12 Neighborhood Commercial (CN)

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.
- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Signs shall be regulated by the requirements of Article IX. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*
- F. Bufferyards. Bufferyards shall be provided in accordance with the requirements of Article XA. *(07-0-291, adopted 10/08/2007)*

Section 5.13 Industrial District (I)

- A. Uses. See Article VI entitled Table of Permitted and Special Uses
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land and Height Requirements.
- C. Location of Accessory Buildings and Structures. Accessory buildings and structures shall be placed in accordance with the provisions of Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Signs shall be regulated by the requirements of Article IX. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*
- F. Bufferyards. Bufferyards shall be provided in accordance with the requirements of Article XA. *(07-0-291, adopted 10/08/2007)*

Section 5.14 Thoroughfare Protection Overlay District (TP)

- A. Application. The requirements of this Section apply to all uses in the Thoroughfare Protection Overlay District (TP) except one and two-family residences.
- B. Front Yard Setback. The front yard setback shall be a minimum of fifty (50) feet as measured perpendicular to the adjacent thoroughfare right-of-way line.
- C. Minimum Lot Width. The minimum lot width for all lots created after the effective date of the TP District shall be one hundred and fifty (150) feet.
- D. Ingress and Egress Points. On any lot in any planned multi-tenant development which contains more than one lot, no two points of ingress and egress (as measured at their closest distance) shall be closer than three-hundred (300) feet apart. No more than two (2) separate points of ingress and egress per lot or within a planned multi-tenant development shall be allowed per road front. Any use engaged in the sale of automobile fuels to the public and having more than three (3) fuel stations shall be allowed to have no more than one additional point of ingress and egress per road front provided that said point of ingress and egress is located no closer than forty (40) feet from any other such access point.

Except where ingress and egress would be denied, no portion of a point of ingress and egress shall be located closer than two-hundred (200) feet to the centerline intersection of the road upon which the use fronts and an intersecting road.

Any driveway serving as a point of ingress and egress shall have a width not to exceed thirty-six (36) feet unless otherwise required by NCDOT.

For the purposes of determining the allowable number of ingress and egress points on any particular lot, all lots recorded at the effective date of this Ordinance shall be granted at least one ingress and egress point per road front unless access can be provided internally. If any subdivision of land occurs after the effective date of this Ordinance, the number of ingress and egress points shall be determined based on the linear road frontage the tract contained prior to such subdivision. For instance, if a tract of land contained 1,300 feet of road frontage and, subsequent to the adoption of this Ordinance, were subdivided into three lots, only two points of ingress and egress serving the three lots would be allowed.

- E. Landscaped Roadway Yard. A landscaped roadway yard shall be provided by each use subject to this requirement. The requirement for a landscaped roadway yard shall be initiated by the occurrence of the same activities as set forth in Section 8.3. A landscaped roadway yard is a landscaped area generally parallel to the public roadway designed to provide continuity of vegetation along the right-of-way and a pleasing view from the road. The landscaped area shall be penetrated only by driveways and crosswalks. The minimum width of the

roadway yard shall be ten (10) feet and shall be located within the thirty foot section of the lot closed to the public right-of-way. It shall be landscaped and maintained with a vegetative cover and shall be planted with small and/or medium shrubs at a rate of ten (10) per one hundred (100) linear feet of street yard not counting driveway and crosswalk area. The Zoning Administrator may approve a different vegetative landscape type when in his opinion equal or better performance will result. The following is a sample list of recommended shrubs by common name:

American Boxwood	Common Juniper
Carolina Allspice	Nandina
Flowering Quince	Azalea
Hedge Cotoneaster	Mapleleaf Viburnum
Japanese Holly	Sargents Chinese Juniper
Japanese Barberry	Common Laurelcherry
Purple Beautyberry	Fragrant Sumac

(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

Section 5.15.A Central Business Transition Overlay District (CBTO)

- A. Application. The requirements of this section apply to all non-residential uses in the Central Business Transition Overlay District.
- B. Front Yard Setback. The front yard setback requirement shall be a minimum of ten (10) feet from the front property line.
- C. Rear Yard Setback. The rear yard setback requirement shall be a minimum of twenty (20) feet from the rear property line.
- D. Side Yard Setbacks.
 - 1. Adjoining Property Zoned for Non-Residential Use

The side yard setback requirement shall be a minimum of five (5) feet from the side property line when the adjoining property is zoned for non-residential use.
 - 2. Adjoining Property Zoned for Residential Use

The side yard setback requirement shall be a minimum of twenty (20) feet from the side property line when the adjoining property is zoned for residential use unless the buffering requirements of subsection E are met.

- E. Buffering Requirements. The side yard setback requirement when adjoining property is zoned for residential use may be a minimum of five (5) feet if the following buffering measures are implemented:
1. A minimum four (4) feet height fence, constructed of such materials and in such manner as to provide a continuous visual barrier, shall be installed along the side property line adjacent to the adjoining property zoned for residential use; or
 2. The building wall adjacent to the adjoining property zoned for residential use shall be solid with no openings including but not limited to windows, doors, points of ingress or egress, entrances, exits, etc.
- F. Off-Street Parking Requirements. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- G. Required Sidewalk Improvements. All non-residential uses within the Central Business Transition Overlay District shall install a minimum five (5) feet wide sidewalk along the entire street frontage of any portion of the subject property that abuts a public street. Required sidewalks shall be constructed in accordance with the sidewalk construction standards of the Town of Winterville Design Standards Manual. *(04-0-126, adopted 10/11/2004)*

ARTICLE VI. TABLE OF PERMITTED AND SPECIAL USES

Section 6.1 **General**

The table of Permitted and Special Uses which follows contains a listing of uses which may be permitted in one or more of the various Zoning Districts established by this Ordinance. Uses are listed in alphabetical order in nine functional categories. The categories in the order of listing are:

Residential Uses
Recreational Uses
Educational and Institutional Uses
Business, Professional and Personal Services
Retail Trade
Wholesale Trade
Manufacturing and Industrial Uses
Public Works Facilities, Utilities and Infrastructure
Miscellaneous

(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

Section 6.2 **Entries**

The District or Districts in which a particular listed use may be permitted is indicated by an “x” or “S” in the District column(s) opposite the listed use. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 6.3 **Meaning of Entries**

The meaning of the entries in the Table are as follows:

1. “x” indicates the use is permitted by right and a Zoning Compliance Certificate may be obtained.
2. “S” indicates the use requires approval of a Special Use Permit in accordance with the procedures of Section 12.5.

The column on the far right labeled “SR” (Special Requirement) means that there are special additional performance requirements that the use must comply with in its development. These requirements are contained in Section 6.5, “Special Requirements to the Table of Permitted and Special Uses”. For any use subject to a Special Use Permit, the Special Requirement shall represent the minimum conditions for issuance of a Special Use Permit.

The 1987 Standard Industrial Classification Manual was utilized in the preparation of this table and shall be consulted as a guide for purposes of determination by the Zoning

Administrator. The Reference SIC column refers to SIC classifications. Entries with “0000” in the Reference SIC column do not correspond to any classification in the SIC Manual.

3. The listing of a use in the of Table Permitted and Special Uses in no way relieves that use of having to meet all local, State and Federal laws pertaining to the establishment and operation of that use. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 6.4 Table of Permitted and Special Uses. (See Table)

*(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000;
01-47, adopted 01/08/2001;
02-0-81, adopted 08/12/2002;
03-0-104, adopted 02/10/2003;
04-0-56, adopted 01/12/2004;
05-0-149, adopted 03/14/2005;
06-0-250, adopted 12/11/2006;
08-0-96, adopted 07/14/2008;
10-0-223, adopted 05/10/2010;
10-0-230, adopted 06/14/2010)*

TABLE OF PERMITTED & SPECIAL USES

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
Residential Uses																	
bed and breakfast inns	2	0000	S	S	S	S	S	S			X	X	X				1
dwelling, conventional or modular: multi-family (including single family attached of more than 2 attached units)	2	0000	S							S	S	S					2 / 42
single family detached	1	0000	X	X	X	X	X	X	X	X	X	S					42
two-family (Including single family attached of no more than 2 attached units)	1	0000	S					S	X	X	S						2
dwelling, mobile home on individual lot: class A single-family	1	0000	S						X								3
class B single-family		0000															4
family care home (6 or less)	2	8351	X	X	X	X	X	X	X	X	X	X	X		X	X	5
family day-care home (3-5)	*	8322	S	S	S	S	S	S	S	S	S						5
home occupation, customary	*	0000	S	S	S	S	S	S	S	S	S						6
mobile home park	2	0000	S							S							7
planned unit development	2	0000															8

"SEE SR NOTE"

TABLE OF PERMITTED & SPECIAL USES

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
<u>Recreational Uses</u>																	
Amusement arcades and indoor places of entertainment; including bowling alleys, pool rooms, skating rinks & batting cage, tennis courts	3	7999										X	X			X	
amusement or water parks	4	7996											X			X	10
associations or organizations; social & fraternal	2	8640	S								X		X	X		X	11
auditorium, assembly hall; indoor theaters, public	3	0000									X	X	X			X	
batting cages, outdoor	3	7999											X			X	10
bingo games	3	7999										X	X			X	
dance studios & schools, including aerobics	3	7911										X	X	X		X	
dance halls, including night clubs	4	5810										X	X			X	23
fortune tellers, astrologers	3	7999										X	X			X	
go-cart, motorcycle & similar vehicles tracks	4	7999														X	10
golf courses, including pro shop	1	7997	X	X	X	X	X	X	X	X	X	X	X		X	X	12
golf driving ranges	3	7999	S										X			X	10
internet sweepstakes	3												X			X	44
marinas	4	4493											X			X	
martial arts instructional schools	3	7999										X	X	X		X	
miniature golf facilities	3	7999											X			X	10
physical fitness centers	3	7991								X	X	X	X	X	X	X	
public parks	2	7990	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
recreation facilities, public	2	7999	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
recreation facilities, private: including country clubs, private neighborhood parks & multi-family recreation areas where the principal use is permitted in the zoning district	2	7997	S	S	S	S	S	S	S	S	S						12
saddle, hunting, fishing, boating and similar private clubs	4	7999	S										X			X	12
shooting ranges, indoor	3	7999											X			X	
shooting ranges, outdoor, local government only	4	7999														X	
swim and tennis clubs	3	7997	X	X	X	X	X	X	X	X	X	X	X	X	X	X	13

TABLE OF PERMITTED & SPECIAL USES

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
swimming pool, private	3	7997	X	X	X	X	X	X	X	X	X	X	X	X	X	X	13

TABLE OF PERMITTED & SPECIAL USES

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
<u>Educational & Institutional Uses</u>																	
ambulance services	3	4119									X	X	X			X	
cemetery	3	0000	C													X	14
churches, synagogues & other associated activities	2	8661	X	X	X	X	X	X	X	X	X	X	X	X		X	
colleges or universities	3	8220	X								X	X	X			X	
correctional institutions	3	9223														X	
day care centers, (6 or more)	3	8322	S					S	S	X	X	X	X	X	S	X	15/43
governmental offices & facilities	3	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
hospitals, public & private	3	8026									X	X	X			X	
libraries	3	8231									X	X	X	X	X	X	
museums or art galleries	3	8412									X	X	X	X	X	X	
congregate or convalescent care facility	3	8050							S	S	S		S			S	16
group care facility	3	8050								S			S			S	16
nursing home	3	8050							S	S	S		S			S	16
orphanages	2	8361									X	X	X				
philanthropic institutions	3	8399									X	X	X	X		X	
post offices	3	0000								X	X	X	X	X	X	X	
retreat centers	3	0000	X							X	X	X	X				
schools, including public schools & private schools, having a curriculum similar to those given in public schools	3	8210	X	X	X	X	X	X	X	X	X	X	X			X	
schools, specialty training, such as cosmetology, vocation or trade services, not elsewhere classified, where no retail, wholesale, or repair is conducted	3	8240									X	X	X			X	

TABLE OF PERMITTED & SPECIAL USES

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
<u>Business, Professional & Personal Services</u>																	
accounting, auditing, or bookkeeping	3	8721									X	X	X	X	X	X	
administrative or management services	3	8740									X	X	X	X		X	
advertising agencies or representatives	3	7310									X	X	X	X		X	
agencies & offices rendering specialized services not involving retail trade such as real estate, insurance, advertising, architecture, engineering, & accounting and not listed elsewhere	3	0000									X	X	X	X	X	X	
animal clinics and hospitals; including totally enclosed kennels operated in connection with animal clinics or hospitals	4	0742	S								X		X			X	17
animal kennels	4	0000	S										X			X	18
automobile parking lots & facilities for permitted uses in the district	3	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
automobile parking (commercial)	3	7521										X	X			X	
automobile rental or leasing	4	7510										X	X	X		X	
automobile repair & service (excluding storage of wrecked or junked vehicles)	4	0000										X	X			X	
automobile storage	4	0000														X	19
automobile towing & storage services	4	7549														X	19
automobile washing facilities	4	7542										X	X			X	
automobile wrecking or junk yards	5	5093														X	19
banking, including loan offices & investment houses	3	6000									X	X	X	X	X	X	
barber and beauty shops	3	7241									X	X	X	X	X	X	
building maintenance services	4	7349											X			X	
bus stations	4	4100										X	X			X	
chiropractors' offices	3	8041									X	X	X	X	X	X	
clothing alterations or repairs	3	0000										X	X	X	X	X	
communicative facilities, including radio & television broadcasting excluding towers that exceed the height limits	3	0000									X	X	X			X	
computer services	3	0000									X	X	X	X	X	X	
contractors' facilities with open storage	4	0000	S										X			X	41
contractors' offices (no storage)	3	0000	S								X	X	X			X	41

TABLE OF PERMITTED & SPECIAL USES

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
convenience food stores: not operating between 11pm-6am	3	5411										X	X			X	
operating 11pm-6am, 24hr	4	5411										X	X			X	
dental offices and laboratories	3	8071									X	X	X	X	X	X	
doctors' offices & laboratories	3	8000									X	X	X	X	X	X	
drive-in theaters	4	7833														X	
dry cleaning & laundry facilities	3	7211										X	X		X	X	
economic, social, or educational research	3	8732									X	X	X			X	
employment agencies, personnel agencies	3	7360									X	X	X			X	
engineering, architectural, surveying services	3	0000									X	X	X	X		X	
equipment rental & leasing	4	7350											X			X	
equipment repairs, heavy	4	7690														X	
equipment repairs, light	4	7690											X			X	
exterminating services	3	7342											X			X	
farm related enterprises such as vegetable stands, fishing ponds, horticulture. (*Does not include: landscaping services, farm supplies, or stables. Items removed 11/2017)	3	0000	X														
finance or loan offices	3	6100									X	X	X	X	X	X	
fraternal organizations	2	8640	S								X	X	X	X		X	11
freezer lockers	3	0000														X	
funeral homes	3	7261						S	S		X	X	X	X		X	20
insurance agencies	3	6411									X	X	X	X		X	
internal service facilities, incidental to permitted uses, including cafeterias, day care facilities, snack bars, pharmacies, optical stores & similar retail activities when conducted solely for use of employees, patrons, or occasional visitors; provided, such activities are within the principal building & advertising for it is not permitted beyond the premises	3	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
interior decorator	3	0000									X	X	X	X		X	
Laundromats	3	7215										X	X	X	X	X	
law offices	3	8111									X	X	X	X	X	X	
locksmith shops, including repair	3	7690										X	X	X		X	

TABLE OF PERMITTED & SPECIAL USES

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
medical, dental, or related offices	3	8000									X	X	X	X	X	X	
medical or dental laboratories	3	8071									X	X	X	X	X	X	
mini-warehouses	4	0000								S		X	X	X	X	X	21
motels & hotels	3	7011											X			X	
motion picture productions	3	7810										X	X		X	X	
noncommercial research organizations	3	8733									X	X	X		X	X	
office, not classified elsewhere (no retail)	3	0000									X	X	X	X	X	X	
optometrists & ophthalmologists	3	8000									X	X	X	X	X	X	
photocopying & duplicating services	3	7334									X	X	X	X	X	X	
photo finishing laboratories	3	7384										X	X	X	X	X	
photography studio	3	7221									X	X	X	X	X	X	
picture framing shop	3	7699									X	X	X	X	X	X	
psychologists' offices	3	8000									X	X	X	X	X	X	
real estate offices	3	0000									X	X	X	X	X	X	
recreational vehicle parks or campsites	4	7033														X	22
refrigerator or large appliance repairs	4	7623											X			X	41
rehabilitation or counseling services	3	8300										X	X	X		X	
repair shops not classified elsewhere	4	0000											X			X	
research, development, or testing services	3	8730											X			X	
septic tank services	3	7699											X			X	
service stations (not including truck stops)	4	7530										X	X	X	X	X	
shoe repair or shoeshine shops	3	7251										X	X	X	X	X	
signs as regulated by Article IX	*		X	X	X	X	X	X	X	X	X	X	X	X	X	X	
stock, security or commodity brokers	3	6200									X	X	X	X	X	X	
structures & uses clearly incidental to a permitted use	3	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
tanning salons	3	7299										X	X	X	X	X	
tattooing	3	7299											X			X	45
taxi terminals	4	4121										X	X			X	
taxidermists	3	7699											X			X	
tire recapping	4	7534											X			X	
travel agencies	3	4720									X	X	X	X	X	X	
truck driving schools	3	8249														X	
truck & utility trailer rental, sales & leasing, light	4	0000											X			X	

TABLE OF PERMITTED & SPECIAL USES

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
truck & utility trailer rental, sales & leasing, heavy	4	0000											X			X	
truck washing	4	7542														X	
upholstering & furniture refinishing	4	7641											X			X	
utility company offices	3	0000									X	X	X	X	X	X	
veterinary services (no outside kennels)	3	0740									X		X			X	
vocational, business, secretarial schools	3	8240									X	X	X			X	
watch, clock, jewelry repair shops	3	7631	S									X	X	X	X	X	41

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USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
<u>Retail Trade</u>																	
ABC sales for on premises consumption	3	0000										X	X	X		X	23
antique shops	3	5936	S									X	X	X	X	X	24
apparel sales	3	5600										X	X	X	X	X	
appliance sales & service	3	5722	S									X	X	X		X	41
art studio & galleries	3	8412										X	X	X	X	X	
arts & craft sales; similar specialty retail	3	0000	S									X	X	X	X	X	24
auction houses	3	0000											X			X	
automobile & trucks dealers; new and used	4	7510											X			X	
automobile parts & supply store	3	5531										X	X	X		X	
bakeries; retail	3	5461										X	X	X	X	X	
bicycle sales & repair	3	5941										X	X	X	X	X	
boat dealers; sales & repair	4	5551											X			X	
book stores	3	5942									X	X	X	X	X	X	
building supply dealers	4	5211											X			X	
camera & photography; sales & service	3	5946										X	X	X		X	
candy stores	3	5441										X	X	X	X	X	
carpet sales & storage	3	5710										X	X			X	
clothing shops	3	5600										X	X	X		X	
catalogue stores	3	5961										X	X		X	X	
computer sales	3	5734										X	X	X	X	X	
dairy products stores	3	5451										X	X		X	X	
department & variety stores	3	5300										X	X	X	X	X	
drug stores & pharmacies	3	5912									X	X	X	X	X	X	
electronic product sales	3	5730										X	X	X	X	X	
fabric or piece goods stores	3	5949										X	X	X	X	X	
farm machinery sales & service	4	5083											X			X	
farmer's or produce markets	3	5430										X	X			X	
farm supplies	4	0000										X	X			X	
flea market	3	5999											X			X	
floor covering, drapery or upholstery	3	5710										X	X	X	X	X	
florist shop	3	5992	S								X	X	X	X	X	X	41
fuel oil sales	4	5980											X			X	
furniture sales	3	5712										X	X			X	
furniture repair, including upholstery	4	7641											X			X	
garden centers or retail nurseries	3	5261											X	X	X	X	

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gift, novelty & souvenir shop	3	5947	S									X	X	X		X	24
grocery store	3	5400										X	X	X	X	X	
hardware store	3	5251										X	X	X	X	X	
hobby & toystores	3	5945										X	X	X	X	X	
home furnishings, miscellaneous	3	5719										X	X	X		X	
jewelry sales & repair	3	5944										X	X	X	X	X	
leather goods sales	3	5948										X	X	X	X	X	
lighting goods sales	3	5948										X	X	X		X	
liquor stores	3	5921										X	X	X		X	
mirobrewery & brewpub	3	2082									S	X	X	X		X	23
miscellaneous retail sales	3	5999										X	X			X	
mobile home sales & services	4	5271											X			X	
motorcycle sales	4	5571											X			X	
music stores including instrument repair	3	5736										X	X	X	X	X	
newsstand, magazines	3	5994										X	X	X	X	X	
office supply store	3	5999										X	X	X	X	X	
optical goods sales	3	5995										X	X	X	X	X	
paint, glass, and wallpaper stores	3	0000										X	X	X		X	
pawn shop	3	0000										X	X			X	
pet stores	3	5999										X	X	X		X	
radio & television, stores & repairs	3	5731										X	X	X		X	
record, tape, cd stores	3	5735										X	X	X	X	X	
recreation vehicles sales & service	4	5561											X			X	
restaurants (with drive-through)	4	5812										X	X			X	
restaurants (w/o drive-through)	3	5812									X	X	X	X	X	X	
retail sales & service where not classified elsewhere, and where all retail sales & services are conducted within an enclosed building	3	0000										X	X	X	X	X	41
retail sales & services not classified elsewhere including outdoor storage	3	0000											X			X	
service stations, gasoline	4	5541										X	X	X	X	X	
shoe sales and or repair	3	0000										X	X	X	X	X	
shopping centers & malls	3	0000											S		S	X	25
sporting goods stores	3	5941										X	X	X	X	X	
tire dealers & services	4	5531											X			X	
tobacco stores	3	5993										X	X	X	X	X	

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truck shops	4	0000														X	
video tape rental & sales	3	7841										X	X	X	X	X	
wine & craft beer shop	3	5921										X	X	X	X	X	
woodworking shops, retail	4	5999										X	X	X	X	X	

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<u>Wholesale Trade</u>																	
agriculture chemicals/pesticides/fertilizers	4	5191	S													X	26
agriculture products, other	4	5159	S										X			X	26
ammunition	3	5099														X	
animals & animal products, other	4	5159														X	
apparel, piece goods & notions	3	5130											X			X	
bakeries; wholesale	4	2050											X			X	
books, periodicals, & newspaper	3	5192											X			X	
bulk mail & packaging	3	4212											X			X	
chemicals & allied products	4	5169														X	
courier services, central facility	3	4215											X			X	
courier service substations	4	4215											X			X	
drugs & sundries	3	5122											X			X	
durable goods, other	3	5099											X			X	
electrical goods	4	5060											X			X	
farm supplies, others	4	5191											X			X	
flowers, nursery stock & florist supplies	4	5193											X			X	
forest products	4	5099											X			X	
furniture & home furnishings	3	5020											X			X	
groceries & related products	3	5140											X			X	
hardware	3	5072											X			X	
jewelry, watches, precious stones & metals	3	5094											X			X	
livestock	4	5154	S													X	27
lumber & other construction materials	4	5030											X			X	
machinery, equipment & supplies	4	5080											X			X	
market showrooms (furniture, apparel, etc.)	4	0000										X	X			X	
metals & minerals	4	5050											X			X	
motor vehicles, parts & supplies	4	5010											X			X	
movers & storage operations	4	4214											X			X	
paints & varnishes	4	5198											X			X	
paper & paper products	4	5110											X			X	
petroleum & petroleum products	4	5170														X	
plastics materials	4	5162											X			X	
plumbing & heating equipment	4	5070											X			X	

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professional & comm. Equipment & supplies	4	5040											X			X	
Regional Brewery (15,000 - 6,000,000 barrels/year)	4											S	S	S		X	23
resins	4	5162											X			X	
scrap & waste materials, recycling	4	5093														X	19
sporting & recreational goods & supplies	4	5091											X			X	
tobacco & tobacco supplies	3	5194											X			X	
toys & hobby goods & supplies	3	5092											X			X	
trucking or freight terminals	4	4210														X	
utility equipment & storage yards	4	0000											X			X	
wallpaper & paint brushes	4	5198											X			X	
warehousing & storage, not including storage of any hazardous materials or waste as determined by any agency of the federal, state or local government	4	0000											X			X	

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USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
Public Works																	
electric transmission distribution poles, towers supporting cable, lines & related appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
governmental public works facilities, utilities, infrastructure & appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
natural gas distribution lines & related appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
power generation, natural gas plants & similar production facilities	5	0000														X	
radio, television & similar transmitting towers that exceed height but not including wireless telecommunications towers	4	0000	X										X			X	35
sewage collection lines, pump stations & appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
sewage treatment plants, non government public	4	0000	X	S	S	S	S	S	S	S	S	X	X			X	36
telephone & television cable poles, towers, supporting cable, lines & related appurtenances.	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
water distribution lines, booster pumps, storage facilities & appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
water treatment plants, non-government public	4	0000	X	S	S	S	S	S	S	S	S	X	X			X	36
wireless telecommunication towers & facilities	4	0000	S							S		S	S			X	37

TABLE OF PERMITTED & SPECIAL USES

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
<u>Manufacturing & Industrial Uses</u>																	
aircraft & parts	5	3720														X	
airports or air transportation facilities	5	4500														X	28
ammunition, small arms	4	3482														X	29
animal feeds (including dog & cat)	5	2048														X	
animal rendering	5	0000														X	
apparel & finished fabric products	4	2300														X	
appliance	5	0000														X	
asbestos, abrasive & related products	5	3290														X	
asphalt plants	5	2951														X	30
audio, video and communications equipment	4	3600														X	
bakery products	5	2050														X	
batteries	5	3691														X	
beverages	4	2080														X	
bicycle assembly	4	3751														X	
bicycle parts & accessories	4	3751														X	
boat & ship building	5	3730														X	
brick & tile	5	3200														X	
brooms & brushes	4	3991														X	
burial caskets	4	3995														X	
cabinets, not exceeding 5 operators	4	0000											X			X	
cabinets	4	0000														X	
cardboard containers	4	2650														X	
chemicals, except acids & glues	5	0000														X	
clothing & hosiery	4	2300														X	
coffee	4	2095														X	
computer & office equipment	4	3570														X	
concrete, cut stone & clay products	5	3200														X	
costume jewelry & notions	4	3960														X	
dairy products	5	2020														X	
electrical components	4	3670														X	
electronics & electronic products	4	3600														X	
fabricated metal products (including can manufacturing)	5	3400														X	

TABLE OF PERMITTED & SPECIAL USES

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
fabricated valve & wiring products	4	3490														X	
fats & oils, animal	5	2077														X	
fats & oils, plant	5	2070														X	
fish, canned, cured or frozen	5	2091														X	
floor coverings (excluding carpet)	4	3996														X	
food & food products, except animal rendering	4	2090														X	
furniture products	4	2500														X	
glass, including fiberglass	5	3200														X	
grain mill products	5	2040														X	
graphite & graphite products	5	3999														X	
heating equipment & plumbing fixtures	5	3430														X	
household appliances	4	3630														X	
ice	4	2097														X	
industrial & commercial machinery	5	3500														X	
jewelry & silverware (no plating)	4	3910														X	
landfill, building debris private	5	0000														X	31
landfill, sanitary, private	5	0000														X	32
leather & leather products, excluding tanning	4	3100														X	
lighting & wiring equipment	4	3640														X	
lumber & wood products	4	2490														X	
machinery products	5	2500														X	
manufactured housing & wood buildings	4	2450														X	
measurement, analysis & control instruments	4	3800														X	
meat/poultry packing & processing (no rendering)	5	2010														X	
medical, dental & surgical equipment	4	3840														X	
metal coating & engraving	4	3470														X	
metal fasteners (screws, bolts, etc.)	4	3450														X	
metal processing	5	3350														X	
metal plating	5	3471														X	
millwork, plywood & veneer	4	2430														X	
mining & quarrying	5	1000														X	33
motor vehicle assembly	5	3710														X	
motor vehicle parts & accessories	4	3714														X	
motorcycle assembly	5	3751														X	

TABLE OF PERMITTED & SPECIAL USES

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
musical instruments	4	3930														X	
paints, varnish & finishes	4	2500														X	
paper & allied products, except manufacture of the raw product	4	0000														X	
paper products (no coating or laminating)	4	2670														X	
paper products (coating or laminating)	4	2670														X	
paperboard containers & boxes	4	2650														X	
pens & art supplies	4	3950														X	
petroleum & related products	5	2900														X	34
pharmaceutical preparations	4	2834														X	
photographic equipment	4	3861														X	
pottery & related products	4	3260														X	
plastics	4	2820														X	
primary metals products and foundries	5	3300														X	
poultry operations, including hatcheries	5	0254														X	
preserved fruits & vegetables (no can manufacturing)	4	2030														X	
printing & publishing	4	2700										X	X			X	
railroad terminals or yards	5	4010														X	
refuse & raw material hauling	5	4212														X	
rubber products	4	3000														X	
salvage yards, scrap processing	5	5093														X	19
sawmill or planing mills	4	2420														X	
signs	4	3993														X	
soaps & cosmetics	4	2840														X	
sporting goods & toys	4	3940														X	
stone & clay products	4	3200														X	
sugar & confectionery products	4	2060														X	
surface active agents	5	2843														X	
textile products	4	2260														X	
tires & inner tubes	5	3011														X	
tobacco products	4	2110														X	
tool product	4	3420														X	
transportation & heavy equipment	5	3490														X	
welding operations	5	7692														X	
wood containers	4	2440														X	

TABLE OF PERMITTED & SPECIAL USES

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
<u>Miscellaneous</u>																	
adult oriented businesses	4	0000											X			X	38
temporary events & structures	3	0000	X													X	39
yard sales - limited to 4 one-day events per year	3	0000	X	X	X	X	X	X	X	X	X						
cluster development, non-residential	*										X		X	X	X	X	40

Section 6.5 Special Requirements to the Table of Permitted and Special Uses

The Table of Permitted and Special Uses of Article VI contains a column on the far right labeled “SR” for Special Requirements. In any case where a use listed in the Table of Permitted and Special Uses has a number in the SR column opposite the use, the use must comply with the additional Special Requirements contained in this section corresponding to the Special Requirement number. For example, the use “Mobile Home Park” has the number “7” in the SR column opposite the use, therefore, the development of a Mobile Home Park must meet the special requirements for SR 7 Mobile Home Park of this section.

SR 1. Bed and Breakfast Inns

In the AR District:

- a. The maximum number of guest bedrooms shall be six (6).
- b. The inn shall be operated by a resident manager.
- c. The use shall be located in a structure which was originally constructed as a dwelling.
- d. The use shall contain only one (1) kitchen facility. Meals served on the premises shall only be for overnight guests and residents of the facility.
- e. The use of such facility by any one patron shall be limited to no more than fifteen (15) days per sixty (60) day period.

SR 2. Two Family, Single Family Attached and Multifamily Dwellings

- a. No multi-family dwellings or series of attached single-family, multi-family buildings or other such arrangements shall exceed a length of one hundred fifty (150) feet when measured along the longest axis of the building or series of attached units when placed in a theoretical straight alignment.
- b.
 1. No multi-family development shall contain more than twenty (20) dwelling units unless the development shall have frontage along and direct primary access on a major or minor thoroughfare as shown on the Thoroughfare Plan.
 2. No multi-family development shall contain more than sixty (60) dwelling units unless the development shall have frontage along and direct access on two major or minor thoroughfares or combinations thereof as shown on the Thoroughfare Plan.

3. Any multi-family development with more than 100 dwelling units shall meet the requirements of 2 above and shall submit a certified traffic engineering report evaluating the capability of the adjoining street system to carry the traffic generated by the development.
- c. An individual multi-family building, two family dwelling or a single series of attached dwelling units to be located on an individual lot shall be developed in accordance with the area, yard and height requirements of the district in which located the same as any other individual building on an individual lot. Provided that in the AR and R-8 zoning districts, two-family dwellings within a subdivision shall only be permitted on a corner lot. The conveyance of ground space for single-family attached units or for common area or similar purposes shall not preclude development under this subsection. Such conveyances however shall be subject to the requirements of the Subdivision Ordinance and may be subject to the North Carolina Unit Ownership Act.
- d. In any case where more than one multi-family building, more than one two-family dwelling or more than one series of attached dwelling units are proposed to be constructed on one lot, such development shall be in conformance with the following residential group development standards:
 1. Site Plan. No zoning permit or building permit shall be issued for an construction in a group residential development except in accordance with a site plan approved by the Planning Board, in accordance with the standards herein. In any case where land is to be dedicated in a group residential development, a Subdivision Plan may be required by the Subdivision Ordinance. Developments that are proposed to be developed under the North Carolina Unit Ownership Act shall meet the requirements of that Act by recording the declaration and plan with the Register of Deeds. Where land is to be conveyed in accordance with such declaration and plan, the developer shall first comply with the Subdivision Ordinance.
 2. Density. The number of dwelling units per unit of land area shall not exceed the number of dwelling units per unit of land area permitted in the district in which the development is located. Fractional units above one-half (1/2) may be rounded to the next highest number once the basic number of units exceeds twenty (20).
 3. Yard Requirements. The following yard requirements are hereby established:
 - (a) Exterior. Along each exterior property line or public street, the minimum front, rear and side yard setback of the Zoning District shall be maintained.

- (b) Interior. For each building erected along a private street or accessway, a minimum setback of twenty (20) feet shall be maintained from the nearest edge of street or accessway pavement.
 - (c) Distance Between Buildings. A distance of at least twenty (20) feet shall be maintained between all buildings within the development.
4. Street or Accessways. All private streets or accessways providing ingress and egress from the development to an existing public street system shall comply with the current standards being required by the subdivision regulations then in effect, including street drainage, except that no curb and gutter is required and a pavement width of only 20 feet shall be required.
 5. Sidewalks. Sidewalks shall be installed in the same manner and under the same criteria as that established in the Subdivision Regulations.
 6. Storm Drainage Improvements. Storm drainage improvements shall be made in the same manner and under the same criteria as that established in the Subdivision Regulations.
 7. Sanitary Containers. Stationary sanitary containers shall be located so as not to interfere with sight distance or the free movement of vehicles on streets or service drives and so as to allow collector trucks adequate maneuvering space to empty the containers and to leave the property without excessive backing. Concrete pads in conformance with the public works department's stationary container location standards shall be located beneath of and in the approach to each stationary sanitary container.

SR 3. Class A Mobile Home on Individual Lot

- a. The mobile home shall have a length not exceeding four times its width.
- b. The mobile home shall be at least 20 feet side.
- c. The pitch of the mobile home's roof shall have a minimum vertical rise of two and two tenths feet for each twelve feet of horizontal run (2.2' in 12') and the roof shall be finished with a type of shingle that is commonly used in standard residential construction.
- d. The exterior siding shall consist predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity of gloss white paint), wood, or hardboard, comparable in composition, appearance, and

durability to the exterior siding commonly used in standard residential construction.

- e. A continuous, permanent masonry foundation, unpierced except for required ventilation and access, shall be installed under the mobile home.
- f. The tongue, axles, transporting lights, and removable towing apparatus are removed subsequent to final placement.
- g. The mobile home shall be placed on land owned by the owner of the mobile home. The mobile home shall be listed and taxed as real property.
- h. The mobile home shall be oriented so that the longest measurement shall be no more than twenty (20) degrees from parallel to the front property line, except on corner lots. The front of the mobile home shall face the front property line. The front of the mobile home is that side which has an entrance door leading to a living room, foyer, or hall and is the longer dimension of the mobile home's sides.

SR 4. Class B Mobile Home on Individual Lot

- a. The mobile home shall have the towing apparatus, wheels, axles, and transporting lights removed. If the apparatus cannot be removed, it shall be screened from public view.
- b. The mobile home shall be set up in accordance with the standards established by the North Carolina Department of Insurance. In addition, a continuous underpinning of a material generally accepted in the mobile home industry shall be installed under the perimeter, unpierced except for required ventilation and access.
- c. The mobile home shall be oriented so that the longest measurement shall be no more than twenty (20) degrees from parallel to the front property line, except on corner lots. The front of the mobile home shall face the front property line. The front of the mobile home is that side which has an entrance door leading to a living room, foyer, or hall and is the longer dimension of the mobile home's sides. *(2000 Zoning Ordinance, 0-5/-02149900, adopted 02/14/2000)*

SR 5. Family Care Home and Family Day Care Home

- a. A family care home with six (6) or fewer persons or a family day care home with five (5) or fewer person may be operated as an accessory use to a principal dwelling. Provided, however, no family care home may be located within one-half mile radius of any other family care home as

defined by NCGS 168-21. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

SR 6. Home Occupation, Customary

- a. Customary home occupations such as dressmaking, cooking and baking, hairdressing, music instruction, the practice of such professions as insurance and accounting may be permitted as a conditional use within the dwelling unit in the Zoning District indicated. The Board of Adjustment shall decide whether other occupations not listed are within the spirit of this category of uses.
- b. Only one person other than those residing in the home shall be engaged in the occupation.
- c. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- d. There shall be no changes in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation except one non-illuminated sign not exceeding four (4) square feet.
- e. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- f. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or which causes fluctuations in line voltage off the premises.

SR. 7 Mobile Home Parks

Mobile Home Parks shall be constructed in conformance with the following design standards:

- 1. Minimum site area in acres 5
- 2. Minimum number of Mobile Home Spaces 5

3.	Maximum number of Mobile Home Spaces per acre	8
4.	Minimum Lot and/or parcel width for site at front Building line in linear feet	100
5.	Minimum area per Mobile Home Space Class B Mobile Home (sq. ft.) Class A Mobile Home (sq. ft.)	4000 6000
6.	Minimum area per Mobile Home Space width Class B Mobile Home (linear ft.) Class A Mobile Home (linear ft.)	45 60
7.	Maximum number of Mobile Homes per Mobile Home Space	1
8.	Minimum number of Parking Spaces per Mobile Home Space (located on each space)	2
9.	Minimum area of landing/patio per Mobile Home Space (located on each space) (sq. ft.)	1
10.	Minimum area of landing/patio per Mobile Home Space (sq. ft.)	32
11.	Hard surface walk required to connect each patio to Parking Space (minimum three (3) ft. width)	Yes
12.	Street paving required in conformance with DOT Standards for Minor Streets	Yes
13.	Maximum slope permitted on site	3:1
14.	Maximum number of driveways connecting to Streets (other than private)	0
15.	Maximum number of Private Street connections to Street per Mobile Home Park	2
16.	Minimum distance between Private Street connections to street (linear ft.)	150
17.	Maximum length of dead end and/or cul-de-sac private Street (linear ft.)	800
18.	Minimum turning circle (paved) diameter at end of each dead end and/or cul-de-sac private street (linear ft.)	70

19.	Mobile Home Park identification Sign conforming to Article IX required.	Yes
20.	Minimum separation between entrance/exit point of private street to street and nearest street intersection (linear ft.)	150
21.	Street light required at all Private Street intersections	Yes
22.	Water supply and sewage disposal facilities required	Yes
23.	Minimum Open Space required per Mobile Home Space (in acres)	0.04
24.	Private Street names required (subject to approval)	Yes
25.	Maximum number of Mobile Home Spaces with vehicular access from one-way private street	20
26.	Garbage collection and disposal by owner/operator in accordance with applicable codes required	Yes
27.	Heating oil and/or LP gas tanks with foundation permitted	Yes
28.	Minimum capacity of heating fuel tanks (gallons)	150
29.	Wood burning heat sources permitted	Yes
30.	Screening of fire wood required (no minimum height)	Yes
31.	Minimum separation between each unit (linear ft.)	24
32.	Vehicle Speed Control devices required	Yes
33.	Number of accessory buildings per mobile home space	1
34.	Minimum separation of accessory building from other mobile home on same space and other accessory buildings (linear ft.)	10
35.	Minimum separation of accessory building from other mobile homes (linear ft.)	20
36.	All mobile homes meet HUD construction standards and bear HUD tag and/or data plate	Yes

- 37. Towing apparatus removed from all mobile homes Yes
- 38. All mobile homes set up in accordance with the standards established by the North Carolina Department of Insurance. Yes
In addition, a continuous underpinning of a material generally accepted in the mobile home industry installed under the perimeter of each home, unpierced except for required ventilation and access.

SR 8. Planned Unit Development

- a. PUD’s shall be permitted only when requested as a Conditional District and accompanied by a rezoning request to one of the following Zoning Districts: CD-AR; CD -R-20; CD -R-15; CD -R-12.5; CD -R-10; CD -R-8; and CD -R-6.
- b. Application for PUD shall be approved only if the following findings area made:
 - 1. That application of planned unit development requirements to the property will produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern;
 - 2. That application of planned unit development requirements to the property will encourage innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible, and environmentally sensitive design;
 - 3. The application of planned unit development requirements to the property will produce a development functioning as a cohesive, unified project; and
 - 4. That application of planned unit development requirements to the property will not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the Town.
- c. An approved PUD Conditional District and the approved verified development plan shall govern all uses and development activities in a PUD.
- d. Except as otherwise provided by this SR, a PUD shall be subject to all the applicable standards, procedures and regulations of the other parts of this ordinance.
- e. Minimum Size: No PUD shall be approved for a site of less than that shown in the following table. The site must be contiguous property under unified ownership or control.

Districts	Minimum
CD-AR; CD-R-20; CD-R-15; CD-R-12.5 CD-R-10	12 acres
CD-R-8; CD-R-6	6 acres

- f. USES: Uses permitted in a PUD shall be in accordance with the following schedule, provided, that uses to be in a PUD shall be stated in the Conditional District.

Districts	Uses
All	1) All uses permitted in the corresponding Principal District. 2) In PUDs of 25 acres or more, all uses permitted in the CN and OI District except that the residential component shall be in accordance with the uses of the corresponding Principal District.

- g. Limitations on Uses: In a PUD that qualifies for such uses by size, OI and CN uses shall not exceed ten percent (10%) of the total land area and at no time shall the cumulative amount of land development for OI and/or CN purposes exceed the cumulative amount of land development for residential purposes.
- h. Development Standards: Development in a PUD shall be exempt from the minimum required lot width, front yard, side yard and rear yard requirements of the Schedule of District Regulations and from Section 3.2 and 3.3 relating to relationship of buildings to lots and access to streets provided that the following development standards are followed. The overall residential density limitation and residential building types of the corresponding principal district shall apply in a PUD provided that a density bonus which may involve a different residential development type may be permitted during the PUD approval process as provided for herein.
1. Lot size: The exemption from the Schedule of District Regulation provisions shall not apply in the following situations:
 - i. No lot for a single-family detached dwelling shall be less than the minimum lot size for a single-family dwelling in the zoning district in which the PUD is located. Zero lot line developments are permitted subject to the Special Requirements for such developments. Where the zoning district permits two-family and multi-family developments such uses are permitted subject to the Special Requirements for such developments.

2. Vehicle Access:
 - i. Area between structures shall be covered by easements where necessary for access and to provide for maintenance and utility service.
 - ii. Primary vehicular access to office or commercial development shall not be through intervening residential development.
 - iii. Local streets shall be located and designed so that they do not encourage through access by traffic with origins and destinations outside of the development.
3. Pedestrian Access: PUD's shall be designed and developed and uses so arranged to promote pedestrian access within the development.
4. Non-Residential Areas: Non-Residential areas in PUD's shall be designed and located to principally serve the residents of the PUD and immediate surrounding area.
5. Boundary Treatment: The scale and setbacks of development in a PUD within one-hundred and fifty (150) feet of the perimeter of the PUD shall be in harmony with development on adjacent lands.
6. Environmentally Sensitive Areas: One of the principal purposes of the PUD procedure is to protect environmentally sensitive areas through the use of innovative arrangement of buildings and spaces. It is the intent of the PUD process that significant consideration in planning and design of PUD's shall be given to the following elements such as but not limited to:
 - i. Floodway and floodway fringe areas
 - ii. Steep slopes and knolls
 - iii. Wetlands
 - iv. Water supply watersheds and recharge areas
 - v. Rock outcrops
 - vi. Soil erosion and storm water management
 - vii. Tree and foliage preservation
 - viii. Habitat for threatened or endangered species
 - ix. Areas of historical, archaeological or architectural significance
 - x. Useable open space; recreation area

In any case where the Town Council finds in its opinion that the PUD provides for significant protection or enhancement of any one or more of the above elements, or similar element as determined by the Town Council, the Council may award a bonus of up to ten (10) percent increase in residential dwelling units for a PUD and may permit such additional dwelling units to be of a development type not otherwise permitted in the PUD. The determination by the Council of the significant protection or enhancement of a particular element shall be based upon a comparison between the type of development that could be placed on the property under the current zoning and other regulations and the proposed development scheme for the PUD.

7. Unified Development Plan: The application for a PUD Conditional District rezoning shall be accompanied by a unified development plan in the form of a site specific development plan.
8. Phased Development: A PUD may be developed in phases in the same manner as a subdivision subject to the phasing requirement for subdivisions.

SR 9. (Reserved)

SR 10. Amusement or Water Parks; Batting Cages; Go-Cart Tracks; Golf Driving Ranges; Miniature Golf Facilities

- a. Minimum lot size for all development except miniature golf facilities shall be two (2) acres.
- b. No principal use buildings or structures shall be located within fifty (50) feet of any property line.
- c. Security fencing, a minimum of six (6) feet in height, shall be provided along the entire boundary of park activities.
- d. No amusement equipment, machinery, or mechanical device of any kind may be operated within two hundred (200) feet of any residentially zoned property.

SR. 11 Associations and Organizations; Social and Fraternal

- a. In the AR Residential District:
 1. A minimum of one (1) acre shall be required to establish any one of the above uses.

2. All structures including secondary and accessory structures shall be located a minimum of fifty (50) feet from any street line and property lines.
3. Any use listed above located in a residential district on a site greater than three (3) acres shall have frontage on a collector or thoroughfare street.
4. Existing uses as described above which do not meet the one (1) acre minimum requirement of a.1. above at the time of adoption of that provision may expand or be reconstructed provided such expansion or reconstruction meets the minimum dimensional requirements of the district in which located.

SR 12. Golf Course; Including Pro Shop; Recreation Facilities, Private; Saddle Clubs, etc.

There shall be a fifty (50) foot minimum setback between clubhouses, swimming pools, lighted tennis courts, athletic fields, and other activity areas and adjacent residentially zoned property.

SR 13. Swim and Tennis Clubs; Swimming Pools, Private

- a. In any residential district the minimum area shall be one (1) acre.
- b. There shall be a fifty (50) foot minimum setback between clubhouses, swimming pools, lighted tennis courts, or athletic fields and adjacent residentially zoned property.
- c. Outdoor swimming pools shall be protected by a fence, or equal enclosure, a minimum of four (4) feet in height, and equipped with a self-closing and positive self-latching gate provided with hardware for permanent locking.

SR 14. Cemeteries

- a. All buildings and burial sites shall be set back a minimum of twenty (20) feet from all property and public street lines.

SR 15. Day Care Center (6 or more)

An adult or child care center with six (6) or more attendees shall be operated as a principal use and subject to the following development standards:

- a. Centers in a residential district on a site greater than three (3) acres shall have frontage on a collector or thoroughfare street. *(2000 Zoning Ordinance, 0-5-02149900, adapted 02/14/2000)*

SR. 16. Nursing Homes, Convalescent Care Facilities, Congregate Care Facilities and Group Care Facilities

- a. A minimum of two (2) acres shall be required to establish any one of the above uses.
- b. All structures, including secondary and accessory structures, shall be located a minimum of fifty (50) feet from any street line and a minimum of twenty (20) feet from any other property line.
- c. Buffering, landscaping, and security requirements may be imposed as deemed appropriate by the Board of Adjustment in accordance with Section 12.5.4 of this Ordinance.
- d. Existing uses as described above which do not meet the two (2) acre minimum requirement of item 1 above at the time of adoption of that provision may expand or be reconstructed provided that such expansion or reconstruction meets the minimum dimensional requirements of the district in which located. *(OG-0-250, adopted 12/11/2006)*

SR 17. Animal Clinics and Hospitals

- a. No animals shall be stored outside totally enclosed kennels.

SR 18. Animal Kennels

In the AR District:

- a. Minimum lot size shall be as follows:

1 to 10 animals	2 acres
11 to 20 animals	3 acres
21 to 30 animals	4 acres

For each additional acre beyond four (4) acres, an additional ten (10) animals may be permitted. The minimum lot size requirements may be waived if a kennel is constructed to entirely enclose all kennel facilities so as to adequately protect all animals from weather extremes and to protect adjacent residences from noise, odors, and other objectionable characteristics, provided all building setback requirements are in accordance with subsection (b) below.

- b. All structures shall have minimum front, side, and rear yards of one hundred-fifty (150) feet. There shall be a separation of at least five hundred (500) feet between residences on adjoining tracts and any building used for kennel operation.

- c. Sewage disposal system and sanitation control methods as approved by the Pitt County Board of Health shall be required for all kennels. (This provision shall include, but shall not be limited to, the sanitary removal or disposal of solid waste, carcasses, or other items deemed necessary for removal or disposal because of unsafe or unsanitary conditions by the Health Department.)

SR 19. Automobile Storage; Automobile Towing & Storage; Automobile Wrecking or Junk Yards; Salvage Yards; Scrap Processing

- a. Outdoor storage associated with the above uses shall be completely screened by a screening device at least eight (8) feet in height and ninety percent (90%) opaque.
- b. Automobile wrecking or junk yards; salvage and scrap processing uses shall require a minimum area of three (3) acres. Any area covered by six hundred (600) square feet or more of scrap material or seven (7) or more junk vehicles shall qualify as a use of this category.
- c. Uses subject to this note shall be separated in such a manner as to prevent dust and tracking of mud and debris onto adjoining parcels.

SR 20. Funeral Homes

In the R-8 and R-6 Districts:

- a. The bufferyard and buffer screen required by Article XA may be increased as a condition of approval.

SR 21. Mini-Warehouse

In the MR Residential District:

- a. All of the property for this activity shall be surrounded by a chain link fence not less than eight (8) feet in height, and shall have a planting strip of evergreen shrubs along the perimeter of the fence except the side adjacent to the access street. Said shrubs shall be at least four (4) feet in height after two (2) years growing seasons.
- b. There shall be only one (1) means of ingress and egress, with a direct connection to a public street. The buildings shall be arranged as to allow internal circulation around all buildings.
- c. All buildings shall have a minimum front setback of forty (40) feet and side and rear setbacks of twenty (20) feet.

- d. Spaces are to be used only for storage. In no case shall a rental space be used for offices, garages, music rehearsal halls or any use other than storage. Space shall be available for a manager or security patrol officer.
- e. Lighting shall be required to ensure the safety of the contents and patrons of the establishment.
- f. The driveway shall be at least fifteen (15) feet wide and shall have either a four (4) inch crushed stone surface or an adequate surface of either concrete or asphalt.
- g. The outside storage of boats, campers or other large scale items shall be allowed within a designated area enclosed with a chain link fence at least eight (8) feet high. This designated area shall be paved or shall have a crushed stone surface at least four (4) inches deep. No junked items may be stored outside.

SR 22. Recreational Vehicle Parks or Campsites

- a. Such uses shall comply with the following standards:
 - 1. Yard Requirements. The following yard requirements are hereby established:
 - (a) Exterior. Along any public street or public right-of-way, a setback of at least forty (40) feet from the edge of the public right-of-way shall be maintained.
 - (b) Distance between trailers. A distance of at least ten (10) feet shall be maintained between trailers and/or structures. Any accessory structures such as attached awnings, carports or individual storage facilities, shall, for the purpose of this requirement, be considered as part of the trailer.
 - 2. Open Space. A recreational area of not less than ten percent (10%) of the gross site area or two thousand five hundred (2,500) square feet, whichever is greater, shall be maintained in a central and convenient location to all trailer spaces.
 - 3. Lot Area. The lot for the park shall be a minimum of two (2) acres.
 - 4. Density. The density shall not exceed twenty-five (25) trailer spaces per acre of gross area.
 - 5. Parking. Adequate off-street parking and maneuvering space shall be provided on site. The use of any public street, sidewalk or right-of-way or

any other private grounds not a part of the travel trailer parking area for the maneuvering of vehicles is prohibited.

6. Streets. All internal roadways shall be stabilized and of adequate width to accommodate the volume and type of anticipated traffic, and in any event , shall comply with the following minimum requirements:
 - (a) Internal one-way roadway and roadways on which parking is prohibited shall not extend for more than five hundred (500) feet in total length; serve less than twenty-five (25) trailer spaces; and be at least eleven (11) feet in width.
 - (b) Internal one-way roadway and roadways on which parking is permitted on one side and two-way roadways which do not allow parking shall be at least twenty-four (24) feet in width.
 - (c) Internal two-way roadways which permit parking on one side only shall be at least twenty-seven (27) feet in width.
 - (d) Internal two-way roadways which permit parking on both sides shall be at least thirty-four (34) feet in width.
7. Water. Each travel trailer parking area shall be connected to an approved water supply system which provides an accessible, adequate, safe and potable supply of water.
8. Sewer. An adequate and safe sewer system shall be provided in all travel trailer parking areas. Such system shall either be a municipal system or a system approved by the appropriate County or State agency vested with the authority to approve sewage disposal systems.
9. Screening. A screening device at least six (6) feet high and ninety percent (90%) opaque shall be provided where the use adjoins residentially zoned property.
10. Service Building. A central service building containing all necessary toilets, bathhouses and other plumbing fixtures specified in the most current edition of the North Carolina State Plumbing Code, as amended, shall be provided in all travel trailer parking areas. Service building shall be conveniently located within a radius of three hundred (300) feet to spaces which it serves.
11. Trash. The storage, collection and disposal of trash and refuse in the travel trailer parking area shall comply with all applicable regulations.

12. Time of Stay. Neither any person nor any mobile unit shall occupy a trailer space or the travel trailer parking area for a period in excess of thirty (30) days. A register of all occupants, the space occupied, and the time of arrival and departure shall be maintained.

SR 23. ABC Sales for On Premises Consumption; Bars

- a. Property Separation. No such establishment shall be located within two hundred (200) feet of a church, elementary or secondary school, public park, or residentially zoned property.
- b. Frontage. The main entrance of the building shall be toward property zoned for nonresidential uses.
- c. Parking. Parking areas related to the establishment shall be located no closer than thirty (30) feet to the property line of abutting residentially zoned property.

SR 24. Antique Shop, Arts and Craft Sales, Etc.

In the AR Residential District:

- a. Only one (1) principal structure per lot shall be allowed.
- b. No more than one (1) permitted use per principal structure shall be allowed.
- c. No such use shall have greater than a maximum gross floor area of five thousand (5000) square feet. This measurement shall include all principal and accessory structures.
- d. All permitted nonresidential uses shall be located at least four hundred (400) feet from any portion of any existing principal use structures on adjacent lots in different ownership.

SR 25. Shopping Centers and Malls

- a. Minimum site size – 1 acre.
- b. The site shall have legal and actual direct access to a major or minor thoroughfare.
- c. The rear and side yard required adjoining residentially zoned property shall be increased by fifteen (15) feet.
- d. The bufferyard and buffer screen required by Article XA may be increased as a condition of approval.

SR 26. Agricultural Chemical; Agricultural Products Wholesale

In the AR Residential District:

- a. Minimum site size – five (5) acres.
- b. No building or outside storage shall be closer than fifty (50) feet to a residentially zoned tract not in the same ownership.

SR 27. Livestock Sales, Wholesale

In the AR District:

- a. Minimum lot size – two (2) acres.
- b. All buildings and storage areas, pens, etc. shall be setback a minimum of fifty (50) feet from adjoining lot lines.

SR 28. Airports or Air Transportation Facilities

- a. The minimum area shall be fifty (50) acres for Basic Utility Stage 1 airport with two thousand (2000) foot runway.
- b. Security fencing shall be provided sufficient to control access to runways and taxiways. The fencing shall be a minimum of six (6) feet in height.

SR 29. Ammunition, Small Arms

- a. No such facility shall locate within a five hundred (500) foot radius of any residentially property.
- b. Security fencing shall be provided along the entire boundary of such a facility.
- c. The facility and its operation shall observe all Fire Prevention and Protection requirements.

SR 30. Asphalt Plants

- a. Any asphalt plant operations shall be located at least fifty (50) feet from any property line.
- b. Security fencing, a minimum of six (6) feet in height, shall be provided around the perimeter of the operation.
- c. Rehabilitation:

1. Within one (1) year after the cessation of production, all equipment and stock piles incidental to such operation shall be dismantled and removed by and at the expense of the owner.
 2. The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public drainageways, nor to appreciably increase the tumidity of any natural water course, or to occlude any existing drainage course.
- d. All unpaved storage areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.
- e. Access:
1. Access roads leading to any part of the operation shall be constructed with a gravel or asphalt stone surface and maintained in a dust-free manner.
 2. Access roads shall be located no closer than fifteen (15) feet to any property line other than a railroad right-of-way line.
 3. A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic. Such routes shall be adhered to.

SR 31. Landfill, Building Debris, Private

- a. Setback: There shall be fifty (50) foot minimum distance from any property line.
- b. Use Separation: There shall be a three hundred (300) foot minimum separation from any residence.
- c. Access: Access to the landfill shall be controlled with gates, chains, fences, ditches and/or trees to prevent unregulated dumping.
- d. Dust: All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.
- e. Operation: No filing is permitted in any flood hazard area. No filling is permitted in minor drainageways unless the drainage has been piped in accordance with approved plans. No filling is permitted in utility easements.
- f. Signs: An informational board sign shall be posted and maintained at the entrance, listing the name and phone number of the current operator, the types of material accepted, and the hours of operation.

SR 32. Landfill, Sanitary, Private

- a. An operations and rehabilitation plan shall be submitted or approval prior to permitting.
- b. Direct illumination resulting from the operation shall not fall upon any land not covered by the application.
- c. Equivalent sound levels at the boundaries of the fill site shall not exceed the following standards:
 - between 7:00 a.m. and 7:00 p.m. - 60 DBA
 - between 7:00 p.m. and 7:00 a.m. - 55 DBA
- d. The Rehabilitation Plan shall be referred to the Soil and Water Conservation District for review and recommendation, in particular regarding the landscape material specified, the planting and maintenance proposed to insure continuous growth and development, and the acceptability of the proposals for handling of lakes, ponds, etc.
- e. The permanent roads, defined as those to be used in excess of one (1) year, within the fill site shall be surfaced with a dust free material, such as soil cement, bituminous concrete or Portland Cement concrete.
- f. Roads other than permanent roads shall be treated with dust inhibitors, to be specified in the Operations Plan, which will reduce to a minimum the generation of dust from the road surfaces as a result of wind or vehicular action. Properly operated water wagons are an acceptable means of dust inhibition.
- g. Where the proposed fill shall take place within three hundred (300) feet of a dwelling, school, church, hospital, commercial or industrial building, public building, or public land, a security fence at least six (6) feet high shall be installed.
- h. The operations plan and the rehabilitation plan shall be coordinated so that the amount of disturbed land is kept to the absolute minimum consistent with good practices and so that rehabilitation proceeds in concert with filling.

SR 33. Mining and Quarrying

- a. Setback
 - 1. The edges of any pit where a mining operation is taking place, any equipment used in the processing of rock and gravel, any asphalt plant, or other industrial use operated in conjunction with the mine or quarry shall be located at least fifty (50) feet from any property line.

2. Where the mining operation site is bounded by a railroad right-of-way currently being used for rail service to the mining operation, no setback shall be required between the railroad right-of-way and such operation.
- b. Security fencing, a minimum of six (6) feet in height, shall be provided around the perimeter of both existing and abandoned operations.
 - c. Rehabilitation:
 1. Within one (1) year after the cessation of production at all mining operations, all equipment and stock piles incidental to such operation shall be dismantled and removed by and at the expense of the owner.
 2. Except in a case where redevelopment for another permitted use is in progress on the site of an abandoned extraction operation, all excavations shall be graded to reduce the surface to gently rolling topography in substantial conformity to the land area immediately surrounding, and shall be planted with a cover of sod, trees, shrubs, legumes, or grasses which will minimize erosion due to wind or rainfall.
 3. The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public drainageways, nor to occlude any existing drainage course.
 - d. All operations involving blasting discernable beyond the external property line of a quarry shall only be conducted between the hours of 7:00 am and 6:00 pm.
 - e. All unpaved storage areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.
 - f. Access:
 1. Access roads leading to any part of the operation shall be constructed with a gravel or asphalt stone surface and maintained in a dust-free manner.
 2. Access roads shall be located no closer than fifteen (15) feet to any property line other than a railroad right-of-way line.
 3. A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic. Such routes shall be adhered to.

SR 34. Petroleum and Related Products (Wholesale or Manufacturing)

a. Setback:

1. Storage tanks protected by either an attached extinguishing system approved by the Fire Marshal, or an approved floating roof, shall not be located closer to an exterior property line than a distance of either the diameter or height of the tank, except that such distance shall not exceed one hundred and twenty (120) feet.
2. Storage tanks not equipped as indicated in (1) above shall not be located closer to an exterior property line than a distance equal to one and one-half (1 1/2) times the greater dimension of either the diameter or height of the tank, except that such distance need not exceed one hundred and seventy-five (175) feet.

b. Above ground storage tanks and loading facilities shall be located a minimum of five hundred (500) feet from any existing residence or residentially zoned property.

c. Gravel or paved roadways shall be provided to all storage tanks.

d. Security fencing, a minimum of six (6) feet in height, shall be provided along the entire boundary of such facilities.

e. Dikes:

1. Tanks or groups of tanks shall be diked to prevent the spread of liquid onto other property, waterways, or drainageways. The volumetric capacity of the diked area shall not be less than the capacity of the largest tank within the diked area.

Dikes or retaining wall shall be of earth, steel, concrete, or solid masonry designed and constructed to be liquid-tight and to withstand a full hydraulic head. Earthen dikes three (3) feet or more in height shall have a flat section at the top not less than two (2) feet in width. The slope shall be consistent with the angle or repose of the material of which the dikes are constructed. Dikes shall be restricted to an average height of not more than six (6) feet above the exterior grade unless means are available for extinguishing a fire in any tank. Dikes enclosing such tanks shall be provided at the top with a flareback section designed to turn back a boil-over wave. A flareback section shall not be required for dikes and walls enclosing approved floating roof tanks. No loose combustible material, drums, or barrels shall be permitted within the diked area.

2. Where provision is made for draining rainwater from diked areas, such drains shall normally be kept closed and shall be designed so that when in use they will not permit flammable liquids to enter natural watercourses, public sewers, or public drains. Where pumps control drainage from the diked area, they shall not be self-starting.
- f. Tank Maintenance:
1. All storage tanks shall be maintained in a leak-proof condition with an adequately painted rust-free exterior surface.
 2. A firm substratum shall be constructed under each storage area to eliminate differential subsidence and to prevent the product from seeping.
- g. All storage facilities shall comply with the latest edition of the “Flammable and Combustible Liquids Code, NEPA 30” of the Nation Fire Protection Association.

SR 35. Radio, Television or Communication Transmission Towers

In the AR Residential District:

- a. Transmission Towers shall have a setback of one (1) foot for each one (1) foot in height of tower from all property lines and rights-of-way.
- b. No vehicles or materials shall be stored on the premises; and no offices shall be permitted.
- c. All buildings shall be setback at least twenty (20) feet from all property lines and shall be designed and landscaped with a buffer strip in such a way as to blend in with the surrounding area.
- d. All structures shall be enclosed by a chain link fence at least eight (8) feet in height.
- e. Transmission Towers with a height of one hundred (100) feet or greater shall be designed and constructed to permit the capability for co-location of at least one additional wireless telecommunication use.
- f. Transmission Towers shall not be located within two thousand (2,000) feet of any other existing transmissions tower, unless concealed within a church steeple, farm silo, or other architecturally designed encasement.
- g. Transmission Towers shall meet all applicable Federal Aviation Administration (FAA) standards and shall not restrict or interfere with air traffic or air travel from or to any existing or proposed airport.

SR 36. Water Treatment Plants, Non-Governmental Public, Sewage Treatment Plants, Non-Governmental Public

In all residential districts such plants shall meet the following standards:

- a. No use shall be made of the site that is not directly related to the operation of the plant.
- b. All buildings shall meet the minimum yard setbacks for the district in which located or twenty (20) feet whichever is the greater.
- c. Screening shall be provided adjoining residential property lines with a six (6) feet high, ninety percent (90%) opaque screen.
- d. All structures shall be enclosed by a chain link fence at least eight (8) feet in height.

SR 37. Wireless Telecommunication Towers and Facilities

- a. A site plan shall be submitted containing the name of the tower owner, property owner, scale, north arrow, and latitude/longitude coordinates. Existing site conditions, including contours, and unique natural or man-made features such as vegetation and ground cover. Exact boundary lines of the property containing the proposed tower construction, fall radius and any associated guide wires. Description of adjacent land use and all property owner(s) and their addresses. A front and side elevation profile, drawn to scale, of all existing and proposed towers and their antennas to be located on the property.
- b. Towers shall have a setback of one (1) foot for each one (1) foot in height of tower, plus twenty-five (25) feet from all property lines and rights-of-way, as measured from ground level.
- c. Towers shall not be located within a one-half (1/2) mile radius of any other wireless telecommunication tower, unless concealed in a church steeple, farm silo, or other architecturally designed encasement. Furthermore, towers located beyond a one-half (1/2) mile radius and not exceeding three (3) mile radius from any other wireless telecommunication tower shall not be permitted, unless the applicant can prove that collocation is not a viable option and no stealth location is possible.
- d. Towers shall be no closer than five (500) feet from any existing residential dwelling, excluding any dwellings located on the same parcel of land as the tower.
- e. Towers with a height of two hundred and fifty (250) feet or greater in any district shall be subject to Board of Adjustment approval as a Special Use Permit.

- f. Towers shall not exceed three hundred and fifty (350) feet in height as measured from ground level.
- g. Towers with a height greater than one hundred and fifty (150) feet shall be constructed to permit the capability for the co-location of additional provider antennas as follows:
 - 151 feet to 200 feet - two additional antennas
 - 201 feet to 250 feet - three additional antennas
 - 251 feet to 300 feet - four additional antennas
 - 301 feet to 350 feet - five additional antennas
- h. The applicant shall be required to provide written documentation showing that no proposed tower lies within a thirty (30) foot to one (1) foot run to rise ratio from the nearest point of the nearest runway of a private airstrip or airport registered with the Federal Aviation Administration (FAA).
- i. No business signs, billboards, or other advertising shall be installed on a tower, nor shall any tower be painted a color considered obnoxious or offensive.
- j. No offices or outdoor storage of equipment or materials are permitted on tower sites located in a residential district.
- k. Accessory or component buildings shall be setback fifty (50) feet from all property lines and rights-of-ways.
- l. All structures shall be enclosed by a chain link fence at least eight (8) feet in height and screened with a six (6) foot high, ninety percent (90%) opaque screening.
- m. The applicant shall be required to provide written documentation stating that the tower is in compliance with all applicable Federal and State regulations.
- n. Notice shall be provided to the Zoning Administrator when any telecommunication tower is placed out of service. Towers not used for a period of six (6) months or more shall be removed by the owner within one hundred and twenty (120) days of receipt of notification to that effect. The applicant shall also provide the Town with written documentation substantiating that the applicant has and will sustain the financial ability to disassemble and remove the tower, once no longer in operation.
- o. Additional provider antennas and equipment shelters associated with an approved telecommunication tower site are permitted, provided said changes do not increase the setback requirement beyond the allowable limit according to the tower height.

- p. Towner lighting shall not exceed the minimum for red obstruction lighting as administered by the Federal Aviation Administration (FAA).
- q. All permits, for the construction of a wireless telecommunication tower are issued in reliance upon a presumption that the tower will in fact conform to the plans which are submitted as the basis for the permit. Once constructed, the tower must continue to be maintained in compliance with the provisions of this ordinance.
- r. The applicant shall be required to notify all property owners within a one-half (1/2) mile radius of a proposed tower with a height greater than two hundred and fifty (250) feet. This notice shall be by certified mail and shall include tower height and design type and date, time and location of proposed meeting.
- s. The applicant shall be required to provide written documentation stating that it is not viable to co-locate on existing facilities within the coverage area. Facilities includes other towers, elevated tanks, electrical transmission lines, or other structures.
- t. The applicant shall provide the Town with proof of liability insurance which protects against losses due to personal injury or property damage resulting from the construction or collapse of the tower, antenna, or accessory equipment. Such proof shall be supplied to the Town by the applicant at the time of application.
- u. The applicant shall provide to the Zoning Administrator an inventory of its existing antennas and towers that are either within the jurisdiction of the Town or within three (3) miles of the border thereof, including specific information about the location, height, and design type of each tower and antenna. The applicant shall also provide an inventory of potential future tower sites within the jurisdiction of the Town. The Zoning Administrator may share such information with other applicants; however, that by sharing this information, it is not in any way representing or warranting that such sites are available or suitable.

SR 38. Adult Oriented Business

- a. No such business shall locate within one thousand (1,000) feet of any other Adult Oriented Business, as measured in a straight line from property line to property line.
- b. No Adult Oriented Business shall be located within one thousand two hundred (1,200) feet of a church, public or private elementary or secondary school, child daycare center or nursery school, public park, residentially zoned or residentially used property, or any establishment with an on-premise ABC license, as measured in a straight line from property line to property line.

- c. The gross floor area of any Adult Oriented Business shall not exceed three thousand (3,000) square feet and all business related activity shall be conducted in a building.
- d. Except for an adult motel, no Adult Oriented Business may have sleeping quarters.
- e. There shall not be more than one (1) Adult Oriented Business in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any Adult Oriented Business.
- f. Except for signs as may be permitted by Article IX of this Ordinance, no printed material, slide, video, photograph, written text, live show, or other visual presentation format shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.
- g. No enclosed or underground parking shall be permitted.

SR. 39 Temporary Events and Structures

The Zoning Administrator may issue a permit for temporary events and structures provided he makes the following affirmative determinations:

- a. The duration of the event will be for fourteen (14) days or less.
- b. The location of the event has not had more than two (2) temporary events in the past twelve (12) months and no events in the past thirty (30) days.
- c. The owner of the property, or his agent, has authorized in writing the event to be held on the property.
- d. The application for the permit is made at least five (5) working days prior to the event.
- e. That ample off-street parking is available.
- f. That arrangements are made for suitable garbage disposal and site clean-up.
- g. That activities within one thousand (1,000) feet of residences not on the site are to be conducted in such a manner as to not create noise that will disturb the occupants of residences. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

SR 40. Cluster Development; Non-Residential

Cluster projects consisting of two or more principal buildings to be constructed on one or more parcels of land shall be exempt from the dimensional requirements of the zoning district in which located provided the following requirements are met:

- a. Permitted uses in a cluster development are restricted to those permitted in the zoning district in which the project is located.
- b. Overall intensity or density of development of the land shall be no greater and the standard of open space shall be no less than that permitted in the zoning district in which the project is located.
- c. Building heights in the project shall not exceed the height limits permitted in the zoning district in which the project is located.
- d. The property included in the project shall, along its exterior boundary, meet the front, rear, and side yard requirements of the zoning district in which the project is located.
- e. Cluster projects may consist of one or more parcels of land and may be subdivided for the purpose of the project. The following requirements shall be met concerning the interior arrangement of the cluster project:
 1. Buildings are required to meet external property lines but are exempt from meeting the minimum yard requirements for internal property lines.
 2. Buildings shall either adjoin each other or be separated by a minimum distance of twenty (20) feet.
 3. Overall parking requirements for the project shall be met. However, all or part of the parking requirement for a use may be located in another parcel in the project.
 4. Sign provisions shall not be exceeded but may be transferred provided that district requirements are not exceeded.
 5. In any case where buildings are to be constructed closer to an internal property line than permitted by the zoning district, in any case where parking or signs may be transferred, or in any case of other shared facilities between separate parcels in a cluster project that area needed to support the project, such as common drives and entrances and exists, a recorded perpetually binding agreement between all property owners involved in the project shall acknowledge such common facilities. (01-47, adopted 01/08/2001)

SR 41. In the Agricultural-Residential District:

- a. Where any use included in this special requirement is to be located on a parcel with a residential use, such use shall be conducted in a separate accessory building or shall comply with item b below.
- b. Where any use included in this special requirement is to be operated within or attached to a residential structure, the Home Occupation requirements of Special Requirement 6 of this ordinance shall apply.
- c. Where any use included in this special requirement is to be located on a parcel with a residential use, all activities associated with such nonresidential use shall be conducted within an enclosed building.
- d. Where any use included in this special requirement is to be located on a parcel with a residential use, any need for parking generated by such nonresidential use shall be met off street and other than in a required front yard. (02-0-81, adopted 08/12/2002)

In the Intermediate Commercial and Office & Institutional Districts:

- a. All sales, service, display, and storage shall be within an enclosed building. (08-0-98, adopted 09/08/2008)

SR 42. In the Central Business District:

- a. All residential usage shall be on second floor or higher levels of buildings;
- b. All ground floor space shall be developed for commercial, non-residential uses, as permitted in the Central Business District;
- c. Minimum habitable floor area per unit:
 - four hundred (400) square feet per one (1) bedroom unit;
 - five hundred (500) square feet per two (2) or more bedroom unit;
- d. Minimum off-street parking requirement: one-half (1/2) space per bedroom (all fractional parking units shall be rounded to the next higher whole number);
- e. Parking location requirements: each required parking space shall be located within eight hundred (800) feet of the use it is intended to serve;
- f. Remote parking requirements: where the provision of off-street parking involves one or more parcels of land that are not a part of the plot on which the residential

units are located, the applicant for a permit for the residential uses shall submit with his application for a Zoning Compliance Certificate an instrument duly executed and acknowledged which subjects the parcels or tracts of land to parking uses in connection with the residential us for which it is made available.
(03-0-04, adopted 02/10/2003)

SR 43. Daycare Center

In the R-6 and R-8 Residential Districts:

- a. Daycare Centers shall not be allowed within any structure constructed for residential use. *(04-0-56, adopted 01/12/04)*

SR 44. Internet Sweepstakes

The following specific provisions shall be met as minimum standards prior to approval of any business engaging in internet sweepstakes:

- a. The establishment must be a minimum of one thousand (1,000) feet from any building used as a dwelling.
- b. The establishment must be a minimum of one thousand (1,000) feet from any other establishment engaged in internet sweepstakes business.
- c. The establishment must be a minimum of one thousand (1,000) feet from the property line of any established religious institution, school, daycare center, library, public park, or recreation area.
- d. Measure of distance separation shall be in a straight line from the closet point of the building at which the internet sweepstakes business is located.
- e. The applicant for approval of an internet sweepstakes business shall provide a current certificate and straight-line drawing prepared by a registered land surveyor within thirty (30) days prior to the application demonstrating compliance with separation requirements. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is made for approval.
(10-0-223, adopted 05/10/2010)

SR 45. Tattooing

Establishments offering tattooing services must be located a minimum of one-half (1/2) mile from any other establishment offering tattooing services. *(10-0-230, adopted 06/14/2010)*

ARTICLE VII. TABLE OF AREA, YARD AND HEIGHT REQUIREMENTS

Section 7.1 Dimensional Requirements

Each use shall as a minimum conform to the dimensional requirements of the district in which it is located. In some cases, a specific use may be required to meet the Special Requirements as set forth in Section 6.5.

	Districts	MINIMUM LOT SIZE (See Notes)		MINIMUM YARD REQUIREMENTS (See Notes)			Maximum height (in feet)
		Lot Area Square Feet	Lot Width (in feet) (1)	Front yard setback (in feet)	Side yard (in feet)	Rear yard (in feet)	
A-R	Single-family	20,000	90	25	15	20	35
	Two-family (4)	25,000	90	25	20	20	35
	Multi-family (2)	(3)	90	25	20	25	35
	Other Principal Structures	40,000	150	35	20	20	35
R-20	Single-family	20,000	90	25	15	20	35
	Other Principal Structures	25,000	90	25	20	20	35
R-15	Single-family	15,000	80	25	12.5	20	35
	Other Principal Structures	17,000	90	25	20	20	35
R-12.5	Single-family	12,500	80	25	12.5	20	35
	Other Principal Structures	14,500	80	25	17.5	20	35
R-10	Single-family	10,000	80	25	10	20	35
	Other Principal Structures	12,000	90	25	15	20	35
R-8	Single-family	8,000	70	25	10	20	35
	Two-family (4)	10,000	80	25	15	20	35
	Other Principal Structures	10,000	80	25	15	20	35
R-6	Single-family	6,000	50	20	10	20	35
	Two-family (4)	8,000	70	20	10	20	35
	Other Principal Structures	8,000	70	20	10	20	35

	Districts	MINIMUM LOT SIZE (See Notes)		MINIMUM YARD REQUIREMENTS (See Notes)			Maximum height (in feet)
		Lot Area Square Feet	Lot Width (in feet) (1)	Front yard setback (in feet)	Side yard (in feet)	Rear yard (in feet)	
M-R	Single-family	6,000	50	20	10	20	35
	Two-family (4)	8,000	70	20	10	20	35
	Multi-family (2)	(3)	70	20	10	20	35
	Other Principal Structures	8,000	70	20	10	20	35
O-I	Single-family	10,000	90	25	10	20	35
	Two-family (4)	12,000	90	25	15	20	35
	Multi-family (2)	(3)	90	25	20	25	35
	Other Principal Structures	15,000	90	25	15	20	35
C-B	Principal Structures	None	None	None	None	None	50
G-B	Principal Structures	20,000	90	35	20	20	35
I-C	Principal Structures	15,000	90	30	15	20	35
C-N	Principal Structures	15,000	90	25	15	20	35
I	Principal Structures	20,000	90	35	20	20	35

NOTES:

- (1) Lot Width shall be measured at the minimum front yard setback line, provided that lot width for residential lots may be measured at the actual building setback which shall not be less than the minimum and shall not be more than two (2) times the minimum. In addition, frontage on the public street shall conform with Section 3.3 (See definition of lot width).
- (2) Multi-family projects where there is more than one principal residential structure on a lot including attached single-family units, shall comply with the requirements of Special Requirement #2.

- (3) Multi-family projects.
 - (a) Minimum lot area for new construction, 15,000 square Feet.
 - (b) Minimum square footage per dwelling unit,
 - 4,000 square feet for the first unit,
 - 2,000 square feet for each additional one bedroom unit
 - 2,500 square feet for each additional two or more bedroom unit
 - (c) Minimum square footage for each conversion of an existing structure
 - 2,000 square feet for each dwelling unit
- (4) Where two family dwellings in the form of single family attached units are developed, each lot shall contain at least one-half of the minimum required lot area and meet the minimum yard requirements except where attached.
- (5) In any Residential, O-I, or C-N district the side yard requirements for corner lots along the side street right-of-way shall have an extra width of ten (10) feet.
- (6) Wherever drainage, utility, or other easement(s) extend further into a lot than minimum setback requirements, the boundary line of such easement(s) shall become the minimum setback requirement.

(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000; 03-0-09, adopted 04/14/2003; 04-0-73, adopted 05/10/2004; 05-0-188, adopted 10/05/2005; 05-0-198, adopted 12/11/05;)

Section 7.2 Encroachment on Easements

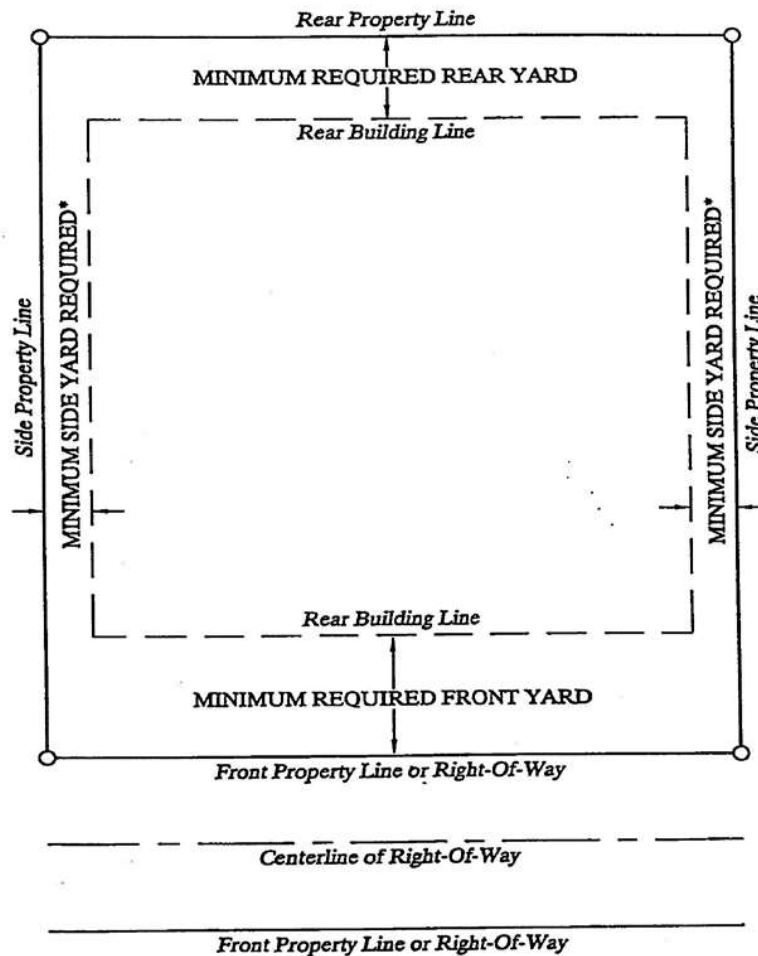
Unless specifically authorized by an Encroachment Permit issued by the Town, no portion of any building, structure, fence, or other improvement shall be erected nor encroach upon any drainage, utility, or other easements of the Town. Nor shall any tree, bush, or other plantings beyond normal ground cover encroach upon any drainage, utility, or other easements of the Town

As a condition of any Encroachment Permit issued pursuant to this section, the permit holder shall, upon request by the Town of Winterville, remove the improvements authorized by the permit from the subject easement at their own expense. Upon completion of activities necessitating access to the subject easement, the Town of Winterville may authorize replacement of the improvements in accordance with the terms of the originally issued Encroachment Permit or an amended Encroachment Permit.

Any improvement subject to an Encroachment Permit issued pursuant to this section shall be constructed and/or erected in a non-permanent and movable manner designed and arranged such that it can be easily relocated by the owner to allow access to the easement by the Town of Winterville. *(05-0-198, adopted 12/12/2005)*

Determining Yards

Article VII, Table of Area, Yard and Height Requirements



*Add 10' to minimum required side yard for corner lots in all residential, O-I, and C-N districts.

Drawn by JMc December 8, 1999 S:\aaagis\Misc\Steve.DWG

ARTICLE VIII. OFF-STREET PARKING AND LOADING

Section 8.1 Off-Street Parking Requirements

There shall be provided at the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding Dwelling Units, guest rooms, seats, or floor area; or before conversion from one type of use or occupancy to another, permanent off-street parking space in the amount specified by this Section. Such parking space may be provided in a parking garage or properly graded all-weather surface open space. Off-street parking shall not be required in the Central Business District. See SR 38 for restrictions on parking facilities associated with Adult Oriented Business.

A. Certification of Minimum Parking Requirements

Each application for a Zoning Compliance Certificate submitted to the Zoning Administrator as provided for in this Ordinance shall include information as to the location and dimensions of off-street parking and the means of entrance and exit to such space. This information shall be in sufficient detail to enable the Zoning Administrator to determine whether or not the requirements of this Section are met.

B. Definition of a Parking Space

The storage space of one (1) automobile. The size of a parking space shall be in accordance with geometric design principles for the type space and lot. (in accordance with the Town of Winterville Design Manual).

C. Minimum Off-Street Parking Requirements

The following off-street Parking Space shall be required:

<u>Classification</u>	<u>Off-Street Parking Requirement</u> (Any fractional space e.g., 47.3 shall be considered the next whole number, e.g., 48)
Residential:	
Housing designed for and used by the elderly	1 space per 2 dwelling units
Incidental Home Occupations	1 space in addition to the residential requirement provided that physicians and dentists shall have 5 spaces additional and beauty shops shall have 3 spaces additional

<u>Classification</u>	<u>Off-Street Parking Requirement</u>
Multi-family residences	1 bedroom – 1 ½ spaces per unit 2 bedroom – 2 spaces per unit 3 bedroom – 2 ½ spaces per unit
Congregate Care	1 space per two beds 1 space per 2 Dwelling Units
Single-Family and Two-Family residences (may be in a single drive with one car behind the other)	2 spaces per Dwelling Unit
Commercial and Industrial:	
Auto service station and/or repair shops	4 spaces per service bay, plus 1 space per wrecker or service vehicle
Auto sales	3 spaces plus 1 space per 400 square feet of building area devoted to sales
Bank and consumer financial services	1 space per 200 square feet of gross floor area
Barber shop and other Personal services	2 spaces per operator
Beauty shops	3 spaces per operator
Car washes	1 space per 1 employee
Delivery, ambulance and other similar services	1 space per vehicle, plus 1 space for each 2 employees
Drive-through service such as banks, drive-through restaurants, automobile service stations, dry cleaners, car washes and similar uses (in addition to Use Requirements)	Stacking for 4 vehicles at each bay window or lane
Dry cleaners or laundries (self-service)	1 space per 4 rental pieces of equipment

<u>Classification</u>	<u>Off-Street Parking Requirement</u>
Eating establishments and nightclubs serving meals	5 spaces, plus 1 for every 3 seats
Fire Stations	1 space per person on duty on an average shift
Hotel, motel, motor court and similar uses	1 space per unit, plus 2 spaces per 3 employees on a normal shift
Mobile home sales	5 spaces, plus 1 space per 10,000 square feet of gross land area
Manufacturing, industrial warehousing and wholesaling	1 space per 3 employees on the largest shift
Post Offices	1 space per 200 square feet of public service area, plus 2 spaces per 3 employees on the largest shift
Retail sales except those listed below	1 space per 200 square feet of gross floor area
Retail sales of bulky items which require large amounts of floor space to the number of items offered for sale such as antiques, appliances, art, bicycles, carpet, floor covering furniture, motorcycles, paint upholstery and similar uses	1 space per 300 square feet of gross floor area
Retail uses dealing primary in service and/or repair	1 space per 200 square feet of gross floor area
Designed shopping centers	5 spaces per 1,000 square feet of gross floor area (optional to computing parking on a store by store basis)
Radio, TV Stations	2 spaces per 3 employees on the largest shift

<u>Classification</u>	<u>Off-Street Parking Requirement</u>
Transportation terminals such as airports, bus terminals and railroad passenger stations	1 space per 4 seating accommodations for waiting passengers, plus 1 space for each 2 employees on the largest shift
Wholesale with related retail	1 space per 3 employees on the largest shift, plus additional spaces per square floor of gross floor area devoted to retail sales as applicable from “retail sales” schedule above
Office and Institutional:	
Bed and Breakfast Inn	1 space per room for rent
Child care and kindergarten, less than 6 children	1 space per teacher or staff, plus space for 1 car drop-off and pickup
Churches	1 space per 4 seats in the largest assembly room
Dormitories	1 space per 4 beds
Fraternity, sorority houses	1 space per 2 beds
Elementary and junior high schools	5 spaces, plus 1 space per Teacher or staff
Funeral homes	1 space per 4 seats in the main chapel
General Offices	1 space per 200 square feet of net rentable area (Net rentable area shall be considered to be 80% of gross floor area unless otherwise shown by applicant)
Hospital, nursing and convalescent homes	1 space per 2 beds, plus 1 space per staff doctor and other medical practitioners

<u>Classification</u>	<u>Off-Street Parking Requirement</u>
Library, museum and art galleries	1 space per 300 square feet of gross floor area
Medical, dental and similar offices	7 spaces per doctor or practitioner
Nursing, convalescent homes designed and used primarily for the elderly	1 space per 3 beds, plus 1 space per staff doctor or practitioner
Orphanage, juvenile homes	1 space per 4 beds
Senior high schools, trade and vocational schools, colleges and universities	1 space per 5 students and 1 space for each employee
Auditoriums, stadiums, assembly halls and gymnasiums located on a high school, college or university campus	1 space per 12 fixed seats and 1 space per 12 movable seats in largest assembly room
Recreation:	
Amusements, dance halls, nightclubs not serving meals	1 space per 3 persons in designed capacity, plus 2 spaces per 3 employees on the largest shift
Auditoriums, stadiums, assembly halls, convention centers, gymnasiums, fraternal or social clubs or lodges, community recreation center	1 space per 3 fixed seats and 1 space per movable seats in largest assembly room
Bowling alleys	4 spaces per lane
Golf courses	4 spaces per tee
Indoor movie theaters	1 space per 3 fixed seats and 1 space per movable seats
Public swimming pools	1 space per 100 square feet of water area and deck
Recreational facilities such as community center, swimming pool, tennis courts, and similar activities when located in conjunction with a townhouse, condominium, group housing or homeowner association development	1 space per 25 members or tenants

Recreation Uses such as
golf driving range, miniature golf, tennis,
billiards or pool centers or similar
recreational uses

1 space per tee, green, court and/or
other method of participation
however styled

D. Combination of Required Parking Spaces

The required parking spaces for and number of separate uses may be combined in one lot or parking structure, but the required parking spaces assigned to one use may not be assigned to another use at the same time.

E. Day Time/Night Time Assignments

One-half (1/2) of the required parking spaces for churches, theaters, or assembly halls whose peak attendance is at night or Sundays may be assigned to a use which will be closed at night or Sundays.

F. Lighting

If parking areas are lighted, the lighting fixtures shall be so installed as to protect the street and neighboring properties from direct glare or hazardous interference of any kind.

G. Remote Parking

On all off-street parking lots, the required space shall be provided on the same plot with the use or on a lot separated therefrom by not more than four hundred (400) feet, except for residential uses which must be provided on the same plot.

Where provision of required off-street parking for a building or other uses established subsequent to the adoption of the Section involves one (1) or more parcels or tracts of land that are not a part of the plot on which the principal use is situated, the applicant for a permit for the principal use shall submit with his application for a Zoning Compliance Certificate an instrument duly executed and acknowledged, which subjects the parcels or tracts of land to parking uses in connection with the principal use for which it is made available. The applicant shall cause said instrument to be registered in the office of the Register of Deeds upon the issuance of a Zoning Compliance Certificate. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Parking in one Zoning District in connection with a use not permitted in that District shall be permitted in accordance with the following:

1. Business and Office uses may park in Industrial Districts.
2. Industrial and Office uses may park in Business Districts.
3. Business uses may park in Office Districts.
4. Residential uses may park in Business, Office and Industrial Districts.

In addition, any use located in one Zoning District which is also a permitted use in another Zoning District may also park in such other Zoning District in which the use is permitted. *(09-0-143, adopted 06/08/2009)*

Section 8.2 Parking Lot Improvement, Design and Location Requirements

All off-street parking lots including exists, entrances, drives and parking areas shall:

1. Be designed to allow for traffic movement in accordance with the geometric design principles of table 1;
2. Have physical access to a public street;
3. Be so designed that all access to public street is by forward motion;
4. Be graded, properly drained, stabilized and maintained to prevent dust and erosion;
5. Be continuously provided and maintained as long as the use which they serve exists.

Within the AR, R-20, R-15, R-12.5 R-10, R-8, R-6 and MR Residential Districts and the OI Office and Institutional District, parking lots may be located in the front yard but lots of (6) or more cars shall not be located within ten (10) feet of any public right-of-way line.

When a parking lot with space for more than six (6) cars in any zoning district including residential, adjoins any lot zoned for residential purposes, a screening device as defined in Article XA shall be provided to protect residences from light, glare, noise and fumes.

Any driveway connecting to a public street from a parking lot for six (6) or more cars shall be treated with a hard surface for the portion of the driveway within twenty (20) feet of the public street travelway. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 8.3 Off-Street Loading Requirements

Every structure or building use for trade, business or industry hereafter erected, except in the C-B District, shall provide space as indicated herein for the loading, unloading and maneuvering space of delivery vehicles off the street or public alley. Such space shall have access to a public alley, private driveway, or if such cannot reasonably be provided, to a public street. For the purpose of this Section an off-street loading space (exclusive of adequate access drives and maneuvering space) shall have minimum dimensions of twelve (12) feet by forty (40) feet and an overhead clearance of fourteen (14) feet in height above the alley or street grade.

<u>Type of Use</u>	<u>Required Off-Street Loading Spaces</u>
Retail Business	1 space for each 20,000 square feet of gross floor area or fraction thereof
Wholesale and Industries	1 space for each 20,000 square feet of gross floor area or fraction thereof

Office and Institutions

1 space for each 50,000 square
feet of gross floor area or fraction thereof

(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

ARTICLE IX. SIGNS

Section 9.1 **General Provisions**

The following general provisions shall apply to signs within the jurisdiction of this Ordinance. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.2 **In General**

The regulations in this Article specify the number, types, sizes, heights, and locations of signs which are permitted within the jurisdiction of this Ordinance. It shall be unlawful for any person to erect, place, alter or maintain a sign in the jurisdiction of this Ordinance except in accordance with the provisions of this Article. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.3 **Determination Sign Copy Area**

In measuring the copy area of a sign permitted under this Article, the entire face of the sign shall be included. Where both sides of a double-faced sign contain lettering or other allowable display, one side only shall be used to compute the allowable copy area of the sign. Where the sign consists of individual letters, numbers, characters, figures or displays attached in some manner to a building or a sign face of irregular shape, the sign copy area shall include the area of the smallest circle, square or rectangle that can encompass the total sign area composed of letters, numbers, characters, figures or displays or the irregular shaped sign face. Where signs have appendages or additions, such as “pop-ups” or “cutouts” that extend beyond the main sign copy area, the area of such appendages or additions may be measured separately, but included in the total sign copy area. Also to be included in the total sign copy area shall be any area designed for changeable copy. Where allowed, portable signs shall be counted toward permitted maximum total aggregate sign copy area and maximum number of freestanding signs on each public street. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.4 **Determination of Sign Height**

The height of a sign erected within 30 feet of a street right-of-way line shall be the distance from the grade level of the nearest edge of the street to the top of the sign or sign structure, whichever is greater. The height of all signs farther than 30 feet from a street right-of-way line shall be the distance from the grade level where the sign is erected to the top of the sign or sign structure, whichever is greater. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.5 **Determination of Sign Setback; Freestanding Sign Setback**

In determining setback, measurement shall be made from the nearest street right-of-way line. All freestanding signs shall be setback a minimum of five (5) feet from any street right-of-way. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.6 **Protection Under First Amendment Rights**

Any sign, display or device allowed under this Article may contain, in lieu of any other copy, any otherwise lawful noncommercial message which does not direct attention to a business operated for profit, or to a commodity or service for sale; provided that such sign complies with the size, lighting, spacing, setback and other requirements of this Article. This includes signs requiring and not requiring a Zoning Compliance Certificate. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.7 **Changeable Copy**

Unless otherwise specified by this Article, any sign herein allowed may use manual, or electrically or mechanically activated changeable copy. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.8 **Illuminated Signs**

Signs which are illuminated from within or from an external source must be illuminated in a manner which avoids glare or reflection which in any way or manner interferes with traffic safety. Any external source of illumination, such as spotlights or floodlights shall be placed so that the source is not directly visible from any adjacent residential zoning districts. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.9 **Zoning Compliance Certificate Required**

With the exception of those signs specifically exempt from requiring a certificate, it shall be unlawful for any person to print, paint, stand, stain, engrave, construct, place, erect, illuminate, attach, suspend, enlarge, move, relocate, replace or otherwise put into use or materially alter any sign or cause the same to be done, without first obtaining a zoning compliance certificate for such sign from the Zoning Administrator.

Notwithstanding the above, changing or replacing the permanent copy of an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign such as to render the sign in violation of this Ordinance. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.10 **Construction Standards**

All signs shall be constructed according to the requirements of Chapter 23 of the State Building Code, as amended. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.11 Maintenance Required

Every sign and its support, braces, guys, anchors, and electrical equipment shall be maintained in safe condition at all times. All signs shall be kept in a state of good repair and aesthetic condition, free from defective, rusting, or missing parts (i.e. broken sign facing, broken supports, loose appendages or struts, disfigured, cracked, ripped or peeling paint or poster paper) or missing letters or numbers and shall be able to withstand the wind pressure as prescribed in the North Carolina Building Code. Illuminated signs shall not be allowed to operate with only partial illumination. The area within ten feet in all directions of the base of a freestanding sign shall be kept clear of debris and undergrowth.

Signs that are structurally unsafe and thereby endanger the public safety shall be removed unless they are repaired and made to comply with the requirements of Chapter 23 of the State Building Code, as amended.

The message of a sign face may be changed at any time. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.12 Dangerous or Unsafe Signs

If the Zoning Administrator shall find that any sign is dangerous or is menace to the public, he shall give written notice of such violations to the owner of the sign, or by leaving said notice with the manager or other person who is apparently in charge of the premises or by affixing a copy of the notice to the sign, sign structure or building for a period of five (5) days. The notice shall set forth the nature of the violation and order the violator to repair the sign in such a manner to be approved by the Zoning Administrator in conformance with the provisions of this Article or remove the sign forthwith in the case of imminent instability or immediate danger of falling, and in any case within ten (10) days of receipt.

If within ten (10) days the notice is not complied with, the Zoning Administrator shall have the authority to remove the sign at the recipient's expense and to destroy or otherwise dispose of same.

In cases of emergency, the Zoning Administrator may cause the immediate removal of a dangerous or unsafe sign without notice. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.13 Removal of Discontinued Signs

If a sign advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign and sign structure including, but not limited to, the supporting braces, anchors or similar components shall be considered discontinued regardless of reason or intent and shall, within one (1) year after such discontinuation, be removed by the owner of the property where the sign is located. This Section shall not be construed to prevent the changing of the message of a sign. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.14 **Removal & Disposal of Signs in Right-of-Way**

The Zoning Administrator shall possess the authority to remove and destroy or otherwise dispose of any sign unlawfully placed within the right-of-way of any street. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.15 **Signs Expressly Prohibited**

The following signs, components and characteristics are expressly prohibited within all zoning districts:

A. **Simulated Public Safety, Warning or Traffic Signs**

Signs which by their location, color, illumination, size, shape, nature, message or appearance tend to obstruct the view of or be confused with official traffic, safety or warning signs or lights or other devices erected by governmental agencies. This prohibition includes signs having no bona fide safety necessity, involving the terms “CAUTION”, “DANGER”, “SLOW”, “STOP” or “YIELD”, or which utilize geometric figures, symbols, lights, location or message not unlike official traffic, safety or warning signs, signals or lights. Provided, however, this provision is not intended to prevent the placement on private property of signs with “stop”, “yield” or other such wording or design where such is necessary for traffic control or other such legitimate notice to the public.

B. **Snipe Signs**

Signs placed upon or attached to any curb, sidewalk, utility pole, post, fence, hydrant, bridge, another sign or other surface, public bench, street light, or any tree, rock or other natural object located on, over or across any public street or public property. Provided, however, this provision shall not apply to the posting of public interest, security and warning signs nor to street signs placed upon poles by governmental units for designating the names of streets.

C. **Flashing Signs**

Signs or devices with flashing, intermittent, animated or changing intensity of illumination. Provided, however, traffic signals, railroad crossing signals and other official warning or regulatory signs and electronically controlled message center or reader boards where different copy changes, involving alphabetical or numerical characters only, present messages of a public service or commercial nature shall not be considered flashing signs.

D. **Motion Signs**

Signs or devices designed to attract attention, all or any part of which use movement or apparent movement by fluttering, revolving, rotating, spinning, swinging, animation or

moving in some other manner and are set in motion by movement of water or the atmosphere or by mechanical, electrical or other means. This shall not apply to authorized temporary signs.

E. Signs Below Minimum Clearance

Signs, marquees, canopies and awnings with vertical clearance of less than eight (8) feet above sidewalks and pedestrian areas and less than fourteen (14) feet above parking or vehicular passage areas.

F. Vehicle Signs

Signs placed upon, painted on, attached to or displayed on parked vehicles or trailers, where the primary purpose of the vehicle or trailer is to advertise a product or business or to direct people to a business or activity.

G. Signs Obstructing Motorist Visibility

Signs that substantially interfere with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads or driveways or that obstruct the motorists view of approaching, merging or intersecting traffic including, but not limited to, signs in excess of three (3) feet in sight visibility triangles.

H. Signs In Rights-of-Way

Any sign erected in or over any public right-of-way except for major special event signs by special permit; and governmental signs.

I. Signs Emitting Glare

Signs with light sources or reflectivity of such brightness that result in glare, blinding or any other such adverse effect on motorist vision or into or upon any residential building not related to the signs; or which interfere with the effectiveness of, or obscures an official traffic sign, device or signal.

J. Pennants or Streamers

Pennants, streamers or flags consecutive strung together.

K. Obscene Signs

Signs containing words or graphics that are obscene, as defined in North Carolina General Statute 14-190.1. *(2000 Zoning Ordinance, D-51-02149900, adopted 02/14/2000)*

L. Off-Premises Signs

A sign or structure, pictorial or otherwise, regardless of size or shape that draws attention to or communicates information about a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity that exists or is conducted, manufactured, sold, offered, maintained or provided at a location other than on the premises where the sign is located. This definition does not include governmental, traffic, directional, or regulatory signs or notices of the federal, state, county or town government or their public agencies. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Seasonal-Temporary Off-Premises Signs, however, may be permitted for certain permitted nonresidential uses located within the Agricultural-Residential zoning district subject to the following provisions:

- 1) For the purposes of this section, “Seasonal-Temporary Off-Premises Sign” is defined as: “A temporary, off-premises sign advertising the sale of locally grown seasonal agricultural products and/or seasonal food products such as locally grown seasonal fresh vegetables, locally grown seasonal fresh produce, locally grown seasonal pumpkins, locally grown seasonal fresh strawberries, locally grown seasonal live Christmas trees, locally grown seasonal fresh seafood, and similar locally grown seasonal plant and/or food produce.
- 2) The property on which such products are sold must be located within the zoning jurisdiction of the Town of Winterville.
- 3) The use posting such signage must be located within an Agricultural-Residential Zoning District and must be a legal Permitted Use or approved Special Use within the Zoning Ordinance. Nonconforming uses established prior to the date of adoption of this ordinance shall not be eligible uses for the purposes of this section.
- 4) Permitted off-premises signage may be located only within the following zoning districts: Agricultural-Residential, General Business, Intermediate Commercial, Industrial.
- 5) Signage permitted under this section may be displayed only during the specific season that the products advertised are customarily harvested locally and in no case shall such signage be displayed for greater than one hundred and eighty (180) days within one (1) calendar year.
- 6) The maximum number of signs permitted per use shall be four (4) and only one (1) sign may be posted on any single parcel of land.
- 7) Maximum sign copy area shall be twenty (20) square feet.

- 8) Maximum sign height shall be eight (8) feet.
- 9) No sign permitted under this section shall be erected unless and until a Zoning Compliance Certificate shall have been issued in accordance with Article XIV, Section 14.3 of this ordinance.

(06-0-215, adopted 4/10/2006, 09-0-149, adopted 10/12/2009)

M. Projecting Signs

Signs which project from and are supported by a building or other structure into the public street right-of-way only when such projection is greater than twelve (12) inches.

N. Roof Signs

Signs erected in whole or in part on, upon or over the roof or parapet of a building or structure and which is wholly or partially dependent upon the roof of the building or structure for support.

O. Unspecified Temporary Signs

Temporary signs not expressly permitted by this Article.

P. All Other Signs Not Specifically Allowed

Other signs not expressly allowed by this Article.

(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

Section 9.16 Signs Permitted Without A Zoning Compliance Certificate

The following signs and devices shall be permitted without the issuance of a Zoning Compliance Certificate:

A. Public (governmental, utility) Signs

Signs erected by, on behalf of, or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic warning, directional or regulatory signs.

Official signs of a non-commercial nature erected by public utilities, including safety, warning and informational signs.

B. Warning (Health, Safety, Hazard) Signs

Temporary or permanent signs erected by government agencies, public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices or signs providing directions around such conditions.

C. Signs not legible off-premises

Signs which are not legible from the boundaries of the lot or parcel upon which they are located, or from any public thoroughfare or right-of-way.

D. Flags (non-advertising) (non-informational)

Flags except when such are used in connection with a commercial promotion or as an advertising device or as an integral part of a sign regulated under this Article; provided such flags are displayed on permanent pole structures. Failure to display flags in such a manner which meets Congressional protocol will be a violation of this Ordinance.

Plain flags with no advertising or information provided such flags are displayed on permanent pole structure and are properly maintained. Proper maintenance shall not permit flags which are torn, ripped, frayed, separated from their grommets or incompletely affixed to their pole structures.

All flags used in connection with a commercial promotion as an advertising device or as an integral part of a commercial sign must comply with the regulations of this Article for area, height, number and location.

E. Incidental Object or Product Signs

Small decals consolidated and affixed to window or door panes, such as indicating membership in a business group or credit cards accepted at the establishment.

Any sign, painted or affixed to an object or product, where the sign is clearly incidental and accessory to the primary use and purpose of the object or product including, but not limited to, product dispensers and point of purchase displays for newspapers, soft drinks, gasoline, ice, telephone, ATM or similar items which indicate the contents of the machine, the name or logo of the supplier, the price and/or operating instructions.

F. Signs required by law

Legal notices and signs required by law, statute or ordinance.

G. Transportation facilities signs

Informational signs indicating bus stops, taxi stands, train stations and similar transportation facilities.

H. Campaign signs at polling places

Political signs displayed at polling places provided they are displayed in compliance with general law only on the day of the election is held and must be removed within seventy-two (72) hours of close of voting.

I. Street numbers

Display of street numbers on residential and non-residential buildings, structures and mailboxes.

J. Handicapped Signs

Handicapped signs as required by the Americans With Disabilities Act.

K. Window Signs

Signs placed on or attached to the interior side of a window or door glass of a building by means of adhesive, paint or manufacturing process intended for viewing from the exterior of such buildings; or a sign within a building, placed no more that twelve (12) inches behind the window that is visible through the window.

L. Temporary Signs

Temporary signs subject to the following limitations:

Type	No.	Maximum Copy Area (sq. ft.)	Maximum Height if Freestanding (vert. ft.)	Maximum Display Time
Temporary (Grand Opening)	1	32	10	Once for 30 days
Temporary (Going out of Business)	1	32	10	Once for 30 days
Temporary (Special event of civic or non-profit organization)	2	32	8	30 days prior to event
Temporary (Remodeling/Repair)	1	4	6	Until work completed

Type	No.	Maximum Copy Area (sq. ft.)	Maximum Height if Freestanding (vert. ft.)	Maximum Display Time
Temporary (Construction - one or two family dwelling)	1	4	6	Until construction Completed
Temporary (Construction – other than one or two family dwelling)	2	32	14	Until construction completed
Temporary (Construction announcement)	2	32	14	Until building permit issued
Temporary (Political)	-	32	14	60 days prior to election
Temporary On-Premises (real estate sale/ lease/rent of one or two family dwelling or lot)	1	6	6	Until sale closed or rent/lease transaction finalized
Temporary Off-Premises (real estate sale/ lease/rent of one or two family dwelling or lot)	1	3	4	Until sale closed or rent/lease transaction finalized
Temporary On-Premises (real estate sale/ lease/rent of other than one or two family dwelling or lot)	2	32	12	Until sale closed or rent/lease transaction finalized
Temporary Off-Premises (real estate sale/ lease/rent of other than one or two family dwelling or lot)	4	6	6	Until sale closed or rent/lease transaction finalized
Temporary (Non-residential (ie. Commercial, industrial))	2	32	10	45 days in any consecutive 90 day period

Temporary signs which do not meet the provisions of this Subsection shall be considered in violation of the Ordinance. Only Temporary (political), Temporary (real estate), and Temporary (special event of a civic or non-profit organization) signs shall be permitted off-premises. No temporary sign shall be illuminated. Temporary signs shall be removed within five (5) days from the date the purpose for such sign ceased to exist.

M. Miscellaneous Signs

Miscellaneous signs subject to the following limitations:

Type	No.	Maximum Copy Area (sq. ft.)	Maximum Height if Freestanding (vert. ft.)
Public Interest, Security Warning (No trespassing, soliciting, hunting or fishing/posted/private parking/danger/warning)	-	1	4
Home Occupation; Rural Home Occupation	1	3	4
Open/Closed/Hours	2	2	6
Permanent Professional or Business Announcement (Wall)	1	2	-
Building Memorial (Wall)	1	2	-
Philosophical, Religious Educational or other Non-Commercial	2	2	4
Occupant/Address (Ground or Wall)	2	2	6
Private Drive	1	2	6

Type	No.	Maximum Copy Area (sq. ft.)	Maximum Height if Freestanding (vert. ft.)
Informational/Instructional (Traffic directions, restrictions or arrows, entrance, exit, location of restrooms, public telephones, parcel pick-up, freight or service entrances, parking/loading areas and the like)	-	10	4
Movable non-residential	2	16	6

Miscellaneous signs which do not meet the provisions of this Section shall be considered in violation of the Ordinance. Only Private Drive signs shall be permitted off-premises. No miscellaneous signs shall be illuminated.

(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

Section 9.17 Signs Permitted with a Zoning Compliance Certificate in All Zoning Districts

The following signs are permitted in all zoning districts upon issuance of a Zoning Compliance Certificate provided that stated specific requirements, conditions and stipulations are met:

- A. All signs permitted without a Zoning Compliance Certificate and signs permitted by special permit.
- B. On-premises signs identifying a single-family residential subdivision; apartment, townhouse, condominium or other multi-family residential complex; recreational facility or manufactured home park not exceeding thirty-two (32) square feet in area. There shall be a limit of one (1) double-faced sign or two (2) single-faced signs for each road or driveway entrance to the development named on the sign. Such signs shall be limited to the name and address of the premises and the on-site address and phone number of the resident agent and may be directly or indirectly illuminated. In addition one (1) identifying sign for an accessory management or rental office not exceeding six (6) square feet shall be permitted.
- C. One (1) on-premises identification sign or bulletin board for each road or driveway entrance indicating the name and/or address of the premises, schedule of services or activities, hours of operation, name of person(s) in authority, founding date of the organization or other information relevant to the operation of a school, college, park, public swimming pool, church, synagogue or other place of worship, hospital, sanitarium, art gallery, museum, library, YMCA, YWCA, community building, recreation center,

coliseum or convention center, not to exceed thirty-two (32) feet in area to be located on private property where the use occurs. Such signs may be directly or indirectly illuminated. An on-premises sign for a college, university, hospital, coliseum or convention center may exceed thirty-two (32) square feet in area if approved by the Town Council as a special exception when the Council finds that the size and scale of said sign will be in keeping with the size and scale of the development and will not be detrimental to the surrounding properties.

- D. Signs not exceeding thirty-two (32) square feet in area advertising the sale of subdivision lots, not more than one (1) sign to be located on private property at each major approach to the subdivision; provided that the display of such signs shall be limited to a six month period or until seventy-five percent (75%) of the lots are sold, whichever comes first, and may not be illuminated.
- E. One (1) on-premises ground or wall sign not exceeding thirty-two (32) square feet in area for a legal non-conforming use in a residential zoning district in which it is located. Illumination of such signs shall be permitted only between sunrise and 10:00 p.m.
- F. On-premises signs identifying private country clubs, golf courses, swimming/tennis clubs, equestrian centers, lakes, cemeteries and similar facilities operated on a profit or non-profit basis not exceeding thirty-two (32) square feet in copy area. There shall be a limit of one (1) double-faced sign or two (2) single-faced signs for each road or driveway entrance to the facility. Such signs shall be limited to the name, address, founding date and hours of operation and may be directly or indirectly illuminated.
- G. One (1) on-premises identification sign for a convalescent home, nursing home, home for the care of children, medical clinic or dental clinic not exceeding twenty (2) square feet in copy area. Such sign shall be limited to the name and address of the home or clinic and may be directly or indirectly illuminated.
- H. Signs which denote religious, charitable, fraternal, military or service organizations may be freestanding and may be located off-site, provided however, that no one (1) individually chartered organization may have more than one (1) off-premises sign which shall not be illuminated. A sign denoting a single chartered organization shall not exceed four (4) square feet in area. A number of such signs may be placed on one structure, provided, however, the copy area of each individual sign does not exceed three (3) square feet in copy area and the structure does not exceed thirty-two (32) square feet in copy area.

All freestanding signs permitted by this Section in all zoning districts shall have a maximum height limit of eight (8) feet and shall have a minimum setback of five (5) feet from any public right-of-way. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.18 Signs for Permitted Non-Residential Uses Permitted in Residential Districts

Signs for permitted non-residential uses in residential districts, other than those permitted with a zoning compliance certificate in all districts under the provisions of Section 9.17, shall be permitted under the provisions of the most restrictive non-residential district in which the uses are permitted except that sign copy area may not exceed seventy-five percent (75%) of the maximum size allowed. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.19 Signs Permitted in Non-Residential Zoning Districts

The following permanent signs are permitted, upon issuance of a zoning compliance certificate regarding the proposed sign(s), in non-residential zoning districts, provided that stated requirements, conditions and stipulations are met.

A. Permanent On-Premises Signs Permitted per Single Establishment on a Single Parcel or Lot

The following permanent on-premises signs are permitted in the respective non-residential zoning districts for single establishments on single parcels or lots upon issuance of a zoning compliance certificate regarding the proposed sign(s), provided stated specific requirements, conditions, and stipulations are met, as follows:

See Notes (1) and (2)	OI	CN	CB	GB	I	IC
Maximum Aggregate Sign Copy Area (1) (Sq. ft. per linear feet of each principal building wall facing a public street or alley or facing a private access way if an establishment has no frontage on a public street.	1	2	3	4	4	3
Up to a Maximum (Sq. ft.)	60	90	120	300	300	200
Maximum Number of Freestanding Signs	1	1	1	2	2	1
Maximum Copy Area of Freestanding Signs (Sq. ft.) (2)	24	36	48	120	120	80
Maximum Height of Freestanding Signs (ft.)	12	15	18	30	30	30
Type of Illumination Permitted B = Back Lighted I = Internally Lighted E = Externally Lighted	B/E	B/E	I/B/E	I/B/E	I/B/E	B/E

- (1) Maximum Total Aggregate Sign Copy Area may be increased by ten percent (10%) if no freestanding sign is used on the premises for the establishment.
- (2) One additional freestanding sign is permitted for lots with frontage on more than one street. A freestanding sign on a corner lot may be increased up to twenty-five percent (25%) if one (1) freestanding sign is used where more than one would have been allowed.

B. Permanent On-Premises Signs Permitted for Multiple Establishments on a Single Parcel or Lot

One combined or common permanent on-premises freestanding sign for multiple establishments on a single parcel or lot shall be allowed on each public street and may exceed the maximum copy area for free standing signs in Subsection A. by the following percentages:

- 1 – 10 establishments – up to 25%
- 11 – 20 establishments – up to 50%
- 21 – 30 establishments – up to 75%
- 31 – 40 establishments – up to 100%
- 41 – 50 establishments – up to 125%
- 51 or more establishments – up to 150%

Maximum aggregate sign copy area in Subsection A may be exceeded by the same extent.

Other signs for each individual establishment shall be in accordance with Subsection A. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Establishments participating in combined or common freestanding signs may not also have individual freestanding signs. *(01-58, adopted 01/12/2001)*

C. Permanent On-Premises Signs Permitted for Establishments on Adjacent Parcels or Lots Utilizing Shared Parking and Driveway Connections

Establishments on adjacent parcels or lots utilizing shared parking and driveway connections may exceed maximum copy are for freestanding signs in Subsection A by twenty-five percent (25%) for a combined or common freestanding sign. Maximum copy area in Subsection A. may be exceeded by the extent. Such combined or common f freestanding sign shall not be considered to be an off-premises sign for any of the establishments advertising on the sign. Establishments participating in combined or common freestanding signs may not also have individual freestanding signs. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 9.20 Signs Permitted By Special Permit

The following signs are permitted only by special permit issued by the Town Council and shall conform to all stated regulations and to all conditions and requirements imposed by the Council in issuing the permit:

A. Festival and Major Event Signs

For the purpose of giving directions and information, temporary on-premises and off-premises signs pertaining to festivals and other major special events are permitted with

approval of the Town Council subject to a special permit specifying the size, location, lighting, design, display and duration. The number of signs shall be set by the Council.

(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

ARTICLE X. ARCHITECTURAL STANDARDS

Section 10.1. APPLICABILITY

- A. The architectural standards of this Article shall apply to new construction or expansion of commercial, office, industrial, and institutional buildings.
- B. Expansions to existing structures must meet the requirements of this Article. If the expansion is equal to or greater than fifty (50) percent of the exiting square footage, the entire structure shall be made to comply with the requirements of this article. *(07-0-291, adopted 10/08/2007)*

Section 10.2. INDUSTRIAL USE STANDARDS

- A. For all uses within an Industrial Zoning District that have a land use classification number of 4 or higher, in accordance with Article VI, Section 6.4 of this ordinance, if metal or unfinished concrete block are used on the lower half of any façade facing a public street, landscape screening shall be installed in accordance with Section 10.4 of this article.
- B. All other uses within an Industrial Zoning District shall comply with the standards of Section 10.3 of this Article. *(07-0-291, adopted 10/08/2007)*

Section 10.3. STANDARDS FOR ALL OTHER NON-RESIDENTIAL USES

- A. Facades **facing** a public street shall not be comprised of metal or unfinished concrete block.
- B. If metal or concrete block are used on the lower half of any other façade **visible** from a public street, landscape screening shall be installed in accordance with Section 10.4 of this Article.
- C. Any wall visible from an existing or proposed public right-of-way shall incorporate a minimum of two architectural accent elements of doors, windows, columns, color changes, texture change, recesses, and/or material changes such as wood, brickwork, stucco, tile, and/or canvas canopies. Fifty (50) linear feet of a wall shall be the maximum length without an architectural accent element.
- D. Façade and visible roof colors shall be of low reflective earth tone, muted, subtle, or neutral colors. Neon, or similar gas tubing, is not allowed as an accent material. Colors including, but not limited to florescent, day glow, or neon shall be prohibited as a primary wall or roof color.
- E. All flat roofs and rooftop mechanical equipment shall be screened by architectural treatments such as, but not limited to, parapet walls.

- F. In addition to any required visual barriers or vegetation improvements, all garbage/trash container pads shall be enclosed on three (3) sides by a complete visual barrier consisting of a fence, evergreen vegetation or combination thereof. All garbage/trash container pads shall be located in a side or rear yard not adjacent to a street. In the event that a lot or tract has multiple street frontages, such that all yards are adjacent to a street, container pads shall be located in the least publicly visible yard space of the facility.
- G. All accessory buildings shall be clad in materials similar in appearance to the principal structure.
- H. Mobile units (units designed to be transported to the building site on its own chassis) shall be prohibited, except for temporary use during construction or for storage of materials during construction, with an approved Zoning Compliance Certificate. *(07-0-291, adopted 10/08/2007)*

Section 10.4. LANDSCAPE SCREENING REQUIREMENTS

Landscape screening plants required by this Article shall:

- 1) Be shown in detail on the site plan and approved by the Winterville Planning Department;
- 2) Be installed no more than ten (10) feet apart and not further than ten (10) feet from the building wall;
- 3) Be a minimum of three (3) feet tall when planted;
- 4) Be of a species that forms a continuous year-round opaque screen within three (3) years after planting;
- 5) Reach a height of at least seventy-five percent of the height of the wall at maturity,
- 6) Be installed in addition to any other required site vegetation, buffer, or landscaping;
- 7) Be installed and approved before a Final Site Approval Certificate is granted, except when seasonal weather conditions are not conducive. In such case, a Temporary Final Site Approval Certificate may be issued for up to sixty (60) days.
- 8) Be perpetually maintained so all plantings remain in a healthy condition. Any dead, unhealthy, or missing vegetation shall be replaced at the earliest suitable planting season. *(07-0-291, adopted 10/08/2007)*

ARTICLE X-A. VEGETATION AND BUFFERING REQUIREMENTS

Section 10A.1. VEGETATION REQUIREMENTS

The intent of these regulations is to enhance the appearance and value of property, preserve the natural environment, mitigate flood and stormwater hazards, and improve the built environment. *(07-0-291, adopted 10/08/2007)*

Section 10A.1.01. Applicability

- A.** The provisions of this Section shall apply to those uses having a Land Use Classification number of 2 or more, in accordance with Article VI, Section 6.4 of this ordinance.
- B.** Site vegetation is required for all multi-family land uses and all nonresidential land uses except those uses within the Central Business District zoning classification that have limited planting area due to minimal setback requirements. When available planting space exists on a site, a site vegetation plan shall be submitted for approval by the Planning Director, or his designee, to provide vegetation as appropriate in the available space. *(07-0-291, adopted 10/08/2007)*

Section 10A.1.02 Landscape Plan

When a site plan review is required pursuant to this ordinance or when application is made for a permit on any land to which the requirements of this Article apply, the site plan shall be accompanied by a landscape plan. The landscape plan shall include the following site data and notes:

- 1) *Site data.*
 - a. Total per acre requirement by category.
 - b. Total street tree requirement by category for each public and/or private street frontage.
 - c. Total screening requirement for each individual bufferyard.
 - d. Proposed vegetation by category and total number of materials to be located within each individual public utility or drainage easement.
- 2) *Notes.*
 - a. Minimum plant sizes shall be as follows:

<i>Planting Material Type</i>	<i>Minimum Planting Size</i>
1. Large tree	
single stem	10 feet (height) and 2 inch caliper
multi-stem clump	10 feet (height)
2. Small tree	8 feet (height) and 1 ½ inch caliper
3. Shrub	18 inches (height)
 - b. Existing substitute vegetation materials shall be noted including their specific location(s), type(s) and size(s). *(07-0-291, adopted 10/08/2007)*

Section 10A.1.03. Minimum Site Vegetation Requirements

A. Calculation of Minimum Site Vegetation

- 1) For the purposes of this Section, the total gross acreage of a lot or tract carried to one (1) decimal point (0.0) shall be multiplied by each of the following minimum requirements to determine the minimum site vegetation:

Three (3) large trees; and
Seven (7) small trees; and
Twenty (20) shrubs.

Any fractional requirement over 0.50 shall be rounded up to the next whole number.

Provided, however, no lot or tract regardless of acreage, shall have less than the following minimum site vegetation (these minimum quantities shall not be eligible for the substitution allowances of Section 10.A.1.05.):

One (1) large tree; and
Five (5) small trees; and
Ten (10) shrubs.

- 2) The area within any public utility easement, public drainage easement or other public easement, wherein the owner is prohibited from locating required vegetation materials shall not be included in the calculation of total gross acreage.

B. Site Vegetation Standards

- a. Site vegetation shall be arranged so that at least twenty five percent (25%) of the required site vegetation of each plant type is located within the street yard area. The street yard area is defined as the area between any abutting street right-of-way line (public and/or private) and the adjacent minimum setback line of the lot or tract. Street yard planting areas shall be a minimum of ten (10) feet in width.
- b. Site vegetation shall be arranged so that no vehicular parking space is greater than fifty (50) feet from a tree as measured from the farthest edge of the parking space to the tree trunk.
- c. A *large tree* is defined as a tree growing to a height of thirty-five (35) or more feet at maturity. A *small tree* is defined as a tree growing to a height of fifteen (15) to thirty-five (35) feet at maturity. A *shrub* is defined as a low growing plant, generally characterized by several upright stems, typically not exceeding ten (10) feet in height.
- d. Large trees, single stem, shall be a minimum height of 10 feet and shall have a minimum caliper of 2 inches at planting. Large trees, multi-stem clump, shall have be a minimum height of 10 feet at planting. Small trees shall be a minimum height of 10 feet and shall have a minimum caliper of 1 ½ inches at planting. Shrubs shall be a minimum height of 18 inches at planting.

- e. Site vegetation shall be placed in a manner that meets the intent of this ordinance, and shall be maintained by the property owner so that all plantings remain in a healthy condition. Any dead, unhealthy, or missing vegetation shall be replaced at the earliest suitable planting season.
- f. All open spaces shall be grassed, seeded with lawn, or provided with other acceptable ground cover or other erosion control material.
- g. When required plantings are located in interior parking areas, planting areas for one tree shall be no less than one hundred sixty two (162) square feet and planting areas for more than one tree shall be no less than three hundred (300) square feet. The minimum width of internal planting areas shall be six (6) feet. Interior parking area is defined as the area within the property used for vehicular storage, parking, and movement.
- h. Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles, or the approach to any street intersection so as to constitute a traffic hazard.
- i. In addition to any required visual barriers or vegetation improvements, all garbage/trash container pads shall be enclosed on three (3) sides by a complete visual barrier consisting of a fence, wall, evergreen vegetation or combination thereof. All garbage/trash container pads shall be located in a side or rear yard not adjacent to a street. In the event that a lot or tract has multiple street frontages, such that all yards are adjacent to a street, container pads shall be located in the least publicly visible yard space of the facility. *(07-0-291, adopted 10/08/2007)*

Section 10A.1.04. Street Yard Planting Requirements

The street yard area is defined as the area between any abutting street right-of-way line (public and/or private) and the adjacent minimum setback line of the lot or tract. Street yard planting areas shall be a minimum of ten (10) feet in width. As provided under Section 10A.1.03, B, 1, at least twenty five percent (25%) of the minimum required site vegetation of each plant type shall be located within the street yard area. In addition to this requirement, street yard areas shall also meet the following minimum vegetation requirements:

- a. Street yard planting areas shall be a minimum of ten (10) feet in width.
- b. A minimum of two (2) large trees shall be provided for each one hundred (100) linear feet or fraction thereof of street frontage (public or private)
- c. Street yard vegetation may count toward the minimum site vegetation requirements of Section 10A.1.03, however, additional materials may be necessary as required to comply with the street yard planting requirements of this Section. *(07-0-291, adopted 10/08/2007)*

Section 10A.1.05. Credits and Substitutions

a. Credits

Credit for retention of existing trees may be granted on a one-to-one basis for each healthy, viable tree retained and protected. When using existing trees, the area under the dripline (maximum extension of the branches) must remain undisturbed. This includes grading, filling, paving, etc. During land development and construction activities, existing trees shall be screened and buffered by means of a visible barrier which identifies the limits of protection.

b. Substitutions

Subject to the provisions of Section 10A.1.03.A., the following substitutions may be permitted:

One (1) large tree may substitute for two (2) small trees;

Two (2) small trees may substitute for one (1) large tree;

One (1) small tree may substitute for two (2) shrubs. *(07-0-291, adopted 10/08/2007)*

Section 10A.2. BUFFERYARD REQUIREMENTS

Section 10A.2.01 Purpose

It is recognized that certain land uses, because of their character and intensity, may create adverse impacts when developed adjacent to other less intensive land uses. The general purpose of this Section is to establish regulations protecting and preserving the appearance, character and value of property and to recognize that the transition between certain uses requires attention to protect less intensive uses. The objectives are to identify those land use relationships that may be incompatible and to specify an appropriate buffer or screen, the purpose of which is to minimize any adverse impacts. *(07-0-291, adopted 10/08/2007)*

Section 10A.2.02 Illustration of Bufferyards.

Prior to issuance of any permit or the granting of any other approval the applicant shall indicate on all required plans, type and dimension of all bufferyards required by this article. *(07-0-291, adopted 10/08/2007)*

Section 10A.2.03 Land Use Classifications

There are five different Land Use Classifications for purposes of determining applicable bufferyard requirements. The Land Use Classification number for proposed and adjacent land uses shall be obtained from the "Table of Permitted and Conditional Uses," Article VI, Section 6.4 of this ordinance. The Bufferyard Chart under Section 10.4 of this Article identifies the Bufferyard Type required for a given development, based on the relationship between the adjacent land uses. *(07-0-291, adopted 10/08/2007)*

Section 10A.2.04 Bufferyard Chart

A. There are four different Bufferyard Types, designated as A, B, C, & D. Bufferyard Types shall be provided in accordance with the *Bufferyard Chart* under this Section.

Bufferyard Chart

Proposed Land Use Classification	IF DEVELOPED Adjacent Land Use Classification					IF VACANT Adjacent Zoning District	
	1	2	3	4	5	Residential District	Nonresidential District
2	A	na	na	na	na	A	na
3	B	B	na	na	na	B	na
4	C	C	na	na	na	C	na
5	D	D	na	na	na	D	na

B. Bufferyard Exceptions.

(1) Central Business District Zoning

The bufferyard requirements of this Article shall not apply to those uses located within the Central Business District zoning classification.

(2) Agricultural-Residential Zoning

Where the zoning classification of adjacent property is Agricultural-Residential, bufferyard requirements shall be applied based upon adjoining land use rather than zoning classification. Bufferyard requirements shall not apply to vacant, cultivated, or wooded land within an Agricultural-Residential zoning classification, however, they shall apply with respect to any developed abutting parcel. *(07-0-291, adopted 10/08/2007)*

Section 10A.2.05. Bufferyard Minimum Standards

A. The intent of this section shall be to provide a complete year round opaque visual barrier between incompatible land uses. Qualified vegetation should therefore be spaced to accomplish this end. No horizontal plane, as viewed perpendicular from the property line, may be void of vegetation within five (5) years of planting for a height of at least twelve (12) feet. Beyond this five-year time period such vegetation screening shall be expected to increase in height in accordance with the natural growth patterns of the approved materials.

B. A complete visual screen shall be installed along the entire length of the subject bufferyard in accordance with the standards set out in the *Bufferyard Standards Chart* under this section.

Bufferyard Standards Chart

Bufferyard Type	Minimum Width *Notes 1 & 2	Minimum Vegetation Material Per 100 Linear Feet		
		Large Evergreen Trees	Small Evergreen Trees	Evergreen Shrubs
A	10 feet	3	4	16
B	20 feet	4	6	16
C	30 feet	6	8	26
D	50 feet	8	10	36

Note 1: Where a bufferyard width requirement is greater than the minimum setback requirement for the subject zoning classification, the bufferyard width requirement shall become the minimum setback requirement from the adjacent property line.

Note 2: a. Fence option. Where a fence, in accordance with subsection b below, is installed the bufferyard width may be reduced to:

- Bufferyard A - not less than 8 feet;
- Bufferyard B - not less than 10 feet;
- Bufferyard C - not less than 15 feet;
- Bufferyard D - not less than 25 feet.

b. When the fence option is used for bufferyard width reduction, such fence must create a complete visual barrier for at least six (6) feet in height. Such fence shall be located on the interior side of required buffer vegetation materials. Acceptable fence materials are cedar, masonry, redwood, composite, plastic, treated lumber resistant to rot, or other materials specifically designed as fencing materials. A chain link fence with plastic, metal or wooden slats may not be used to satisfy the requirements of this section. Fence installation shall be consistent with acceptable building practices.

C. Measurement; location of bufferyards. Bufferyard width shall be measured from lot boundary lines except as further provided.

D. Thoroughfares. Where a lot is located in proximity of an existing or future thoroughfare, as show on the officially adopted thoroughfare plan, all bufferyards shall be measured from the ultimate future thoroughfare right-of-way lines or property line, which yields the greatest setback.

E. Overlapping bufferyards. Whenever two (2) or more bufferyard requirements are applicable to the same use or combination of uses, then the more stringent of the bufferyard requirements shall apply, except as further provided.

- F. *Planned center.*** In the case of planned centers containing multiple principal uses, such as shopping centers, office/commercial unit ownership type developments and the like, the initial bufferyard requirement shall be based on the anticipated primary occupancy of such center and such requirement shall apply to all subsequent uses absent any change in zoning for such planned center.
- G. *Shared buffer.*** A shared buffer between adjoining property owners may be permitted to be installed instead of buffers on each parcel where property owners of adjoining properties agree to install a shared buffer and record a legal instrument, such as a recorded easement, that binds each property owner and the heirs to the proper installation and perpetual maintenance of a buffer that is in compliance with this ordinance. If a shared buffer is agreed upon it shall consist of the most restrictive buffer required by this ordinance for the particular properties. The shared buffer shall be installed along the adjoining properties such that portions of the buffer width are on each property, but not necessarily centered on the property line.
- H. *Easement.*** No bufferyard planting materials, fence, or other improvements required by this article shall be located on property subject to utility or drainage easements without written consent of the Town and easement holder. *(07-0-291, adopted 10/08/2007)*

Section 10.A.3. FLEXIBILITY IN ADMINISTRATION

A. The Town Council recognizes that due to the wide variety of types of development and property boundary configurations, the varying quantity and dimension of open spaces, the natural and built environment and other existing adverse physical conditions, it is neither possible or prudent to establish inflexible vegetation regulations. Therefore, the Planning Director, or his authorized representative, may permit deviations from the specific requirements of this article provided such deviations are in accordance with subsection B.

B. Prior to administrative approval of any deviation to the requirements of this Article, the Planning Director, or his authorized representative, shall first determine the application meets the following criteria:

- 1) The deviation is necessary due to unique physical conditions of the property, which may include existing vegetation conditions, and
- 2) The hardship in complying with the requirements is not created by a proposed building, building expansion or expansion of impervious area into available open space wherein required plantings could be located in accordance with ordinance provisions, and
- 3) The hardship in complying with the requirements is not related to the expense or cost of installing required materials or other improvements, and
- 4) The deviation represents the least possible deviation from the letter of the ordinance and will allow reasonable use of the property, and
- 5) The deviation is in harmony with the general purpose and intent of the ordinance and preserves its spirit. *(07-0-291, adopted 10/08/2007)*

ARTICLE XI. NON-CONFORMING SITUATIONS

The purpose of this Article is to avoid undue hardship by permitting the continued use of any building, structure, or property that was lawful at the time of the enactment of this Ordinance or any applicable amendment thereof even though such use, structure, or property does not conform with the provisions of this Ordinance. However, this Article is also established to require that non-conforming situations be terminated under certain circumstances.

Section 11.1 **Continuation of Non-Conforming Situations**

Non-conforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in Sections 11.2 through 11.9 of this Article. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 11.2 **Non-conforming Lots of Record**

Where the owners of a lot of record at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the area or lot width requirements of this Ordinance, such lot may be used as a building site provided all other dimensional requirements are met and provided that the use to be made of the property is not one to which larger than minimum lot area requirements are called for in the list of Permitted and Conditional Uses and the Special Requirements. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 11.3 **Extension or Enlargement of Non-Conforming Situations**

1. Except as specifically provided in this Section, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of non-conformity of a non-conforming situation.
2. Subject to Paragraph 4 of this Section, a non-conforming use may be extended through any portion of a completed building that, when the use was made non-conforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, a non-conforming use may not be extended to additional buildings or land outside the original building.
3. A non-conforming use may not be extended to cover more land than was occupied, or manifestly designed and arranged to be occupied, by that use when it became non-conforming.
4. The volume, intensity, or frequency of use of property where a non-conforming situation exists may be increased and the equipment or processes used at a location where a non-conforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this Section occur.

5. Physical alteration of non-conforming structures or structures containing a non-conforming use is unlawful if it results in:
 - a) An increase in the total number of space devoted to a non-conforming use.
 - b) Greater non-conformity with respect to dimension restrictions such as yard requirements, height, limitations, or density requirements.
 - c) The enclosure of previously unenclosed areas, even though those areas are or were used in connection with the non-conforming activity.

6. Minor repairs to and routine maintenance of property where non-conforming situations exist are permitted and encouraged. Major renovation – i.e. work estimated to cost more than ten percent (10%) but less than sixty percent (60%) of the taxed value of the structure to be renovated may be done provided that the work will not result in a violation of any other paragraphs of this Subsection particularly Paragraph 5. In no case however shall work costing more than sixty percent (60%) of the taxed value of the structure be done, singularly or cumulative, within any five (5) year period. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 11.4 Reconstruction Prohibited

Any non-conforming building or structure or any building or structure containing a nonconforming use for which a major repair or reconstruction is proposed in any amount equal to sixty-percent (60%) or more of the taxed value of the building or structure or which has been damaged by any cause to an extent equal to sixty percent (60%) or more of its taxed value shall only be repaired and/or reconstructed and used as a conforming structure and a conforming use.

Provided, nothing herein shall prevent the reconstruction of a single-family dwelling that is non-conforming as to use provided such reconstruction conforms to the dimensional requirements of the R-6 District. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 11.5 Change in Kind of Non-Conforming Use

1. A non-conforming use may be changed to a conforming use. Thereafter, the property may not revert to a non-conforming use.

2. A non-conforming use shall not be changed to another non-conforming use except upon finding by the Board of Adjustment that the use is more in character with the uses permitted in the District than the previous use.

3. If a non-conforming use and a conforming use, or any combination of non-conforming uses exists on one lot, the use made of the property may be changed only to a conforming use.

4. Conforming uses, except Adult Oriented Businesses, may be established or re-established in non-conforming buildings or structures provided that off-street parking is provided as

required by this Ordinance and provided no other provision of this Ordinance for the establishment of new uses is violated. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 11.6 **Replacement of Non-Conforming Mobile Homes**

1. A non-conforming mobile home on an individually lot outside of a mobile home park may not be replaced except by a conforming dwelling. A non-conforming mobile home may not be enlarged or altered externally in any way.
2. Existing mobile home parks which provide manufactured home spaces having a width or area less than that herein described may continue to operate with spaces of existing width or area provided they meet the standards of the Pitt County Health Department. In no event shall any non-conforming park be allowed to expand unless the entire park is improved to meet the requirements of this ordinance. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 11.7 **Discontinuance of Non-Conforming Uses**

1. When active operation or occupancy of a non-conforming use is discontinued regardless of the purpose or reason for a consecutive period of one hundred and eighty (180) days, the property involved may thereafter be used only for conforming uses.
2. For purposes of determining whether a right to continue a non-conforming situation is lost pursuant to this Subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a non-conforming apartment building or one space in a non-conforming mobile home park for one-hundred and eighty (180) days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or mobile home park as a whole is continuously maintained. But if a non-conforming use is maintained in conjunction with a conforming use, cessation of operation or occupancy of the non-conforming use for the required period shall terminated to right to maintain it thereafter. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 11.8 **Discontinuance of Non-Conforming Adult Oriented Businesses**

Notwithstanding the provisions of Section 11.7 above, Adult Oriented Business shall be governed by the following:

1. Any Adult Oriented Business, that fails to comply with the use and locational requirements of this Ordinance but which was lawfully operating before the effective date of this Ordinance, shall be deemed to be in violation of this Ordinance but shall be a non-conformity. Any such business which ceases active operation for a period of thirty (30) days regardless of the purpose or reason shall be subject to all the requirements of this Ordinance and the property shall thereafter be used only for conforming uses.

2. Any Adult Oriented Business lawfully operating as of the effective date of this Ordinance but which subsequently fails to comply with the use and locational requirements of this Ordinance as a result of changes within the vicinity or amendment to this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be a non-conformity. Any such business that ceases active operation for a period of thirty (30) days regardless of purpose or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be use only for conforming uses.
3. Any Adult Oriented Business that is rendered a non-conforming use as a result of the conditions described in 1. and 2. above shall either cease to operate or meet all the requirements of this Ordinance for the use no later than sixty (60) months from the date that the Adult Oriented Business became a non-conforming use. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 11.9 Non-Conforming Signs

The following requirements are established to regulate non-conforming signs:

Section 11.9.1 Conformance Required

Any sign legally in use prior to the effective date of this ordinance or any amendments hereto which does not satisfy the requirements of this ordinance is declared to be nonconforming and may be continued subject to regulations of Section 11.7.2, provided, however, prohibited signs in Article IX other than roof or projecting signs shall immediately be brought into compliance with the requirements of this Article or removed entirely, including any associated components or equipment.

The eventual elimination, as expeditiously and fairly as possible, of nonconforming signs is as much a subject of health, safety and welfare as is the regulation of new signs. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 11.9.2 Regulations of Non-Conforming Signs

A nonconforming sign may be continued but it shall not be:

- a. Changed or replaced with another nonconforming sign, except that copy may be changed.
- b. Expanded or modified in any way which increases the sign’s nonconformity. Nor may illumination be added.
- c. Moved except to bring the sign into complete conformity with this Article.
- d. Re-established once the sign structure has been removed.

- e. Re-established after damage or deterioration as defined in Section 11.9.4.
- f. Re-established after it has been discontinued regardless of reason or intent for one hundred-twenty (120) days or more. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 11.9.3 Illumination of Signs for Illegal Non-Conforming Uses

Signs for legal nonconforming uses in residential districts shall be illuminated only between sunrise and 10:00pm. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 11.9.4 Damaged or Deteriorated Non-Conforming Signs

If a nonconforming sign suffers more than fifty (50%) of its value by damage or deterioration it must be brought into conformance with this ordinance or removed. The value shall be determined by the Zoning Administrator or his designee as the depreciated replacement value of the sign. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 11.9.5 Maintenance of Non-Conforming Signs

Nonconforming signs shall be subject to all requirements of this ordinance regarding safety, maintenance and repair. Nonconforming signs shall be maintained in good conditions including necessary non-structural repairs, incidental alterations or copy alterations, such as repainting and electrical repairs which do not extend or intensify the nonconforming features of the sign. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

ARTICLE XII. BOARD OF ADJUSTMENT

Section 12.1 Establishment of Board of Adjustment

A Board of Adjustment is hereby established. Said Board shall consist of five (5) members; four (4) members of the Board shall be appointed by the Town Council and shall be residents of the Town of Winterville, and one (1) member shall be appointed by the Board of County Commissioners of Pitt County, all for overlapping terms of three (3) years. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

The member appointed to the Board by the Board of County Commissioners as representative of the extraterritorial area outside the Town of Winterville shall be a resident of such area and a citizen of Pitt County. Such member shall have equal rights, privileges, and duties with other members of the Board in all matters. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with enforcement of this ordinance or to decide in favor of the applicant any matter upon which it is required to pass under the Zoning Ordinance or to affect any variation of such Ordinance.

In addition to the regular members, the Town Council may appoint one (1) alternate member, who shall be a resident of the Town of Winterville and the Board of Commissioners of Pitt County may appoint one (1) alternate member, who shall be a resident of the extraterritorial area, each for three (3) year terms. The Chairman of the Board of Adjustment, or in his absence the acting chairman, may appoint the alternates to sit for any regular members in case of the absence or disqualification of any regular members. In such case the alternate members shall have the same powers and duties of the regular members they are replacing during such time. In no case, however, shall more than five (5) regular members or combination of regular members and the alternate members be empowered to vote on any matter that comes before the Board.

(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

Section 12.2 Proceedings of the Zoning Board of Adjustment

The Board of Adjustment shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected or until their successors are elected. The Board shall appoint a secretary, who may be a municipal officer, an employee of the Town, or a member of the Board of Adjustment. The Board shall adopt rules and by-laws in accordance with the provisions of this Ordinance and of Chapter 160D of the General Statutes of North Carolina. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 12.3 Appeals, Hearings and Notice

An appeal from the decision of the Zoning Administrator may be taken by the aggrieved party to the Board of Adjustment. Such appeal shall be taken within forty-five (45) days by filing with

the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for hearing the appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

On all appeals, applications and other matters brought before the Board of Adjustment, said Board shall inform in writing all the parties involved of its decisions and reasons therefore. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 12.4 Stay of Proceedings

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment after notice of appeal shall have been filed with him, that be reason of facts stated in the certificate stay would, in his opinion, cause imminent peril to land and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Zoning Administrator, on due cause shown. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 12.5 Powers and Duties of the Board of Adjustment

The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance.
2. Zoning Compliance Certificate with Vested Rights. To hear and decide Zoning Compliances with Vested Rights in accordance with Article XIV of this Ordinance.
3. 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 this 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. Such variance may be granted in such individual case of unnecessary hardship where the Board of Adjustment makes the following affirmative findings:
 - a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance.
 - 1) If he complies with the provisions of the Ordinance, the property owner can secure no reasonable return from or make no reasonable use of, his property.

- 2) The hardship results from the application of the Ordinance.
 - 3) The hardship is suffered by the applicant's property.
 - 4) The hardship is not a result of the applicant's own actions.
 - 5) The hardship is peculiar to the applicant's property.
- b) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
 - c) In granting the variance the public safety and welfare have been assured and substantial justice has been done.

4. Special Use Permits.

To hear and decide, in particular cases, and subject to appropriate conditions and safeguards, permits for conditional uses as authorized by Article VI. In granting a Special Use Permit the Board shall make the following affirmative findings:

- a) The Use requested is among those listed as an eligible Special Use in the District in which the subject property is located;
- b) That the Special Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed;
- c) That the Special Use meets all required conditions and specifications;
- d) That the Special Use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- e) That the location and character of the Special Use if developed according to the plan as proposed will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the Town and its environs.

In granting a Special Use Permit, the Board may impose such additional restrictions and requirements upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of the Special Use Permit, otherwise the Permit shall be denied. Any Special Use Permit so authorized shall be perpetually binding upon the property included in such Permit unless subsequently change or amended by the Board, as provided for in this Article.

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

No proposal to amend or change any Special Use Permit shall be considered within three (3) months of the date of the original authorization of such Permit or within three (3) months of hearing of any previous proposal to amend or change such Permit. *(2000 Zoning Ordinance, 0-5-02149900, adopted 02/14/2000)*

Section 12.6 Appeals from The Board of Adjustment.

Any person or persons, jointly or severally, aggrieved by any decision of the Board, any taxpayer, or any officer, department, board or bureau of the jurisdiction of this Ordinance may, within thirty (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 shall be subject to review by certiorari as provided by law. *(2000 Zoning Ordinance, 0-5-02149900, adopted 02/14/2000)*

ARTICLE XIII. AMENDMENT PROCEDURES; CONDITIONAL DISTRICTS

Section 13.1 General

The Town Council may amend, supplement or change the Zoning Ordinance text and zoning district lines and designations according to the following procedure. It is the intent of this Ordinance that the applicant for rezoning to any district other than a Conditional District shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property. If the applicant believes that the development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with the principles underlying the Town's comprehensive zoning plan, he shall apply for rezoning to the appropriate Conditional District. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 13.2 Amendment Initiation

Applications to change, supplement or amend this Ordinance may be initiated by:

1. Textual Amendment
 - a. The Town Council;
 - b. The Planning Board;
 - c. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.
 - d. Third party down-zonings are prohibited. The Town Council and/or the Planning Board may initiate down-zonings (S.L. 2019-111, Pt. 1).

2. Map Amendment
 - a. The Town Council;
 - b. The Planning Board;
 - c. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person. Provided, however, map amendments involving Conditional Districts may only be initiated by the owner or authorized agent of the owner. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*
 - d. Third party down-zonings are prohibited. The Town Council and/or the Planning Board may initiate down-zonings (S.L. 2019-111, Pt. 1).

Section 13.3 Submittal

All applications for amendments to this Ordinance shall be in writing, signed and filed with the Zoning Administrator. Applications for conditional zonings shall be considered the applicant's/landowner's written consent to the conditions related to the conditional-zoning.

The Zoning Administrator, before scheduling any application for amendment for consideration by the Planning Board, shall ensure that it contains all the required information as specified in this Ordinance and on the application form. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance shall not be scheduled by the Zoning Administrator, but shall be returned to the applicant with a notation of the deficiencies in the application.

Completed applications shall be received a minimum of ten (10) days prior to the Planning Board meeting at which the proposed amendment is scheduled to be considered.

All applications for amendment shall contain, as a minimum, a description of the proposed change and if it would require a change of the zoning maps, the application shall include a map drawn to a scale of not less than four hundred (400) feet to the inch and not more than twenty (20) feet to the inch showing the land covered by the proposed amendment, a legal description of the property and a list of names and addresses of all owners of property involved in the map change and all adjoining owners as shown on County tax records.

Section 13.4 **Planning Board Action**

The Zoning Administrator shall present any properly completed application for amendment to the Planning Board at its next regularly scheduled meeting occurring at least ten (10) days after filing of such application with the Zoning Administrator.

The Planning Board shall either recommend in favor of an amendment or in opposition to an amendment by simple majority vote of those present and voting. The Board may also propose conditions to their recommendation. A tie vote on a proposal shall be considered to be in opposition to such amendment. If the Planning Board should fail to act on any proposed amendment within ninety (90) days after it is presented to the Board such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 13.5 **Town Council Action**

The Zoning Administrator shall present any proposed amendments to the Town Council at its next regular scheduled meeting, following Planning Board action, at which it hears rezoning proposals. The Zoning Administrator shall transmit to the Town Council the Planning Board's record of action on the proposed amendments.

The Town Council shall take such lawful action on such proposals as it may deem advisable provided that no zoning amendment shall be adopted until after a public hearing shall have been held. Notwithstanding the provisions of Section 13.6, a simple majority vote of the Town Council shall be required to amend this ordinance. Notice of public hearing shall be given as required by N.C.G.S. 160D.

Section 13.6 **Protest Petition** *(Section Removed - Repealed by Session laws 2015-160, s.2, effective August 1, 2015 and applicable to zoning ordinance changes initiated on or after that date.)*

Section 13.7 **Special Provisions for Conditional Districts**

Proposals for rezoning to any Conditional District shall be requested during a rezoning. Such proposals and requests shall be processed and considered in in the same procedure as conventional rezoning proposals, except as otherwise set forth herein, and the voting shall be the same as that required for zoning matters.

In approving a Conditional District, the Town Council shall make the following affirmative findings:

1. That the Use(s) requested is among those listed as an eligible Use in the corresponding General Zoning District.
2. That the Use Limitations and Conditions as proposed and/or imposed for the Conditional District meet or exceed and/or are at least as restrictive as the minimum standards for the corresponding General Zoning District.
3. That the Use Limitations and Conditions as proposed and/or imposed for the requested Conditional District can reasonably be implemented and enforced for the subject property.
4. That when implemented the proposed and/or imposed use limitations and conditions will mitigate specific land development issues that would likely result if the subject property were zoned to accommodate all those uses and the minimum standards of the corresponding General Zoning District.
5. That the applicant has agreed to the use limitations and conditions as proposed and/or imposed for the requested Conditional District. *(00-02, adopted 08/14/2000)*

Any Conditional District so authorized shall be perpetually binding upon the property involved in such Permit unless subsequently changed or amended by the Town Council, as provided for in this Article.

The Town Council may change or amend any Conditional District, after a public hearing upon recommendation by the Planning Board and subject to the same consideration as provided for in this section for the original issuance of a Conditional District.

No proposal to amend or change any Conditional District shall be considered within twelve (12) months of the date of the original authorization of such Permit or within twelve (12) months of hearing of any previous proposal to amend or change any such Permit. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 13.8 Maximum Number of Applications

No application for the same zoning district applicable to the same property or any part thereof shall be filed until the expiration of one (1) year from:

1. The date of final determination by the Town Council; or
2. The date of the public hearing or scheduled public hearing if the application is withdrawn after it has been advertised for public hearing.

Fees submitted for withdrawn cases shall not be refundable. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

ARTICLE XIV. ADMINISTRATION, ENFORCEMENT AND PENALTIES

Section 14.1 **Administrative Officer**

This Ordinance shall be administered and enforced by the Zoning Administrator who shall be appointed by the Town Council and is hereby empowered:

- A. To issue a Zoning Compliance Certificate prior to issuance of a building permit by the County Inspections Department;
- B. To collect the designated fees in the Administration of this ordinance;
- C. To investigate violations of the provisions of this ordinance and enforce actions necessary for correction thereof. To enter upon private property at reasonable times in carrying out of the duties.
- D. To make and keep all records necessary and appropriate to the office including record of issuance and denial of all Zoning Compliance Certificates, Special Use Permits, Amendments, Variances, Appeals, and of receipt of complaints of violations of this ordinance and action taken on the same.
- E. To appoint agents to act on his behalf. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 14.2 **Zoning Compliance Certificates; Building Permits; Certificates of Occupancy Required**

The County of Pitt is responsible for the provision of building inspection services within the Corporate limits and within the extraterritorial jurisdiction of the Town of Winterville. Application for a Building Permit and Certificate of Occupancy shall be filed with the Building Inspector.

- A. **Zoning Compliance Certificate.** Application for a Zoning Compliance Certificate shall be filed with the Zoning Administrator of the Town of Winterville, or his designate. No building permit shall be issued until a Zoning Compliance Certificate has been issued by the Town of Winterville.
- B. **Building Permit.** No building permit shall be issued until the plans and specifications for a building comply with the North Carolina State Building Code, the Building Regulations set forth in the Town of Winterville Code of Ordinances, the provisions of this ordinance and until a Zoning Compliance Certificate has been issued by the Town of Winterville.
- C. **Final Site Approval.** No Certificate of Occupancy shall be issued until the Town of Winterville has executed a Final Site Approval Certification and this certification has been submitted to the Building Inspector. The Town

of Winterville shall inspect the building site for conformance with Town standards for the site including site drainage, landscaping, drainage easements, street and sidewalk public improvements, electrical, water, and sewer services, and other required site features. Drainage must flow away from structures into drainage ways and not pond on site. Easements shall not be impeded or blocked by structures, fences, or other blockages. Utilities must be connected in conformance with Town standards including the water meter box being level with the ground and the sewer cleanout being just below ground level and it being in a circular cast iron box with a cast iron cover at ground level.

- D. **Certificate of Occupancy**. No building which has been erected, added to, relocated, or structurally altered for which a building permit has been issued shall be used or occupied nor the use of the building or land changed until a Certificate of Occupancy has been issued by the Building Inspector stating that the building or structure or part thereof complies with the North Carolina Building Code, the Pitt County Inspections Ordinance and the provisions of this ordinance. No previously unoccupied structure shall be occupied until a Certificate of Occupancy is issued.
- E. No temporary utilities shall be connected until a building permit is issued. No permanent utilities shall be connected until a Certificate of Occupancy is issued.
(03-0-24, adopted 07/14/2003)

Section 14.3

Zoning Compliance Certificate

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 Compliance Certificate shall have been issued by the Zoning Administrator stating that the building and/or the proposed use thereof complies with the provisions of this Ordinance. No Building Permit shall be issued and no building shall be occupied until that Permit is issued. The issuance of a valid Zoning Compliance Certificate shall confer with it the right to undertake and complete the development and/or use of property under the terms and conditions of such Certificate provided that such action as authorized by the Certificate is commenced within one hundred eighty (180) days of issuance and provided that all other permits are obtained. Otherwise the Certificate shall be void.

1. Application Procedures

Each application for a Zoning Compliance Certificate shall be accompanied by a plan in duplicate, drawn to scale, one (1) copy of which shall be returned to the Owner upon approval.

The plan shall show the following:

- a. The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;
- b. The location of the said lot with respect to adjacent rights-of-way;

- c. The shape, dimensions, and location of all buildings, existing and proposed, on the said lot;
- d. The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;
- e. The location and dimensions of off-street parking and the means of ingress and egress to such space; and
- f. Any other information which the Zoning Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance.

2. Right of Appeal

If the Zoning Permit is denied, the applicant may appeal the action of the Zoning Administrator to the Board of Adjustment as provided for herein. Such appeal shall be made within forty five (45) days of such permit denial. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 14.4 Zoning Compliance Certificate With Vested Rights

- 1. In any case where the applicant for a Zoning Compliance Certificate desires to obtain a vested right, as authorized by NCGS 160D-102;-100(d), the applicant shall observe the following procedures:
 - a. The applicant shall submit to the Zoning Administrator seven (7) copies of a site specific development plan drawn to scale describing with reasonable certainty the type and intensity of use for the specific parcel or parcels of land. Such plan shall include:
 - 1) The boundaries of the site;
 - 2) Significant topographical and other natural features affecting the development of the site;
 - 3) The location on the site of the proposed buildings, structures, and other improvements;
 - 4) The dimensions, including height, of the proposed buildings and other structures;
 - 5) The location of all existing and proposed infrastructure on the site, including water, sewer, roads and walkways; and
 - 6) Such other information as the Zoning Administrator may determine to be necessary in order to determine the specifics of the plan.
 - b. Public Hearing; Notice Thereof

Upon receipt of a properly prepared site specific development plan the Zoning Administrator shall arrange to bring such plan before the Board of Adjustment in the manner of a public hearing. Complete plans shall be received a minimum of fourteen (14) days prior to the public hearing at which the proposed vested rights plan is scheduled to be considered by the Board. Notice of public hearing shall be given in the same manner as that required for a variance.

In considering an application for a Zoning Compliance Certificate With Vested Rights the Board of Adjustment shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured and substantial justice done. If the Board should find, after public hearing, that the proposed Permit should not be granted, such proposed Permit shall be denied.

In granting such Permit, the Board of Adjustment shall make the following affirmative findings:

- 1) The use requested is among those listed as a Permitted or Special Use in the District in which the subject property is located or is to be located and complies with all the requirements of this Ordinance and other applicable ordinances.
- 2) The requested Permit is either essential or desirable for the public convenience or welfare.
- 3) The requested Permit will not impair the integrity or character of the surrounding or adjoining Districts, and will not be detrimental to the health, safety or welfare of the community.
- 4) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.

In granting a Zoning Compliance Certificate With Vested Rights, the Board of Adjustment may impose such additional restrictions and requirements upon such Certificate as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. Approval of a site specific development plan with the condition that a variance, Special Use Permit or modification be obtained shall not confer a vested right unless and until the necessary variance, Special Use Permit or modification is obtained. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of the Certificate, otherwise the Certificate shall be denied. Any Permit so authorized shall remain vested for a period of two years from the date of the action granting the Certificate.

2. Violations

Any violation of a term or condition involved in the granting of a Zoning Compliance Certificate With Vested Rights shall be treated the same as a violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation. In addition, the Board of Adjustment may, after public hearing, revoke any such vested rights for failure to abide by such term or conditions.

3. Other Ordinances Apply

The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all

property subject to land-use regulation, including, but no limited to building, fire, mechanical, electrical and plumbing codes.

4. Changes or Amendments

No change or amendment to any Compliance Certificate With Vested Rights shall be made except after public hearing and except as provided for in this Ordinance for the original issuance of such Certificate. If, at the time of consideration of proposed change or amendment to an existing Certificate, such Certificate or proposed change or amendment could not be lawfully made under Ordinance conditions existing at that time, such proposed change or amendment shall be denied. In addition, in no case shall there be an extension of the two-year time period for which such development right is vested. Nothing herein shall exempt plans related to such Certificate from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews are not inconsistent with the original approvals.

5. Status at Expiration of Term

A right which has been vested shall terminate at the end of the two-year vesting period with respect to buildings and uses for which no valid Building Permit applications have been filed. Upon issuance of a Building Permit, the provisions of G.S. 160D-403(c);-1109 and G.S. 160D-403(f);-1113 shall apply except that a Building Permit shall not expire or be revoked because of the running of time while a vested right under this Section is outstanding. Any development constructed pursuant to a Zoning Compliance Certificate With Vested Rights for which the vested term has expired and which is not in conformance with all the terms of this Ordinance because of changes made in the provisions of this Ordinance, including the Zoning Map, after the issuance of such Certificate shall be subject to the provisions of the Ordinance relating to non-conformities the same as any other non- conformity.

6. Annexation Declaration

Any landowner who signs an annexation petition to the Town pursuant to G.S. 160D shall, as part of that petition, file a signed statement declaring whether or not vested rights with respect to the property subject to the petition have been established under G.S. 160D-102;-100(d). If the statement declares that such rights have been established, the Town may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established by law shall be binding on the landowner and any such vested rights shall be terminated. (2000 Zoning Ordinance, O-51-02149900, adopted 02/14/2000)

Section 14.5 Duties of Zoning Administrator, Board of Adjustment, Courts and Town Council to Matters of Appeal

It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Zoning Administrator and that such questions

shall be presented to the Board of Adjustment only on appeal from the Zoning Administrator; and that from the decision of the Board of Adjustment recourse shall be to courts as provided by law. It is further the intention of this Ordinance that the duties of the Town Council in connection with the Ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with enforcement thereof, but the procedure of determining such questions shall be as herein set out in the Ordinance, and that the duties of the Town Council in connection with this Ordinance shall be only the duty of considering and passing upon any proposed amendment or repeal of the Ordinance as provided by law. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 14.6 Lawful Use

Structures, buildings and conditions existing on a lot or parcel subject to the terms of this ordinance on the effective date of this ordinance are for purposes of this ordinance conclusively presumed to be lawful. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 14.7 Violations; Remedies

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

A. Development Without Permit

To engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates, or other forms of authorization as set forth in this Ordinance.

B. Development Inconsistent With Permit

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

C. Violation by Act of Omission

To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the Town Council or its agent boards upon any required permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.

D. Use in Violation

To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure or to use any land in violation or contravention of this Ordinance or any other regulation made under the authority conferred thereby.

E. Continue a Violation

Each day's continuation of any of the above violations is a separate and distinct offense. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 14.8 Penalties for Violation

Violations of this Ordinance shall constitute either a misdemeanor, with a fine not exceeding fifty (50) dollars or imprisonment not exceeding thirty (30) days, or, at the election of the Town, shall subject the offender to a civil penalty upon issuance of a citation for said violation as hereinafter provided. The civil penalty, if not paid to the Town within fifteen days of issuance of a citation, may be recovered by the Town in a civil action in the nature of debt. Said civil penalties shall be in the amount of \$50.00 (fifty dollars) for each violation and each day any single violation continues shall be a separate violation.

In addition to the civil penalties set out above, any provision of this Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to application of the Town for equitable relief that there is an adequate remedy at law.

In addition to the civil penalties set out above, any provision of this Ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by General Court of Justice. When a violation of such a provision occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and/or or abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including Rules of Civil Procedure in general and Rule 65 in particular.

An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that abandoned or junked vehicles be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. 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 may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with

sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

The provision of this Ordinance may be enforced by one, all or a combination of the remedies authorized and prescribed by this section.

Upon determination of a violation of any section of this Ordinance, the penalty for which is a civil penalty, the Zoning Administrator shall cause a warning citation to be issued to the violator. Such citation shall set out the nature of the violation, the section violated, the date of the violation, and shall contain an order to immediately cease the violation. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated.

An appeal from a warning citation shall be taken within ten (10) days from the date of said warning citation and the Board of Adjustment, in considering such appeal, shall, notwithstanding other powers as may be granted, have power only in the manner of administrative review and interpretation where it is alleged that the Enforcement Officer has made an error in the application of the Ordinance, in the factual situation as it relates to the application of the Ordinance, or both.

Where the Zoning Administrator determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or consent agreement, the Zoning Administrator may amend the warning citation to provide for additional time. The warning citation shall specify that a second citation shall incur a civil penalty, together with costs and attorney fees.

Upon failure of the violator to obey the warning citation a civil citation shall be issued by the Zoning Administrator and either served directly on the violator, his duly designated agent, or registered agent in a corporation, either in person or posted in the United States mail service by first class mail addressed to the last know address of the violator as contained in the records of the Town or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of said citation. The citation shall direct the violator to pay the civil penalty assessment in person within fifteen days of the date of citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid, otherwise further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

If the violator fails to respond to a citation within fifteen days of its issuance, and pay the penalty prescribed therein, the Town may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, costs, attorney fees, and such other relief as permitted by law. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

ARTICLE XV. GENERAL LEGAL PROVISIONS; DEFINITIONS

Section 15.1 Interpretation, Purpose, Conflict

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction or imposes higher standards than those required by other ordinances, rules, regulations, or by easements, covenants, or agreements the provisions of this Ordinance shall govern so that, in all cases, the most restrictive limitation or requirement, or the requirement causing the highest standard of improvement, shall govern. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 15.2 Repeal and Reenactment of Existing Zoning Ordinance

The rewriting of this Ordinance in part carries forth by reenactment some of the provisions of the existing Zoning Ordinance of the Town of Winterville and it is not intended to repeal but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have been accrued are preserved and may be enforced. All suits at law or in equity and/or all prosecutions resulting from the violation of the Zoning Ordinance in effect, which are now pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance, but shall be prosecuted to their finality the same as if this Ordinance had not been adopted; and any and all violations of the existing Ordinance, prosecutions for which have not been instituted, may be filed and prosecuted; and nothing in this Ordinance shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending and/or which may have been instituted or prosecuted. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 15.3 Effects Upon Outstanding Building Permits, Zoning Compliance Permits and Special Use Permits

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Building Inspector prior to the time of passage of this Ordinance or any amendment thereto; provided, however, that where construction is not begun under such outstanding permit within a period of one hundred eighty (180) days subsequent to the passage of this Ordinance or any amendment thereto, or where it has not been prosecuted to completion within eighteen (18) months subsequent to passage of this Ordinance or any amendment thereto, any further construction or use shall be in conformity with the provisions of this Ordinance or any such amendment.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any Special Use Permit which has been granted prior to the adoption of this Ordinance and which Special Use is no longer carried forth on this Ordinance provided that a Building Permit has been obtained and construction begun within one hundred eighty (180) days of the date of the approval of such Permit and provided that such Building Permit is

prosecuted to completion as approval of such Permit and provided that such Building Permit is prosecuted to completion as provided above. Such valid Special Uses including those already existing for non-continued uses may be constructed, continued and reconstructed the same as any permitted use subject to such use limitations and other conditions as provided for in the original issuance of the Special Use Permit. Any such Special Use that is changed to any permitted use for any period of time shall not be permitted to resume the Special Use. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Section 15.4A Conflicts of Interest (G.S. 160D-1-9)

- a) Governing Board. – A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- b) Appointed Boards. – Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- c) Administrative Staff. – No staff member shall make a final decision on an administrative decision required by G.S. 160D if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under G.S. 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.
- d) Quasi-Judicial Decisions. – A member of any board exercising quasi-judicial functions pursuant to G.S. 160D shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- e) Resolution of Objection. – If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- f) Familial Relationship. – For purposes of this section, a "close familial relationship"

means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Section 15.4B Definitions

For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein when not inconsistent with the context; words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory. The words “used for” shall include the meaning “designed for”.

A. General Definitions

Accessory use or accessory building (non-residential). A subordinate non-residential use or building customarily incidental to and located on the same lot with the main use or building.

Accessory use or accessory building (residential). A noncommercial use or building customarily incidental and subordinate to but located on the same lot with the main residential use or building such as a private garage or carport, family garden, personal storage building, or workshop, all of which are totally for personal use.

Administrative decision. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

Administrative hearing. A proceeding to gather facts needed to make an administrative decision.

Apartment. A room or suite of rooms in a multi-unit residential building, generally rented by the occupant, which provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation in each separate unit.

Bed and breakfast. A dwelling in which lodging available for rent to the public, with or without meals, is provided for overnight guests for a fee.

Bedroom: A room designated as sleeping or bedroom on the plans and permit application.

Bona Fide Farm. Bona Fide farm purposes include the production of and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

Brewpub. A restaurant/brewery that sells 25 percent or more of its beer on site. The beer is brewed primarily for sale in the restaurant or bar. The beer is often dispensed directly from the brewery’s storage tanks. Where allowed by law, brewpubs often sell beer “to go” and /or distribute to off-site accounts.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building Height. The vertical distance from the mean elevation of the finished grade along the

front of a building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roof.

Building, main. The principal structure in which the primary use of the property is undertaken.

Building Occupancy. See “Use”.

Building setback line. See “Setback”.

Common open space. The open space land held in common ownership by property or unit owners in a development, normally provided for in the declaration of restrictive covenants and normally in common use.

Conditional District. A zoning district in which site plans or individualized development conditions are imposed.

Condominium. Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Congregate / convalescent care facility – A health care establishment for care, supervision, and provision of resident services on a temporary or permanent basis including dependent or independent living facilities for the elderly. The following uses shall not be considered under this definition: family care homes or group care facilities as defined by this ordinance.

Dependent living facility – Nursing homes, rest homes, and homes for disabled persons, which are designed for persons who need a wide range of health and support services, such as medical, nursing, and personal services care, central dining facilities and/or food preparation facilities, and transportation services on site. *(06-0-250, adopted 12/11/2006)*

Day care center. A facility providing care for six (6) or more non-handicapped children, more than four (4) hours per day, for payment of a fee, but without transfer or assignment of custody.

Determination. A written, final, and binding order, requirement, or determination regarding an administrative decision.

Developer. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

Development. Unless the context clearly indicates otherwise, the term means any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in G.S. 160D-8-2.
- d. The initiation or substantial change in the use of land or the intensity of use of land

Development approval. An administrative or quasi-judicial approval made pursuant to G.S. 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not

limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to G.S. 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued.

Development regulation. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to G.S. 160D, or a local act or charter that regulates land use or development.

Dwelling. A building intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

Dwelling, single-family (Conventional or Modular). A detached building constructed on-site or in industrialized modules in compliance with the North Carolina State Building Code and designed for or occupied by one family.

Dwelling, single-family attached. A single-family dwelling that except for corner units is connected one each side by means of a common dividing structural or load bearing party wall of at least ten (10) linear feet to another single-family dwelling, each on its own individual lot.

Dwelling, single-family detached. A single-family dwelling which is completely surrounded by permanent open space.

Dwelling, two-family. A detached residential building arranged or designed to be occupied by two (2) families living independent of each other.

Dwelling, multifamily. A detached building constructed on-site in compliance with the North Carolina State Building Code and designed for three (3) or more dwelling units.

Dwelling unit. An enclosure of one or more rooms providing complete independent living facilities for one family, including permanent facilities for living, sleeping, eating, cooking and sanitation within the separate enclosure.

Evidentiary hearing. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under G.S. 160D.

Family. Any number of persons related by blood, adoption or marriage or no more than four (4) persons not related by blood, adoption or marriage, living together as a single housekeeping unit sharing the same domestic facilities. It does not include congregate residential care facilities; family care and group care facilities; foster homes for children; homes for the aged and infirmed; family-care homes for the aged and infirmed; day care facilities; day care centers; and family day care homes; shelter homes; adult day care centers; day nurseries; preschool centers; hospitals, nursing homes; sanitariums; and dormitories, fraternal organizations, or other organized social or institutional residential situations.

Family day care home. A building used as a residence for a family which is also used to provide day care services on a temporary basis without transfer of custody for three (3) to five (5) unrelated children, for a fee. (The keeping of 1-2 children does not require a permit.)

Family care home. A home with support and supervisory personnel which provides room and board, personal care and habitation services in a family environment for not more than six (6) resident handicapped persons.

Family members, direct. Direct lineal descendants (children, grandchildren, and great grandchildren) and direct lineal ascendants (father, mother, grandfather and grandmother); and brothers, sisters, nieces and nephews.

Frontage. The property abutting on one side of a street measured along the street right-of-way line.

Gross Floor Area. The total area of any buildings in the projects, including the basements, mezzanines and upper floors, exclusive of stairways and elevator shafts. It excludes separate service facilities outside the store such as boiler rooms and maintenance shops. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Group care facility. A facility licensed by the State of North Carolina, (by whatever name it is other than “family care home” or “congregate care facility” as defined by this ordinance), with support and supervisory personnel that provides room and board, personal care, or habitation services. The following shall not be considered under this definition: congregate care facility, convalescent care facility, dependent living facility, independent living facility, and nursing home, as defined by this ordinance.
(06-0-250, adopted 12/11/2006)

Handicapped person. A person with a temporary or permanent physical, emotional or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but does not include mentally ill persons who are dangerous to others as defined in Section 122-58.2(1)b of the General Statutes of North Carolina, or any amendment thereto.

Home occupation, customary. An occupation conducted incidental to the use of property as a dwelling unit, which does not adversely impact or change the residential character of the neighborhood. The incidental use of any dwelling by the occupant(s) for the purpose of receiving or transmitting messages by mail, record or bookkeeping, filing, address listing for applicable privilege license or tax identification and other similar activities which do not involve the on-site sale, delivery, distribution, reception, storage or manufacture of goods, products or services shall not constitute a home occupation for the purpose of regulation under this ordinance.

Hotel or motel. A building which provides sleeping accommodations in six or more rooms, commonly available for pay on a daily basis to transient or permanent guests.

Independent living facility – Congregate living facilities, such as rest homes and homes for the aged, which are designed for older persons or disabled persons who do not require health and support services on site. Each living unit may be self contained and must be physically accessible to older or disabled persons. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Internet Sweepstakes. Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or

other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes, but is not limited to internet cafes, internet sweepstakes, beach sweepstakes, or cybercafés. This term does not include any lottery approved by the State of North Carolina. *(10-0-223, adopted 05/10/2010)*

Junk yard. A lot or group of contiguous lots where more than six hundred (600) square feet of area is use for the dismantling or the storage of wrecked or used automobiles or the storage, sale, or dumping of dismantled or wrecked cars or their parts, or for storage of appliances, machinery and other salvage goods.

Kennel. An establishment wherein any person engages in business or practice, for fee, of boarding, breeding, grooming, letting for hire, or training of more than three (3) domesticated animals at any one (1) time; or an establishment wherein any person engages in the business or practice, for a fee, of selling more than one (1) litter of domesticated animals at any one (1) time or the selling of any three (3) individual domesticated animals (not defined as litter herein) at any one (1) time. Domesticated animals, for purpose of this ordinance, shall be defined as dogs, cats, and other generally acceptable household pets. Litter, for the purpose of this ordinance, shall be defined as the progeny resulting from the breeding of two (2) domesticated animals. The following shall not constitute the operation of a kennel as defined above and in no way shall this provision regulate the following:

- (a) The ownership of domesticated animals as household pets;
- (b) The ownership of domesticated animals for hunting or tracking purposes;
- (c) The ownership of domesticated animals for the purpose of exhibiting at shows, obedience or field trials; and
- (d) The ownership of domesticated animals for the purpose of protection or guarding of residences or commercial establishments.

Landowner. An owner of a legal or equitable interest in real property, including the heirs, devise, successors, assigns and personal representative of such owner. The owner may allow a person holding a valid option to purchase, to act as his agent or representative for purposes of submitting a proposed site specific development plan in the manner allowed by this Ordinance.

Legislative decision. The adoption, amendment, or repeal of a regulation under G.S. 160D or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of G.S. 160D.

Legislative hearing. A hearing to solicit public comment on a proposed legislative decision.

Lot. A parcel of land, the boundaries of which are established by some legal instrument such as a deed or recorded plat (but not tax maps) and which is recognized as a separate tract for purposes of transfer of title or lease of greater than three (3) years.

Lot, corner. A lot adjacent to or abutting on two (2) streets at their intersection.

Lot, front. On a corner lot, the front is the frontage with the least dimension at the street. Where the dimensions are equal the front shall be designated by the owner.

Lot, interior. Any lot other than a corner lot.

Lot lines. The line forming the perimeter or boundary of the lot.

Lot, through. An interior lot having frontage on two (2) streets. Also called a double frontage lot.

Lot width. The distance from side lot line to side lot line measured at the required minimum front yard setback parallel to the front property line. For lots with a radial side line(s), lot width may be measured at a front yard setback greater than the minimum required front yard setback. In such case the point where the minimum lot width is measured shall become the front yard setback for that lot.

Lot of record. A lot which is a part of a subdivision, a plat of which has been recorded in the office of the register of deeds, or a lot which is described by metes and bounds, the description of which has been so recorded, prior to the effective date of this Ordinance.

Manufacturing. The processing of raw products and materials into items for sale.

Microbrewery. A brewery that produces less than 15,000 barrels (17,600 hectoliters) of beer per year with 75 percent or more of its beer sold off-site. Microbreweries sell to the public by one or more of the following methods: the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and, directly to the consumer through carry-outs and/or on-site tap-room or tasting room.

Mobile Home. A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (iii) exceeds forty (40) feet in length and eight (8) feet in width.

Mobile home, class "A". A multi-sectional mobile home that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the additional criteria for Class "A" mobile homes contained in Article IX.

Mobile home, class "B". A mobile home that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect as the time of construction.

Mobile Home, class "C". A mobile home which does not meet the Class "A" or Class "B" definitions.

Mobile home park. A lot(s) or tract(s) of land used or intended to be used, leased or rented for occupancy by mobile homes in conformity with the mobile home park provision of this Ordinance.

Mobile home park, non-conforming. A lot(s) or tract(s) of land used or intended to be used, leased or rented for occupancy by two (2) or more mobile homes sharing common ownership and/or facilities and which do not qualify as individual mobile homes on individual lots and which park is not in conformance with all the requirements for the initial establishment for a mobile home park as defined above.

Modular home; Building. Any building or structure which was premanufactured, all or in part, at

some point other than the building site for assembly or installation later at the building site and which complies with the State of North Carolina Building Code. Further defined, such building may be assembled from premanufactured rooms, wall panels, frame units, or other factory manufactured parts, which may be fabricated of wood, concrete, metal or other materials, and anchored on a permanent foundation or foundation material at the building site. This definition does not include mobile homes as defined in this Ordinance.

Net residential area (net land). That portion of a development or project site designated for residential lots and related common open space areas excluding dedicated public rights-of-way.

Nonconforming use. Any use which legally existed on the effective date of this Ordinance, and which does not conform with each regulation of the zoning district in which it is located, including any nonconforming use legally recognized under a prior zoning ordinance. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

Nursing home. A health care establishment licensed by the State of North Carolina for care, supervision, and provision of resident services on a temporary or permanent basis. *(06-0-250, adopted 12/11/2006)*

Open space. Any land area not occupied by buildings, structures, storage areas, open or enclosed balconies, patios, porches or decks, excluding, however, any land encroaching or located within a right-of-way or easement. Open area in any required setback or land used for sidewalks, landscaping and grassing shall be considered open space.

Overlay District. A zoning district which overlays and combines with one of the principal zoning districts established by this Ordinance. In such case the property involved is subject to the requirements of both districts.

Parking lot. An area or tract or partial tract of land used for the storage or parking of vehicles.

Planned unit development. A tract(s) of land under single corporation, firm, partnership or association ownership, or otherwise unified ownership or control, planned and developed as integral unit in a single development scheme or a well defined series of development operations in accordance with an approved site plan.

Planning and development regulation jurisdiction. The geographic area defined in Part 2 of G.S. 160D within which a city or county may undertake planning and apply the development regulations authorized by G.S. 160D.

Property. Means all property subject to zoning regulations and restrictions and zone boundaries within the zoning jurisdiction of the Town.

Public Sewage Disposal System. An approved sewage disposal system serving ten (10) or more connections, including municipal and sanitary sewerage systems as well as “package” plants constructed in a location and to specifications approved by the Pitt County Sanitarian in consultation with the NC Division of Health Services.

Public Water Supply System. An approved water supply system serving ten (10) or more connections, including municipal and sanitary district water systems as well as water systems designed to serve particular subdivisions at full development and constructed to specifications approved by the Pitt County Sanitarian in consultation with the NC Division of Health Services.

Quasi-judicial decision. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

Recreation or travel trailer. A vehicular, portable, structure built on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a travel trailer by the manufacturer of the unit. Includes motor home, recreational vehicle, etc.

Regional Brewery. A brewery with an annual beer production of between 15,000 and 6,000,000 barrels.

Residential care facility. A building or facility used primarily to provide residential, social and personal care for children, the aged or others who suffer some limit on the ability for self-care, but where medical care is not a major service. It includes such uses as adult day care facilities, home for the aged and other like uses which are not otherwise specifically defined.

Screen. A devise such as a fence or planting area used to visually separate property.

Service station. A lot or building where gasoline, oil, grease and automobile accessories are supplied and dispensed to the motor vehicle trade, or where battery, tire and other similar repair services are rendered.

Setback. The horizontal distance from the property line or street right-of-way line to the nearest part of the applicable building, structure, sign, or use, measured perpendicularly to the line.

Shopping Center; Mall. Any predominately retail development whether a single business or several businesses and whether located in one or more related buildings, with planned and shared parking, that contains 15,000 square feet or more of gross floor area.

Site specific development plan. A plan which has been submitted to the Town by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property.

Sleeping Unit. A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Sludge. Any solid, semisolid or liquid waste generated from a residential wastewater treatment plant.

Special Use. 1) Uses listed in the Section 6.4 -Table of Permitted and Special Uses - of this ordinance which require approval of a Special Use Permit in accordance with the procedures of Section 12.5.

Stacking space. A space to store an automobile off-street while waiting in line for a drive-through service such as an automatic teller, drive through restaurant, etc.

Street, private. A vehicular travel way not dedicated as a public street or a dedicated but unaccepted vehicular travel way.

Standard Industrial Classification (SIC). A listing of land uses published by the US Office of Management and Budget classifying uses by functional groups and assigning each a code number.

Street, public. A public right-of-way for vehicular travel which has been constructed and then dedicated to and accepted by a municipality or the North Carolina Department of Transportation for public use or which has been otherwise obtained by such agencies for such use or which is proposed to be constructed and then dedicated to and accepted by such agencies as a public right-of-way for vehicular travel for public use.

Structure. Anything constructed or erected which requires location on the ground or attached to something having location on the ground.

Structural alterations. Any change, except for the repair or replacement, in the supporting members of a building such as load bearing walls, columns, beams or girders.

Swine Farm. A tract of land devoted to raising animals of the porcine species served by or requiring animal waste systems having a design capacity of 600,000 pounds steady live weight or greater.

Tasting Room/Sampling Room/Tap Room. A taste/ sampling/ tap room allows for the on-premises consumption of malt beverages and is limited to only serving two-ounce tastings and constitutes an accessory and incidental use to the primary retail use of the wine and beer store.

Townhouse. A single-family dwelling unit constructed in a series or group of attached units with property lines separating each such unit.

Transmission Tower. A structure, either freestanding, supported by guy wires, or attached to a building, and accessory equipment related to broadcast services, private radio services, including AM, FM, two-way radio, television and cable antenna television transmission, microwave transmission and facilities such as satellite dish receiving centers. This definition does not include electrical transmission distribution poles, towers, and line, personal satellite dishes, or structures not more than 35' in height.

Travel trailer parking area. A parcel of land in which two (2) or more spaces are designed, occupied or intended for occupancy by trailers for transient dwelling purposes.

Use. The primary purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

Vested right or zoning vested right. The right to undertake and complete the development and use of the property under the terms and conditions of an approved site specific development plan.

Wine & Craft Beer Shop. A retail store that sells specialty alcoholic beverages that is not intended for the on-premises consumption except for an on-site tasting room or tap room.

Wireless Telecommunication Tower. A tower supporting licensed or unlicensed wireless telecommunication facilities including cellular, digital cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), commercial or private paging services, or similar services marketed or provided to the general public. This definition does not include services by non-commercial entities in the Amateur Radio Service, Public Safety Radio Service, or licenses assigned to non-profit organizations, such as the Red Cross, Civil Air Patrol, Military Affiliated Radio Service (MARS) that are licensed by the Federal Communications Commission.

Yard. An open space located on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees, shrubbery or as otherwise provided herein. A yard is the area created by a setback.

Yard, front. A yard extending across the full width of the lot and extending from the closest front wall of the building to the property line or established edge of a right-of-way, whichever is closer.

Yard, rear. A yard extending across the full width of the lot and extending from the closest rear wall of the main building to the rear of the property.

Yard, side. A yard which extends from the closest side wall of a building to the nearest side property line or the established edge of the street right-of-way, whichever is closer, if the lot is a corner lot.

Zoning Administrator. An employee or agent of the Town who is assigned primary responsibility for the administration and enforcement of the zoning ordinance.

Zoning Compliance Certificate. A permit issued by the Town conferring the right to undertake and complete the development of and use of the property.

Zoning Compliance Certificate with Vested Rights. A permit authorized by the Board of Adjustment concerning the right to undertake and complete the development of and use of property under the terms and conditions of an approved site specific development plan.

B. Definitions Relating to Adult Oriented Businesses

Adult Oriented Business. An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center (including adult massage parlor and adult health club), sexually oriented device business or any combination of the foregoing or any similar business. As used in this Ordinance the following definitions shall apply:

Adult Arcade (also known as “peep show”). Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe “specific sexual activities” or “specified anatomical areas.”

Adult Bookstore or Adult Video Store. A commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe “specific sexual activities” or “specified anatomical areas”; or
2. Instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities”.

Adult Cabaret. A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes:

1. persons who appear nude or semi-nude; or
2. live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
3. films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe “specified sexual activities” or “specified anatomical areas”.

Adult Motel. A hotel, motel or similar commercial establishment that:

1. offers accommodations to the public for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe “specified sexual activities” or “specified anatomical areas” as one of its principal business purposes; or
2. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

Adult Motion Picture Theater. A commercial establishment where, for any form of considerations, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe “specified sexual activities” or “specified anatomical areas”.

Adult Theater. A theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict “specified anatomical areas” or “specified sexual activities”.

Escort. A person who, for any tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency. A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or other consideration.

Nude Model Studio. Any place where a person who appears nude or semi-nude, or who displays

“specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a propriety school licensed by the State of North Carolina or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

1. that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
2. where in order to participate in class a student must enroll at least three days in advance of the class; and
3. where no more than one nude or semi-nude model is on the premises at one time.

Nude or A State of Nudity.

1. the appearance of a human anus, male genitals or female genitals; or
2. a state of dress which fails to opaquely cover a human anus, male genitals or female genitals.

Semi-nude. A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual Encounter Center. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling (including sexually oriented massaging) between persons of the opposite sex, or similar activities between male and female persons and/or between persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually Oriented Devices. Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

Specified Anatomical Areas. Human genitals in a state of sexual arousal.

Specified Sexual Activities. Is and includes any of the following:

1. the fondling of other erotic touching of human genitals, pubic regions, buttocks, anus, or female breasts; or
2. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy; or
3. masturbation, actual or simulated; or
4. excretory functions as part of or in connection with any of the activities set forth in 1. through 3. above

C. Definitions Related to Signs

Awning. A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.

Canopy. A permanent structure other than an awning made of cloth, metal or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure.

Changeable Copy. Copy that is or can be changed manually in the field or through mechanical or electronic means, e.g. readerboards with changeable letters.

Erect. To assemble, build, construct, raise, install, attach, hang, place, suspend, affix, post, create, paint, draw, apply or in any other way bring into being or establish.

Facing or Surface. The surface of a sign upon, against, or through which the message is displayed or illuminated on the sign.

Frontage, Lot. The length of that part of a lot that fronts a public street.

Grade. The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to a freestanding sign.

Interstate Highway System. That portion of the national system of interstate and defense highways located within the State as officially designated or as may hereafter be so designated by the Board of Transportation or other appropriate authorities and are also so designated by interstate numbers.

Logo. A business trademark or symbol.

Lot. A parcel of land, the boundaries of which are established by some legal instrument such as a deed or a recorded plat and which is recognized as a separate tract for purposes of transfer of title.

Marquee. A permanent rooflike structure other than a roof attached to, supported by, and projecting from a building, providing protection from natural elements over the ground, sidewalk or walkway.

Parapet. The portion of a building wall or false front that extends above the roof.

Person. Any natural person, firm, partnership, corporation, company, organization, association, trust or individual or any other group or combination of individuals operating as a unit and including any trustee, receiver, assignee or other similar representative thereof.

Premises. A lot or parcel of real property where a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity or use exists or is conducted, manufactured, sold, offered, maintained or takes place.

Setback. The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of a sign or its supporting member.

Sign. Any object, placard, device, display or structure, or part thereof, made of any material, except live vegetation, including any surface, fabric or other background material which is designed, constructed and/or used for the purpose of relaying information from a fixed or mobile position to visually inform, advertise, identify, display, promote, direct or attract the attention of general or privileged persons to an object, person, institution, organization, corporation, business, profession, commodity, product, service, event or location by any means including, but not limited to, words, letters, phrases, sentences, emblems, trademarks, tradenames, insignias, numerals, figures, devices, designs, symbols, pictures, logos, fixtures, colors, illumination or projected images or any other attention directing device, displayed by means of paint, bills, posters, panels, or other devices erected on an open framework, or attached or otherwise applied to stakes, poles, trees, buildings or other structures or supports. The term sign shall include the terms advertisement, announcement, insignia, billboard, bill, billet, badge, display, brand, emblem, flyer, label, message board, poster, shingle, symbol, title and trademark. The term sign shall not include the terms television, telegraph, radio, signal or transmission. If the message is removed from a structure that was originally designed and used as a sign, this structure shall still be considered a sign.

Sign, Advertising. See Sign, Billboard.

Sign, Awning. A sign placed directly on the surface of an awning. For purposes of this Ordinance an awning sign for measuring purposes will be considered a wall sign.

Sign, Billboard. A permanent, usually free-standing, off-premise sign that is affixed to the ground or to a building, owned by a person, corporation or other entity that engages in the business of selling or leasing the advertising space on that sign and which advertises an establishment, service, commodity, goods or entertainment sold or offered on premises other than that on which such sign is located. Such signs commonly referred to as “outdoor advertising signs” are generally designed so that the copy or posters on the sign can be changed frequently.

Sign, Business. A permanent, on-premise sign that is affixed to the ground or to a building which directs attention to a service, commodity, goods or entertainment sold or offered on the premises on which such sign is located.

Sign, Campaign or Election. A sign that advertises a candidate or issue to be voted upon on a definite election day.

Sign, Canopy. A sign attached to or painted onto or forms a part of a canopy. For the purposes of this Ordinance a canopy sign for measuring purposes will be considered a wall sign.

Sign, Changeable Copy. A sign message center or readerboard that is designed so that its informational content or copy can be changed or altered by manual, electrical, electro-mechanical or electronic means. A changeable copy sign shall be counted as a sign face.

Sign Clearance. The smallest vertical distance between the grade of the adjacent street, and the lowest point of any sign, including framework and embellishment, extending over that grade.

Sign, Conforming. A sign which is in compliance with all the provisions of this Ordinance.

Sign, Construction. A sign placed at a construction site giving the name or names of building owners or developers, architects, engineers, and/or lending institutions and principal contractors, subcontractors and material suppliers participating in construction on the site where the sign is placed, together with other appropriate information included thereon.

Sign, Copy. Alphabetic, pictorial, numerical and/or graphic display of permanent or removable words, letters, numbers, figures, characters, symbols, logos or insignia that are used on a sign display surface area for advertising and/or informational purposes.

Sign Copy Area. Area measured by the smallest circle, square or rectangle which will encompass all elements of informational or representational matter including all cut outs or extensions together with any materials or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. The term sign copy area shall also include the terms display area, surface area and the word area as it relates to signage. The term sign copy area shall not be construed to include architectural trim, frames and structural supports that do not bear any sign copy. In computing area, only one (1) side of a double-faced sign shall be considered. The maximum angle of a double-faced sign shall be 45 degrees, except for signs located at corners in which case the maximum angle may be 90 degrees. This refers to the distance between sign faces on a single structure.

Sign, Discontinued. Any conforming or legal nonconforming sign, other than a billboard sign, which no longer identifies or advertises a bona fide business, service, product or activity, and/or for which no legal owner can be found which has been discontinued for a period of 120 days or more regardless of reason or intent, or a temporary sign for which the permit has expired. This is not intended to apply to seasonal type businesses which annually operate "in season." However, failure to operate any such seasonal business for a minimum of 190 consecutive days in a calendar year will deem these signs to have been discontinued.

Sign, Double-faced. A sign designed to be seen from two (2) opposite directions shall be considered as one (1) sign, provided that the two (2) sign faces shall be supported on the same pole(s) or other structure, are at the same elevation and form an angle of forty-five (45) degrees or less on an interior lot or ninety (90) degrees or less on the corner lot.

Sign Face. The part of a sign that is or can be used to identify, advertise or communicate information, or is used for visual representation which attracts the attention of the public for any purpose. Sign face includes any background material, panel, trim, color or backdrop, surface or object upon which or against which it is placed. The sign structure shall not be included as a

portion of the sign face provided that no identifying/advertising message, symbol or any of the aforementioned sign face criteria are displayed on or designed as part of the sign structure, whether structurally necessary or not.

Sign, Flashing. Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation or an externally mounted intermittent light source. Automatic changing signs such as public service time, temperature and date signs or electronically controlled message centers are classified as changeable copy signs, not flashing signs.

Sign, Freestanding. A sign which is permanently affixed to and supported by structures or supports such as poles, masts or frames which are placed upon or anchored in the ground and which structures or supports are independent from any building or other structure. For the purposes of this Ordinance a freestanding sign shall be only those signs meeting the definition given above and which are located on the same premises for which its' message is carried. Pole, ground and billboard signs are examples of freestanding signs.

Sign, Government. Any temporary or permanent sign, symbol or device erected and maintained for any Federal, State, County or Municipal governmental purposes including, but not limited to, legal notices, identification and informational signs, and traffic warning, directional or regulatory signs.

Sign, Ground. A freestanding sign with a base which either appears to rest on the ground or which has a support(s) which places the base and portion of the sign copy area thereof less than ten (10) feet from the ground. A monument sign is a ground sign.

Sign Height. The vertical distance measured from the highest point of the sign, including decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.

Sign, Identification. Means either or both of the following:

1. A sign used to display only the name, address, crest or trademark of the business, individual, family, organization or enterprise occupying the premises. The profession of the occupant; the name of the building on which the sign is displayed.
2. A permanent sign announcing the name of a subdivision, tourist home, group housing project, church, school, college, park or other public or quasi-public structure, facility or development and the name of the owners or developer but bearing information pertaining only to the premises on which such sign is located and carrying no advertising message.

Sign, Illegal. A sign which does not meet the requirements of this Ordinance and which has not received legal non-conforming status.

Sign, Incidental. A small sign, emblem or decal informing the public of goods, facilities or services available on the premises, e.g., a credit card sign or a sign indicating hours of business.

Sign, Illuminated. A sign illuminated in any manner by an artificial light source, whether internally or externally lit.

Sign, Internally or Directly Illuminated. A sign where the source of the illumination is inside the sign and light emanates through the message of the sign through transparent or translucent materials rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that (i) are filled with neon or some other gas that glows when an electric current passes through it and (ii) are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered internally or directly illuminated signs.

Sign, Indirectly or Externally Illuminated. A sign designed to have illumination from a detached light source, shielded so that no direct rays from the light source are visible elsewhere than on the lot where said illumination occurs. The term Sign, Indirectly or Externally Illuminated includes backlighted.

Sign Maintenance. For the purposes of this Ordinance, the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.

Sign, Marquee. A sign affixed, superimposed, or painted on a marquee identifying the name of an establishment, type of product sold, manufactured or assembled, and/or service or entertainment offered on the premises where such a sign is displayed. For purposes of this Ordinance a marquee sign for measuring purposes will be considered a wall sign.

Sign, Memorial. A sign designating names of buildings and/or date of erection and other items such as architect, contractors, or others involved in the building's creation, cut into or attached to a building surface.

Sign, Motion. A sign or device designed to attract attention, all or any part of which uses movement or apparent movement by fluttering, revolving, rotating, spinning, swinging, animation or moving in some other manner and is set in motion by movement of water or the atmosphere or by mechanical, electrical or any other means.

Sign, Movable. A sign which is movable by two or fewer individuals without aid of a motor vehicle or other mechanical equipment. The term movable sign includes the terms A-frame sign, T-shaped sign and tent sign.

Sign, Noncommercial. Any sign, display or device that does not direct attention to a business operated for profit, or to a commodity, product or service for sale which displays a substantive message, statement or expression that is protected by the First Amendment to the US Constitution.

Sign, Object or Product. A sign used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to, drive-through window menu boards, and signs on automatic teller machines, gas pumps, vending machines or newspaper boxes.

Sign, Off-Premise. A sign or Structure, pictorial or otherwise, regardless of size or shape that draws attention to or communicates information about a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity that exists or is conducted, manufactured, sold, offered, maintained or provided at a location other than on the premises where the sign is located. Several types of off-premise signs may exist or otherwise be subject to the requirements of this Ordinance. Billboards are examples of off-premise signs. This definition does not include governmental, traffic, directional, or regulatory signs or notices of the federal, state, county or town government or their public agencies.

Sign, On-Premise. A sign or structure, pictorial or otherwise, regardless of size or shape that draws attention to or communicates information about a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity that exists or is conducted, manufactured, sold, offered, maintained or provided on the premises or at the same location (site or tract) as that where the sign is located. Several types of on-premise signs may exist or otherwise be subject to the requirements of this Ordinance regarding said signs. Ground signs and directional signs are examples of on-premise signs.

Sign, Pole. A freestanding sign with the base and all of the sign copy area at least ten (10) feet above the ground and which is supported from the ground by one or more poles or similar support structure of narrow width (maximum of ten percent (10%) of the width of the sign face) and not attached to any building (not a ground sign).

Sign, Political. A temporary sign used in connection with a local, state, or nation election or referendum.

Sign, Portable. A sign designed or intended to be readily relocated from one location to another whether on the same premises or a different premises, is not permanently attached to the ground, building or other permanent structure and is differentiated from a Movable Sign in that it may be equipped for transportation by motor vehicle or other mechanical means. The term Portable Sign shall include signs on wheels, trailers, truck beds, or any other device which is capable of or intended to be moved from one location to another. Signs defined as temporary signs are not included in this definition.

Sign, Public Interest. A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as warning and no trespassing signs.

Sign, Real Estate. A temporary sign that is used to offer for sale, lease, rent or development the premises upon which such sign is placed.

Sign, Roof. A sign erected or maintained in whole or in part on, upon or over the roof or parapet of a building or structure and which is wholly or partially dependent upon the roof of the building or structure for support.

Sign, Structure. Any structure which supports, has supported or is capable of supporting a sign, including any decorative cover for said sign signature.

Sign, Snipe. A temporary sign or poster affixed to a fence, pole, post, hydrant, bridge, another sign, public bench, street light or any other tree, rock or other natural object.

Sign, Temporary. Any sign, designed in structure, materials and/or copy message, which is temporary in nature to be used in connection with a circumstance, situation or event that is designed, intended or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, whether attached to a structure, fence or freestanding, and whether or not it contains a frame. The term Temporary Sign includes the terms Banner, Pennant, Valance, Flyer and Announcement. Temporary Sign materials consist of cloth, vinyl, canvas, light fabric, cardboard, paper, wall board or other light material. This definition shall not include a permanent sign display area with changeable copy, or to movable or portable signs.

Sign, Vehicle. A sign on a parked vehicle visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purposes of this Ordinance, vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other business purposes.

Sign, Wall. A sign which is placed on and/or attached to and supported throughout its entire length by the façade or exterior side of a building (or fence) wall by means of adhesive, paint, manufacturing process, structural and/or mechanical attachment, which said sign is not more than twelve (12) inches from the façade or exterior wall line and when its exposed face is parallel or approximately parallel to the plane of the building or structure on which the sign is affixed. Such sign may not extend above the roof line.

Sign, Window. A sign that is placed on and/or attached to the interior side of a window or door glass of a building by means of adhesive, paint and/or manufacturing process intended for viewing from the exterior of such building; or a sign within a building, placed no more than twelve (12) inches behind the window which is visible through the window.

Special Event. A planned, temporary activity.

Street. Any publicly maintained right-of way set aside for public travel which has been accepted for maintenance as a street by the North Carolina Department of Transportation.

Structural (Architectural) Trim. The molding, battens, capping, nailing strips, latticing and platforms which are attached to a sign structure.

Use. The purpose for which a building, lot, sign or structure is intended, designed, occupied or maintained.” (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

Section 15.5 Validity

If any Section, Subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each Section, Subsection, clause, and phrase thereof, irrespective of the fact that any one or more Sections, Subsections, sentences, clauses or phrases be declared invalid. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

Section 15.6 Effective Date

This Ordinance shall become effective upon its adoption by the Town Council of the Town of Winterville, North Carolina.

ADOPTED this the 14th day of February, 2000, by the Town Council of the Town of Winterville, North Carolina. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

APPENDIX A

List of Amendments to Zoning Ordinance originally adopted February 14, 2000

- Ordinance No: 00-02
Date of Adoption: August 14, 2000
Description: Amendment to Article VII, Section 13.7
- affirmative findings to be made when issuing a Conditional Use Permit under a Conditional Use District Zoning District
- Ordinance No: 01-47
Date of Adoption: January 8, 2001
Description: Amendment to Article VI, Section 6.4
- adds non-residential cluster development as a permitted use to O&I, GB, NC, and I Districts subject to Special Requirement 40
- adds SR 40 to Section 6.5
- Ordinance No: 01-58
Date of Adoption: February 12, 2001
Description: Amendment to Article IX, Section 9.19B
- establishments participating in combined or common freestanding signs may not also have individual freestanding signs
- Ordinance No: 02-O-81
Date of Adoption: August 12, 2002
Description: Amendment to Article VI, Section 6.4 and Section 6.5
- adds limited service and sales as conditional use to AR district subject to Special Requirement 41
- adds SR 41 to Section 6.5
- Ordinance No: 03-O-04
Date of Adoption: February 10, 2003
Description: Amendment to Article VI, Section 6.4 and Section 6.5
- allows limited residential use in Central Business District subject to Special Requirement 42
- adds SR 42 to Section 6.5
- Ordinance No: 03-O-09
Date of Adoption: April 14, 2003
Description: Amendment to Article IV, Sections 4.1.3A and 4.3; Article V, Section 5.4A; Article VI, Section 6.4; and Article XI, Section 10.2
- adds new R-12.5 Zoning District

Date of Adoption: July 14, 2003
Description: Amendment to Article X, Section 10.2
- requires minimum of 6 ft. solid construction fencing in Central Business District when adjoining property used for residential purpose

Ordinance No: 03-O-24
Date of Adoption: July 14, 2003
Description: Amendment to Article XIV, Section 14.2
- adds requirement for Final Site Inspection by Town prior to issuance of a Certificate of Occupancy by the County Building Inspector

Ordinance No: 04-O-56
Date of Adoption: January 12, 2004
Description: Amendment to Article VI, Section 6.4 & Section 6.5
- adds Daycare Center as a Conditional Use in the R-6 and R-8 Districts subject to Special Requirement 43
- adds SR 43 to Section 6.5

Ordinance No: 04-O-73
Date of Adoption: May 10, 2004
Description: Amendment to Article VII, Section 7.1
- changes R-15 District minimum side setback requirement for single-family dwellings from 15' to 12.5'

Ordinance No: 04-O-126
Date of Adoption: October 11, 2004
Description: Amendment to Article IV, creating Section 4.2.1.A and to Article V, creating Section 5.14 A
- adds new Central Business Transition Overlay District

Ordinance No: 05-O-149
Date of Adoption: March 14, 2005
Description: Amendment to Article VI, Section 6.5, Special Requirement #5
- *repeals requirement "Nor shall any family day care home be located within one mile radius of any other family day care home."*

Ordinance No: 05-O-172
Date of Adoption: July 11, 2005
Description: Amendment to Article XIII, Section 13.5
- repeals requirement for 4/5's vote of Board of Aldermen when Planning Board recommends against such amendment

Ordinance No: 05-O-188
Date of Adoption: October 10, 2005
Description: Amendment to Article VII, Section 7.1, NOTE (1)
- requires that minimum lot width for residential uses may be measured at the actual building setback line which shall not be less than the minimum and shall not be more that two (2) times the minimum

Ordinance No: 05-O-189
Date of Adoption: October 10, 2005
Description: Amendment to Article III, Section 3.10
- requires that residential fences on corner lots meet the same visibility and height requirements on a side yard fronting a street as required on a front yard

Ordinance No: 05-O-198
Date of Adoption: December 12, 2005
Description: Amendment to Article III, Section 3.10
- requires that fences shall not be installed nor encroach upon any easement unless authorized by an Encroachment Permit
- requires a Zoning Compliance Certificate for fence construction

Amendment to Article III, Section 3.11
- requires that accessory buildings shall not be erected within nor encroach upon drainage and/or utility easements unless authorized by an Encroachment Permit

Amendment to Article VII, Section 7.1
- adds Note 6 stating that whenever drainage and/or utility easements extend further into a lot that minimum setback requirements, the boundary line of the easement shall become the minimum setback requirement

Amendment to Article VII, Adding Section 7.2
- adds Section 7.2 prohibiting encroachments on easements unless authorized by an Encroachment Permit
- sets out general requirements for encroachment permit application

Ordinance No: 06-O-215
Date of Adoption: April 10, 2006
Description: Amendment to Article IX, Sec 9.15, L
- deletes Off-Premises signs as permitted use

Date of Adoption: December 11, 2006
Description: Amendment to Article VI, Sec 6.4
- deletes nursing & convalescent homes
- adds congregate care facility, convalescent care facility, group care facility, and nursing home

Amendment to Article VI, Sec 6.5
- repeals SR 16
- adds new SR 16

Amendment to Article XV, Sec 15.4
- changes definitions for congregate care facility and group care facility
- adds definitions for convalescent care facility, dependent living facility, and independent living facility

Ordinance No: 07-O-291
Date of Adoption: October 8, 2007
Description: - Repeals Article X in its entirety
- Creates new Article X “Architectural Standards”
- exterior appearance criteria for non- residential uses
- Creates new Article X-A “Vegetation and Buffering Requirements”
- minimum site vegetation requirements;
- buffering requirements;
- uses a land use classification system, under Article VI, Section 6.4 (table of permitted and conditional uses) for application of standards - i.e. specific standards applicable are based on the land use classification number of the proposed use

Ordinance No: 08-O-96
Date of Adoption: July 14, 2008
Description: Amendment to Article VI, Section 6.4
- Churches added as a Permitted Use in the Central Business District

Ordinance No: 08-O-98
Date of Adoption: September 8, 2008
Description: Amendment to Article IV, Article V, Article VI, Article VII, and Article IX
- Intermediate Commercial District created

Ordinance No: 08-O-103
Date of Adoption: December 8, 2008
Description: Amendment to Article IV adding Section 4.3.1
- Conditional Use District with a Site Specific Development Plan created

Ordinance No: 09-O-108
Date of Adoption: January 12, 2009
Description: Amendment to Article III adding Section 3.23.A
- adds Section 3.23.A - Use of Recreational Vehicle as Dwelling Prohibited

Ordinance No: 09-O-136
Date of Adoption: April 13, 2009
Description: Amendment to Article III, Section 3.10
- repeals existing Section 3.10 Fences and Walls and adopts a revised Section 3.10

Ordinance No: 09-O-143
Date of Adoption: June 8, 2009
Description: Amendment to Article VIII, Section 8.1, G Remote Parking
- adds "Business Uses may park in Office & Institutional

Ordinance No: 09-O-149
Date of Adoption: October 12, 2009
Description: Amendment to Article IX, Section 9.15, L
- allows "Seasonal-Temporary Off-Premises Signs"

Ordinance No: 10-O-210
Date of Adoption: March 8, 2010
Description: All occurrences of the words "Board of Aldermen" replaced with the words "Town Council" in accordance with Town of Winterville Charter amendment changing the name of the governing body from "Board of Aldermen" to "Town Council"

Ordinance No: 10-O-223
Date of Adoption: May 10, 2010
Description: Internet Sweepstakes Regulations
Amendment to Section 15.4, A
- defines "internet sweepstakes"
Amendment to Section 6.5
- establishes Special Requirement SR 44
Amendment to Section 6.4
- adds internet sweepstakes as a permitted use, subject to SR 44, in the General Business and Industrial zoning districts

Date of Adoption: June 14, 2010
Description: Amendment to Section 6.4 Table of Permitted and Conditional Uses
- adds “tattooing” as a permitted use in the Industrial district subject to Special Requirement SR 45
Amendment to Section 6.5 Special Requirements
- adds Special Requirement SR 45

Ordinance No: 12-O-288
Date of Adoption: May 14, 2012
Description: Amendment to Article III, Section 3.10, B1 & B2
- changes maximum height for residential fences in a front yard and in a corner lot street side yard from 3 feet to 4 feet

Ordinance No: 17-O-341
Date of Adoption: January 9, 2017
Description: Amendment to Section 6.4 Table of Permitted and Conditional Uses
- adds “wine & craft beer shop”, “microbrewery/brewpub”, and “regional brewery” as permitted and conditional uses.
- Microbrewery/Brewpub & Regional Brewery are subject to Special Requirement SR 23.
Amendment to Section 15.4, A
- defines “wine & craft beer shop”, “microbrewery/brewpub”, “regional brewery” and “tasting room/sampling room/tap room.

Ordinance No: 17-O-13
Date of Adoption: November 13, 2017
Description: Amendment to Section 6.4 Table of Permitted and Conditional Uses
- “Class A Single Family” -Permitted use is removed as a permitted use within the A-R district.
- “Class A Single Family- use is added as a conditional use within the A-R district. Special Requirement 3 remains unchanged.
- “Class B Single Family”- Permitted use is removed within the A-R district.
- “Shooting Ranges, Outdoor, Local Government Only” – permitted use is removed within the A-R district.
- “Landscaping Services, Farm Supplies and Stables”- permitted use is removed within the A-R district- uses were part of the “Farm Related Enterprises” category of uses.
- “Refrigerator or Large Appliance Repairs”- conditional use is removed within the A-R district.

Ordinance No: 19-O-084
Date of Adoption: August 19, 2019
Description: Amendment to Section 6.4 Table of Permitted and Conditional Uses
- adds "tattooing" as a permitted use in the General Business District subject to Special Requirement SR 45

Ordinance No: 20-O-122
Date of Adoption: December 14, 2020
Description: Amended Ordinance to comply with Chapter 160D of the North Carolina General Statutes, a complete reorganization of the state's planning and development regulation statutes.

Douglas A. Jackson, Mayor

ATTEST:

Donald Harvey, Town Clerk



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Consent Agenda

Meeting Date: December 14, 2020

Presenter: Donald Harvey, Town Clerk

Item to be Considered

Subject: Council Meeting Minutes.

Action Requested: Approval of Minutes.

Attachment: Draft Minutes of the Council meeting listed below.

Prepared By: Donald Harvey, Town Clerk

Date: 12/2/2020

ABSTRACT ROUTING:

TC: 12/7/2020

TM: 12/10/2020

Final: tjp – 12/10/2020

Supporting Documentation

Approval of the following set of Council Meeting Minutes:

- November 9, 2020 Regular Meeting Minutes.

Budgetary Impact: NA.

Recommendation: Approval of Minutes.



**WINTERVILLE TOWN COUNCIL
MONDAY, NOVEMBER 9, 2020 – 7:00 PM
REGULAR MEETING MINUTES
REMOTE VIA ZOOM**

The Winterville Town Council met in a Regular Meeting on the above date at 7:00 PM in the Town Hall Assembly Room, with Mayor Pro Tem Veronica W. Roberson presiding. The following were present:

Douglas A. Jackson, Mayor (Absent)
Veronica W. Roberson Mayor Pro Tem
Richard (Ricky) E. Hines, Councilman
Tony P. Moore, Councilman
Johnny Moye, Councilman
Mark C. Smith, Councilman
Keen Lassiter, Town Attorney
Terri L. Parker, Town Manager
Ben Williams, Assistant Town Manager
Ryan Willhite, Police Chief
David Moore, Fire Chief
Robert Sutton, Electric Director
Anthony Bowers, Finance Director
Evan Johnston, Parks and Recreation Director
Bryan Jones, Planning Director
Donald Harvey, Town Clerk

CALL TO ORDER: Mayor Pro Tem Roberson called the meeting to order.

INVOCATION: Councilman Moore gave the Invocation.

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Roberson led everyone in the Pledge of Allegiance.

WELCOME: Mayor Pro Tem Roberson welcomed everyone.

APPROVAL OF AGENDA:

Motion made by Councilman Hines and seconded by Councilman Moore to approve the agenda. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0.

PROCLAMATIONS:

Town Clerk Harvey read the Proclamation Honoring Veterans Day.



PROCLAMATION
Honoring Veterans Day

WHEREAS, America was founded on the principles of liberty, opportunity and justice for all; and

WHEREAS, America has called on her men and women in uniform to protect our national security, to advance our national interests and to preserve our rights and freedoms; and

WHEREAS, on Veterans Day we recognize the men and women of our Armed Forces who have valiantly defended these values throughout our Nation's history; and

WHEREAS, on Veterans Day we also remember those whose sacrifice ended in permanent injury or death, yet their spirit remains in continued preservation of our freedoms and the promise of liberty established as an example for all oppressed persons of the world; and

WHEREAS, in honor of these dedicated men and women, we pledge continued defense of our nation so that their sacrifice will stand before the entire world as a tribute to the spirit and determination of people dedicated to the principals of freedom and democracy.

NOW, THEREFORE, the Town of Winterville currently has veterans living within its boundary;

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Winterville Town Council does hereby proclaim November 11, 2020 Veterans Day in the Town of Winterville, North Carolina and calls upon our citizens to observe this day with appropriate manners in honor of veterans, both living and deceased, who have served this country so willingly to preserve the principles of justice, freedom and democracy; to fly the flag; and let our veterans know we appreciate their great sacrifice.

IN WITNESS WHEREOF, I do set my hand, and cause the seal of Winterville to be affixed this 9th day of November 2020.

Veronica W. Roberson, Mayor Pro Tem

Attest:

Donald Harvey, Town Clerk

PUBLIC COMMENT: None.

CONSENT AGENDA:

1. Approval of the following sets of Council Meeting Minutes:
 - October 12, 2020 Regular Meeting Minutes.
2. Schedule Public Hearing for David Evans Property – Rezoning Request (Parcel 55092).
3. Schedule Public Hearing for Zoning Ordinance Amendments – Chapter 160D of the NC GS.
4. Release and Refund of Taxes.

Motion made by Councilman Moye and seconded by Councilman Hines to approve the consent agenda. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0.

OLD BUSINESS:

Winterville Human Relations Board: Ordinance 20-O-111: Town Manager Parker gave comments on the draft ordinance.

Mayor Pro Tem Roberson asked for discussion. Council had discussion on the ordinance and composition of board.

DRAFT

Draft Human Relations Ordinance

ORDINANCE NO. 20-O-111

HUMAN RELATIONS BOARD

§32.100 HUMAN RELATIONS BOARD.

Under the direction of Council, there is hereby established a six (6)-member Human Relations Board. This Board will be appointed by Council, and will assist the Council and the Town with the following:

- The study of problems in the area of human relations.
- The promotion of equity for all citizens.
- The promotion of understanding, respect, and goodwill among all citizens.
- The provision of channels of communication among diverse groups.
- Encouraging the employment of qualified people without regard to race, color, religion, gender, sex, age, national origin, disability or genetic information.
- Encouraging youth to become better trained and qualified for employment.

§32.101 MEMBERSHIP.

The Human Relations Board shall consist of six (6) members who are residents within the Town corporate limits.

§ 32.102 TERMS, APPOINTMENTS AND COMPENSATION.

(A) Term and appointment.

1. Board members shall serve two (2)-year staggered terms and be appointment by Council.
2. The initial terms of appointment for members shall be:
 - Two members for a one (1)-year term.
 - Two members for a two (2)-year term.
 - Two members for a three (3)-year term.
 - Thereafter, each newly appointed voting member shall serve for a two (2)-year term.
3. Members may be reappointed, and no member shall serve more than three (3) consecutive terms. Each member shall hold office until the qualification and appointment of his/her successor or until one (1) year has lapsed since the expiration of the term for which the member was appointed, which first occurs.

(B) The Town Council may in its discretion appoint up to two (2) high school and two (2) college/university student representatives from high schools and/or colleges and universities located which serve the Town of Winterville. Such student representatives will be non-voting members of the Human Relations Board. Town Council shall appoint one (1) member of Town

Council to act as the non-voting Liaison to the Human Relations Board. The appointed Liaison shall attend the meetings and keep Town Council informed as to the activities of the Board.

(C) *Compensation.* Members of the Human Relations Board shall serve without compensation.

§ 32.103 VACANCIES AND REMOVAL OF MEMBERS.

(A) Movement from within the Town limits will result in removal from the Human Relations Board. The Council will subsequently appoint a replacement to serve the remainder of the unexpired term.

(B) *Meeting Attendance.*

(1) Absences caused by illness, injury, death, bereavement, personal emergency, or other similar situations shall be recognized as an excused absence. Excused absences are generally defined as medical or family emergencies or unavoidable business/personal conflicts.

(2) Three (3) consecutive absences from regularly scheduled meetings if notification of any such absence has not been submitted to the Chairperson or Staff Liaison prior to the meetings where the absence occurred will be considered unexcused absences.

(3) Five (5) absences from regularly scheduled meetings of the Human Relations Board in any calendar year if notification of any such absence has not been submitted to the Chairperson or Staff liaison prior to the meetings where the absence occurred shall be considered unexcused absences.

(4) In the event that a vacancy occurs by reasons stated in Section II, the Chairperson of the Human Relations Board shall immediately notify the Town Council liaison, so that the vacancy can be filled in accordance with Town Ordinance by the Town Council.

(5) Members may also be removed from the Board by breach of Section III of the By-Laws governing general conduct of Human Relations Board members.

§32.103 ORGANIZATION.

(A) The Human Relations Board shall choose its own officers.

(1) Officers will serve one (1)-year terms, with no limits on the number of terms that may be served.

(2) Elections will be held at the start of the fiscal year, during the month of July.

(3) The Town Clerk shall serve as the Staff Liaison to the Board.

§32.104 MEETINGS OF THE HUMAN RELATIONS BOARD.

(A) The Human Relations Board will approve a schedule of monthly meetings for each calendar year, including day and time of said meetings. The schedule of meetings will be posted on all applicable Town outlets as well as in the Office of the Town Clerk.

(B) A quorum for the official conduct of business shall consist of a simple majority of voting Human Relations Board members.

(C) The Human Relations Board shall keep meetings of its proceedings.

§32.105 DUTIES AND RESPONSIBILITIES.

(A) *Work Plan.*

(1) The Human Relations Board shall submit a work plan to Town Council in March of each year. The work plan should list the proposed activities of the Board and any associated budget requests.

(2) The Plan will be presented annually to the Council during the Town's Annual Budget process, and upon approval, shall become Human Relations Board Annual Work Plan.

(B) *Other Requested Work.* The Human Relations Board, when requested by Council, shall consider and report upon any matter coming within the scope of its work.

Mayor Pro Tem Roberson asked for any further discussion or any more questions. Hearing none what is the Board's pleasure.

Motion made by Councilman Moye and seconded by Mayor Pro Tem Roberson to approve the Winterville Human Relations Board - Ordinance 20-O-111. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0.

NEW BUSINESS:

No parking on east side of southbound West Railroad Street: Ordinance 20-O-112: Police Chief Willhite explained the ordinance and identified the location. Council had discussion relative to the need to making this a no parking zone but to place signs and indicating the area as tastefully as possible.

ORDINANCE NO. 20-O-112

ORDINANCE AMENDING CHAPTER 75 OF THE CODE OF ORDINANCES OF THE TOWN OF WINTERVILLE, NORTH CAROLINA

BE IT ORDAINED by the Town Council of the Town of Winterville, North Carolina that Title VII Chapter 75 of the Code of Ordinances of the Town of Winterville is hereby amended as follows:

CHAPTER 75: PARKING SCHEDULES.

SCHEDULE I: PARKING PROHIBITED.

(A) (1) Parking is prohibited at all times on the following street:

<i>Street</i>	<i>Location</i>	<i>Side</i>	<i>Ord. or Res. No.</i>	<i>Date Passed</i>
West Railroad Street	Southbound from Depot Street to Main Street.	East (Along Curb)	20-O-112	11-9-2020

(2) Signage giving notice of parking restrictions shall be erected.

(1992 Code, Chapter 75, Sch. I)

This Ordinance shall be effective upon adoption.

Adopted this the 9th day of November 2020.

Veronica W. Roberson, Mayor Pro Tem

ATTEST:

Donald Harvey, Town Clerk

Mayor Pro Tem Roberson asked for any further discussion or any more questions. Hearing none what is the Board's pleasure.

Motion made by Councilman Moore and seconded by Councilman Hines to approve no parking on the east side along the curb of West Railroad Street southbound from Depot Street to Main Street - Ordinance 20-O-112. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0.

OTHER AGENDA ITEMS:

Downtown Noise – Councilman Moore: The complaint has been withdrawn.

ITEMS FOR FUTURE AGENDA/FUTURE WORK SESSIONS:

Mayor Pro Tem Roberson gave an update on the Library. She stated that Winterville needs a representative on the Library Board for expressing our interests.

Mayor Pro Tem Roberson also gave an update on Mid-East topics. This is the last year she can serve a term on the Board, thus Council needs to think about someone to serve.

Councilman Hines asked about public broadband access. Town Manager Parker stated that a public channel is available at Town Hall. Also, working with Greg Needham at the library to solve some obstacles around providing better service.

Councilman Moore asked about the AG Cox Plans, Park Street, and active HOA's in the Town.

Councilman Moye questioned about vacant homes that were boarded up and then taken down and being used. Town Attorney Lassiter stated that abandon structure place cards have been used. Councilman Moye noted the structure referenced. Mayor Pro Tem Roberson said that the homeless are using them. Town Manager Parker said our eyes are open for street walkers. Councilman Hines asked if officers know the structures in question. He also noted there is an uptick in transients. Town Manager Parker said that the inventory will be shared with the police.

REPORTS FROM DEPARTMENT HEADS:

- ❖ Minimum Housing/Code Enforcement (TLP)
- ❖ Tar Road Widening Project – Electric Engineering/Relocation (RS)
- ❖ New Electric Territory Engineering/Installation (RS)
- ❖ Fork Swamp Greenway Project (EJ)
- ❖ Multi-Purpose Building Site Plan (EJ)
- ❖ Winterville Market/Town Common Plan (BW)
- ❖ Chapman Street Culvert - Nobel Canal Drainage Basin Study (TW)
- ❖ 2018 Sewer Rehab (TW)
- ❖ Church Street Pump Station Rehabilitation (TW)
- ❖ Cemetery (BW)

Parks and Recreation Director Johnston reported that the Christmas parade be a drive thru on December 12th at Division Street. Traffic will go through the parade that is parked, there will not be distribution of candy Also, 2 drive in movies are scheduled for December. There will be a video of Council and staff expressing Christmas wishes to the Citizens.

Mayor Pro Tem Roberson asked about the usage of the sign on Highway 11 at the State Employee Credit Union. Parks and Recreation Director Johnston said he will speak to Robert Moore about sign usage.

Mayor Pro Tem Roberson asked about status of Multi-purpose building land. Assistant Town Manager Williams said he received official decline from property around Depot. Town Manager Parker said staff will search for other 15-20 Acre parcels. Council please passes along any available land.

Assistant Town Manager Williams briefed Council on the Sanitary Sewer Rehabilitation Project. Only 2 bids were received, the bids have been re-advertised.

The Town received notice that the Nobel Canal project was not funded by the Division of Water Resources. Council discussed a variety of issues, problems, solutions, funding avenues, and funding obstacles. Staff will continue to look at options.

Mayor Pro Tem Roberson asked status of housing repair projects and funds. Town Manager Parker said money will carryover.

Mayor Pro Tem Roberson asked about Cemetery expansion status. Councilman Moore noted about the dump being beside the cemetery. Mayor Pro Tem Roberson asked if we could work on this problem out of respect to those that have services there. Town Manager Parker noted that the County must buy into any plans. Councilman Moore asked who owns the dump property. Town Manager Parker said we will check into ownership and lease situation.

ANNOUNCEMENTS: Town Clerk Harvey gave the following announcements.

1. Town Offices Closed: Wednesday, November 11, 2020 for the Veteran's Day Holiday.
2. Planning and Zoning Board Meeting: Monday, November 16, 2020 - 7 p.m. - Town Hall Assembly Room.
3. Recreation Advisory Board: Tuesday, November 17, 2020 – 6:30 pm – Operation Center.
4. Board of Adjustment Meeting: Tuesday, November 17, 2020 - 7 p.m. - Town Hall Assembly Room.
5. Town Offices Closed: Thursday, November 26 and Friday November 27, 2020 for the Thanksgiving Holiday.

REPORTS FROM THE TOWN ATTORNEY, MAYOR, AND TOWN COUNCIL, AND TOWN MANAGER:

Attorney Lassiter: None.

Councilman Moore: None.

Councilman Smith: Thanks to our Veterans and Happy Thanksgiving to the Staff.

Councilman Moyer: Thanks to our Veterans, Happy Holiday, and reminder of a whole on Beacon Street that needs to be fixed.

Councilman Hines: Happy Thanksgiving.

Manager Parker: Reopening went well and Happy Thanksgiving to all.

Mayor Pro Tem Roberson: Thanks to voters, the workers, and all involved in the election process, everything went well and Happy Holiday to everyone.

ADJOURN:

Motion made by Councilman Hines and seconded by Councilman Smith to adjourn the meeting. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0. Meeting adjourned at 8:42 pm.

Adopted this the 14th day of December 2020.

Douglas A. Jackson, Mayor

ATTEST:

Donald Harvey, Town Clerk

DRAFT



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Consent Agenda

Meeting Date: December 14, 2020

Presenter: Donald Harvey, Town Clerk

Item to be Considered

Subject: 2021 Regular Meeting Calendar and FY 2021-2022 Budget Calendar.

Action Requested: Approval of Calendars.

Attachment: Draft Calendars.

Prepared By: Donald Harvey, Town Clerk

Date: 12/2/2020

ABSTRACT ROUTING:

TC: 12/7/2020

TM: 12/10/2020

Final: tjp – 12/10/2020

Supporting Documentation

The following calendars have been included for Council's review and approval:

- 2021 Regular Council Meeting Calendar, and
- FY 2021 - 2022 Budget Calendar.

Budgetary Impact: NA.

Recommendation: Approval of Calendars.



TOWN COUNCIL 2021 MEETING CALENDAR

DATE	DESCRIPTION	TIME	LOCATION
Monday, January 11, 2021	Regular Council Meeting	7:00 pm	THAR
Monday, February 8, 2021	Regular Council Meeting	7:00 pm	THAR
Monday, March 8, 2021	Regular Council Meeting	7:00 pm	THAR
Monday, April 12, 2021	Regular Council Meeting	7:00 pm	THAR
Monday, May 10, 2021	Regular Council Meeting	7:00 pm	THAR
Monday, June 14, 2021	Regular Council Meeting	7:00 pm	THAR
Monday, July 12, 2021	NO MEETING	NA	NA
Monday, August 9, 2021	Regular Council Meeting	7:00 pm	THAR
Monday, September 13, 2021	Regular Council Meeting	7:00 pm	THAR
Monday, October 11, 2021	Regular Council Meeting	7:00 pm	THAR
Monday, November 8, 2021	Regular Council Meeting	7:00 pm	THAR
Monday, December 13, 2021	Regular Council Meeting	7:00 pm	THAR

**THAR: Town Hall Assembly Room
2571 Railroad Street
Winterville, NC 28590**

Adopted by Council – 12/14/2020



TOWN OF WINTERVILLE

FY 2021-2022

BUDGET CALENDAR

DATE	DESCRIPTION	TIME	LOCATION
Monday, January 25, 2021	Town Council Vision Setting Meeting	TBD	TBD
Monday, February 22, 2021	Distribution of Budget Worksheets to Management Team	N/A	TMGR OFFICE
Friday, March 26, 2021	Management Team Recommendations Due	N/A	TMGR OFFICE
Monday, April 26, 2021	Town Council & Manager Progress Meeting	5:30 p.m.	THECR
May 10-14, 2021	Manager Review with Management Team	N/A	TMGR OFFICE
Thursday, May 20, 2021	Hand delivery of the Recommended Budget	N/A	N/A
Tuesday, May 25, 2021	Town Council Budget Work Sessions	6:00 p.m.	DEPOT
Wednesday, May 26, 2021	Town Council Budget Work Sessions	6:00 p.m.	DEPOT
Monday, June 7, 2021	Public Hearing	7:00 p.m.	THAR
Monday, June 14, 2021	Adoption of the FY 2021-2022 Budget Ordinance	7:00 p.m.	THAR
Thursday, July 1, 2021	Fiscal Year Begins	N/A	N/A

THAR:
Town Hall Assembly Room
2571 Railroad Street
Winterville, NC 28590

THECR:
Executive Conference Room
2571 Railroad Street
Winterville, NC 28590

WCR:
Winterville Community Room
2571 Railroad Street
Winterville, NC 28590

DEPOT:
Winterville Train Depot
Railroad Street
Winterville, NC 28590

Approved by Council - 12/14/2020
Please NOTE the times of the meetings vary.



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Consent Agenda

Meeting Date: December 14, 2020

Presenter: Anthony Bowers, Finance Director

Item to be Considered

Subject: Resolution Designation of Applicants Agent.

Action Requested: Approve the Resolution.

Attachment: Designation of Applicants Agent Form.

Prepared By: Anthony Bowers, Finance Director

Date: 12/9/2020

ABSTRACT ROUTING:

TC: 12/9/2020

TM: 12/10/2020

Final: tlp - 12/10/2020

Supporting Documentation

As a result of the damaging effect of Hurricane Isaisis, the Town is applying for FEMA assistance. As part of this process, FEMA pays 75% of the reimbursements and the State of North Carolina pays the remaining 25%. The State requires applicants to designate a primary and secondary agent. This will allow the Finance Director to be the primary agent. The primary agent, will prepare and submit the required documentation needed for reimbursements and represent the Town of Winterville with FEMA and the State of North Carolina.

Budgetary Impact: None.

Recommendation: Approve the Resolution.

APPLICANT ASSURANCES

The applicant hereby assures and certifies that it will comply with the FEMA regulations, policies, guidelines and requirements including OMB's Circulars No. A-95 and A-102, and FMC 74-4, as they relate to the application, acceptance and use of Federal funds for this Federally assisted project. Also, the Applicant gives assurance and certifies with respect to and as a condition for the grant that:

1. It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. It will comply with the provisions of: Executive Order 11988, relating to Floodplain Management and Executive Order 11990, relating to Protection of Wetlands.
3. It will have sufficient funds available to meet the non-Federal share of the cost for construction projects. Sufficient funds will be available when construction is completed to assure effective operation and maintenance of the facility for the purpose constructed.
4. It will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the grant program(s) have been met.
5. It will provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; that it will furnish progress reports and such other information as the Federal grantor agency may need.
6. It will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State and local agencies for the maintenance and operation of such facilities.
7. It will give the grantor agency and the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant.
8. It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped," Number A117.1-1961, as modified (41 CFR 101-17-7031). The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.
9. It will cause work on the project to be commenced within a reasonable time after receipt of notification from the approving Federal agency that funds have been approved and will see that work on the project will be prosecuted to completion with reasonable diligence.
10. It will not dispose of or encumber its title or other interests in the site and facilities during the period of Federal interest or while the Government holds bonds, whichever is the longer.
11. It agrees to comply with Section 311, P.L. 93-288 and with Title VI of the Civil Rights Act of 1964 (P.L. 83-352) and in accordance with Title VI of the Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. If any real property or structure is provided or improved with the aid of Federal financial assistance extended to the Applicant, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.
12. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
13. It will comply with the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and Federally assisted programs.
14. It will comply with all requirements imposed by the Federal grantor agency concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with OMB Circular A-102, P.L. 93-288 as amended, and applicable Federal Regulations.
15. It will comply with the provisions of the Hatch Act which limit the political activity of employees.
16. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of State and local governments.
17. (To the best of his/her knowledge and belief) the disaster relief work described on each Federal Emergency Management Agency (FEMA) Project Application for which Federal Financial assistance is requested is eligible in accordance with the criteria contained in 44 Code of Federal Regulations, Part 206, and applicable FEMA Handbooks.
18. The emergency or disaster relief work therein described for which Federal Assistance is requested hereunder does not or will not duplicate benefits received for the same loss from another source.
19. It will (1) provide without cost to the United States all lands, easements and rights-of-way necessary for accomplishments of the approved work; (2) hold and save the United States free from damages due to the approved work or Federal funding.
20. This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, reimbursements, advances, contracts, property, discounts of other Federal financial assistance extended after the date hereof to the Applicant by FEMA, that such Federal Financial assistance will be extended in reliance on the representations and agreements made in this assurance and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear on the reverse as authorized to sign this assurance on behalf of the applicant.
21. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1973. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Director, Federal Emergency Management Agency as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
22. It will comply with the insurance requirements of Section 314, PL 93-288, to obtain and maintain any other insurance as may be reasonable, adequate, and necessary to protect against further loss to any property which was replaced, restored, repaired, or constructed with this assistance.
23. It will defer funding of any projects involving flexible funding until FEMA makes a favorable environmental clearance, if this is required.
24. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
25. It will, for any repairs or construction financed herewith, comply with applicable standards of safety, decency and sanitation and in conformity with applicable codes, specifications and standards; and, will evaluate the natural hazards in areas in which the proceeds of the grant or loan are to be used and take appropriate action to mitigate such hazards, including safe land use and construction practices.

STATE ASSURANCES

The State agrees to take any necessary action within State capabilities to require compliance with these assurances and agreements by the applicant or to assume responsibility to the Federal government for any deficiencies not resolved to the satisfaction of the Regional Director.



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Old Business

Meeting Date: December 14, 2020

Presenter: Donald Harvey, Town Clerk

Item to be Considered

Subject: As required by ordinance, the Police Department has conducted an investigation of the applicants for the taxicab franchise permit and conducted safety inspections of two (2) vehicles that will be used. We are happy to inform Council that All Dunn Transport had no concerning issues during our review.

Action Requested: Final Approval of Permit for Taxicab Franchise – All Dunn Transport.

Attachment: None.

Prepared By: Donald Harvey, Town Clerk

Date: 12/4/2020

ABSTRACT ROUTING:

TC: 12/7/2020

TM: 12/10/2020

Final: tjp – 12/10/2020

Supporting Documentation

None.

Budgetary Impact: None.

Recommendation: Final Approval of Taxicab Franchise to All Dunn Transport.



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: New Business

Meeting Date: December 14, 2020

Presenter: Bryan Jones, Planning Director

Item to be Considered

Subject: Appointment of Board of Adjustment Members.

Action Requested: Appoint Member to Board of Adjustment

Attachment: Current List of Board of Adjustment Members, and Applications from eligible residents.

Prepared By: Bryan Jones, Planning Director

Date: 12/2/2020

ABSTRACT ROUTING:

TC: 12/7/2020

TM: 12/10/2020

Final: tlp - 12/10/2020

Supporting Documentation

Board of Adjustment:

The Board of Adjustment (BOA) consists of five (5) Members; four (4) members of the board shall be appointed by the Town Council and shall be residents of the Town of Winterville, and one (1) member shall be appointed by the Board of County Commissioners of Pitt County, all for overlapping terms of three years. The BOA also consists of one (1) regular member alternate and one (1) ETJ alternate.

Mr. Brian Miller is currently designated as a Regular Member Alternate. With the resignation of a Regular Member, Mr. Miller would now be moved to a Regular Member and would leave the Regular Member Alternate position vacant.

Mrs. Portia Willis resigned from the Board of Adjustment on September 30, 2020 because she has moved out of town. Her term would expire in on June 30, 2023. The appointed member would serve out the remainder of the term as Regular Member Alternate.

The Town Clerk currently has two (2) applications on file requesting to be appointed to the Board. The applicants are as follows (listed in order of receipt):

- Garret Killian and Brandy Daniels

Budgetary Impact: TBD.

Recommendation: Appoint Alternate Member to Board of Adjustment.

Board of Adjustment Members

The Board of Adjustment (BOA) shall consist of five (5) Members; four (4) members of the board shall be appointed by the Town Council and shall be residents of the Town of Winterville, and one (1) member shall be appointed by the Board of County Commissioners of Pitt County, all for overlapping terms of three years. One regular member alternate and one ETJ alternate.

- Quorum:
 - Most decisions require Simple Majority: 3 members
 - Variance requires four-fifths majority: 4 members

Members who are recused due to a conflict of interest and seats that are vacant are not considered when computing the required majority
- No more than 5 members can vote on any item

Town Appointed Members (within City limits)

1. Alfred P. Phillips
127 Boyd Street
Winterville, NC 28590
252-227-9732
Alfred.phillips20@yahoo.com
Term Expires: 06/30/2021
2. Edward A. Reynolds
2202 Wolf Trap Circle
Winterville, NC 28590
252-321-4744
Ed_A_reynolds@yahoo.com
Term Expires: 06/30/2021
3. Joseph I. Pierce (Vice Chair - 8/18/20)
419 Crimson Drive
Winterville, NC 28590
Home: 910-489-7189
Work: 252-543-8049
jpierce@centurionprojectmanagement.com
Term Expires: 06/30/2023
4. Vacant
Term Expires: 06/30/2023
5. Brian Miller (Alternate)
2817 Mocking Bird Lane
Winterville, NC 28590
856-889-3596
bfm0308@yahoo.com
Term Expires: 08/07/2023

Pitt County Appointed Members (ETJ Members)

1. Jeffrey Earl Briley (Chair - 8/18/20)
5016 Reedy Branch Road
Winterville, NC 28590
252-531-9026
Jeffbriley2003@yahoo.com
Term Expires: 06/30/2021
2. Vacant (ETJ Alternate)

TOWN OF WINTERVILLE

Request for Appointments to Boards, Commissions and Committees of the Town of Winterville

Please indicate which board you are interested in serving on. If you are interested in more than one board, please list them by preference by using numbers (1, 2, 3, etc.)

2 Board of Adjustment
4 Recreation and Parks Advisory Board
1 Planning and Zoning Board
3 Stormwater Advisory Committee

*Require in-town residency or in the Town's ETJ to be appointed to any volunteer board.

Name: Brandy Daniels Home Phone Number: 252-413-9249
Address: 2945 FoxGlove Drive; Business Phone Number: N/A
Employed By: ECU Occupation: Administrator - Campus Living
Name of High School Attended: Roanoke High School
College or University Attended: ECU / NC State
How long have you been a resident of Winterville? 3 years
Have you served on a board/commission of the town? () Yes (X) No

If yes, please indicate which one(s):

Current membership in organization and offices held:

None

Past membership in organizations and offices held:

None

State why you feel you would be an asset to this board/commission. I have a vested interest in Winterville and being involved.

Signature: BMD Date: 10/25/19

Please Return To: Town of Winterville Town Clerk's Office P.O. Box 1459 Winterville, NC 28590 or email don.harvey@wintervillenc.com with the completed application.

This information requested below is optional.

Form with fields for Ethnic Group (African American checked), Sex (Female checked), U.S. Citizenship (Yes checked), and Birth Date (9/20/56).

E-mail



RECEIVED 10/25/2019

alexanderdaniels b14@ecu.edu

This information requested below is optional:

<u>Ethnic Group:</u> <input type="checkbox"/> African American <input type="checkbox"/> American Indian <input type="checkbox"/> Asian or Pacific Islander <input checked="" type="checkbox"/> Caucasian <input type="checkbox"/> Hispanic	<u>Sex:</u> <input type="checkbox"/> Female <input checked="" type="checkbox"/> Male <u>US Citizenship:</u> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <u>Birth Date:</u> <u>12/29/1970</u>
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**Town of Winterville
Town Council
Agenda Abstract**

Item Section: New Business

Meeting Date: December 14, 2020

Presenter: Donald Harvey, Town Clerk

Item to be Considered

Subject: NCLM Voting Delegate for the New Legislative Biennium.

Action Requested: Designate Town's Voting Delegate.

Attachment: NCLM Information Sheet.

Prepared By: Donald Harvey, Town Clerk

Date: 12/2/2020

ABSTRACT ROUTING:

TC: 12/7/2020

TM: 12/10/2020

Final: tjp – 12/10/2020

Supporting Documentation

Council needs to identify the Town's Voting Delegate for the start of the new legislative biennium. During even-numbered years, members come together to submit their legislative goals and priorities. Each member municipality is eligible to cast a single vote in this goal setting process. Each member municipality shall designate one voting delegate who is responsible for casting the municipality's vote.

Budgetary Impact: NA.

Recommendation: Designate Town's Voting Delegate.

Don Harvey

From: Karen Waddell, NC League of Municipalities <kwaddell@mail.nclm.org>
Sent: Tuesday, November 24, 2020 12:17 PM
To: Don Harvey
Subject: Biennium Legislative Policy and Goals - Designate Voting Delegate

Be Advised: This email originated from outside of the Town of Winterville, NC

Having trouble viewing this email? [View it as a Web page.](#)



Greetings,

the start of each new legislative biennium. During even-numbered years, members come together to submit their legislative goals and priorities. Over the last few months, the Legislative Policy Committee has been considering these ideas and will present its recommendations to the Board of Directors in December. The Board will refine the position further before sending them to the full League membership for a final vote. After the final voting period closes, cities and towns will have a focused advocacy agenda to pursue at the state and federal levels.

Identify your Municipality's Voting Delegate

You are receiving this email because each member municipality is eligible to cast a single vote in this goal setting process. Each member municipality shall designate one voting delegate who is responsible for casting the municipality's vote. **Take action NOW to designate your municipality's voting delegate by following the link below.**

- The designated voting delegate shall receive their credentials and voting instructions.
- The designated voting delegate shall vote on the proposed Legislative Policy Goals package electronically.
- The Legislative Policy Goals will be shared with the membership electronically following the voting period.

For questions, please contact [Karen Waddell](#) | 919.715.0950

DESIGNATE YOUR VOTING DELEGATE HERE



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: New Business

Meeting Date: December 14, 2020

Presenter: Anthony Bowers, Finance Director

Item to be Considered

Subject: Approval of Financing terms and Agreement with Branch Bank and Trust.

Action Requested: Award Financing to Branch Bank and Trust.

Attachment: Bid Tabulation, and Resolution Approving Financing Terms.

Prepared By: Anthony Bowers, Finance Director

Date: 12/2/2020

ABSTRACT ROUTING:

TC: 12/7/2020

TM: 12/10/2020

Final: tlp - 12/10/2020

Supporting Documentation

The Town Council has approved the purchase of three pieces of Public Works equipment, one (1) vehicle for the Finance Department and new ERP Software. The funding for the Public Works equipment was approved in last Fiscal Year's budget in the amount of \$611,000. The Council also approved the purchase of an SUV in the 2020-2021 budget in the amount of \$26,000. The funds approved for the financing of the software was \$496,000.

We received quotes from 4 Lending institutions. BB&T (Trust) was the lowest bid, with rates at 1.92%, 1.58%, and 1.92% respectively. Historically the Town has not financed vehicles and equipment over seven (7) years.

We are recommending accepting BB&T's proposal for all three (3) pieces of equipment with the seven (7)-year term for the Equipment, a three (3)-year term for the SUV, and a seven (7)-year term for the ERP Software.

Budgetary Impact: Annual debt service payments in the amount of: PW Equipment \$94,116.71. SUV \$8,941.96, and the ERP Software of \$76,402.43.

Recommendation: Approve the Financing Agreement.

**Town of Winterville
Bid Tabulation
Equipment**

Bank	Rate
------	------

BB&T	1.92%
First Citizens	1.93%
Union Bank	2.42%
Southern Bank	2.52%

**Town of Winterville
Bid Tabulation
Nissan Pathfinder**

Bank	Rate
------	------

BB&T	1.58%
First Citizens	1.98%
Union Bank	1.98%
Southern Bank	1.99%

**Town of Winterville
Bid Tabulation
BS&A Software**

Bank	Rate
------	------

BB&T	1.92%
First Citizens	1.97%
Union Bank	2.42%
Southern Bank	2.72%

 Winterville, NC Installment Purchase Contract (DRAFT)

Compounding Period: Annual

Nominal Annual Rate: 1.920%

Cash Flow Data - Loans and Payments

	Event	Date	Amount	Number	Period	End Date
1	Loan	12/02/2020	611,000.00	1		
2	Payment	12/02/2021	94,116.71	7	Annual	12/02/2027

TValue Amortization Schedule - Normal, 360 Day Year

	Date	Payment	Interest	Principal	Balance
Loan	12/02/2020				611,000.00
2021 Totals		0.00	0.00	0.00	
1	12/02/2021	94,116.71	11,731.20	82,385.51	528,614.49
2022 Totals		94,116.71	11,731.20	82,385.51	
2	12/02/2022	94,116.71	10,149.40	83,967.31	444,647.18
2023 Totals		94,116.71	10,149.40	83,967.31	
3	12/02/2023	94,116.71	8,537.23	85,579.48	359,067.70
2024 Totals		94,116.71	8,537.23	85,579.48	
4	12/02/2024	94,116.71	6,894.10	87,222.61	271,845.09
2025 Totals		94,116.71	6,894.10	87,222.61	
5	12/02/2025	94,116.71	5,219.43	88,897.28	182,947.81
2026 Totals		94,116.71	5,219.43	88,897.28	
6	12/02/2026	94,116.71	3,512.60	90,604.11	92,343.70
2027 Totals		94,116.71	3,512.60	90,604.11	
7	12/02/2027	94,116.71	1,773.01	92,343.70	0.00
2028 Totals		94,116.71	1,773.01	92,343.70	
Grand Totals		658,816.97	47,816.97	611,000.00	

Last interest amount increased by 0.01 due to rounding.

 Winterville, NC Nissan Pathfinder (DRAFT)

Compounding Period: Annual

Nominal Annual Rate: 1.580%

Cash Flow Data - Loans and Payments

	Event	Date	Amount	Number	Period	End Date
1	Loan	12/02/2020	26,000.00	1		
2	Payment	12/02/2021	8,941.96	3	Annual	12/02/2023

TValue Amortization Schedule - Normal, 360 Day Year

	Date	Payment	Interest	Principal	Balance
Loan	12/02/2020				26,000.00
2021 Totals		0.00	0.00	0.00	
1	12/02/2021	8,941.96	410.80	8,531.16	17,468.84
2022 Totals		8,941.96	410.80	8,531.16	
2	12/02/2022	8,941.96	276.01	8,665.95	8,802.89
2023 Totals		8,941.96	276.01	8,665.95	
3	12/02/2023	8,941.96	139.07	8,802.89	0.00
2024 Totals		8,941.96	139.07	8,802.89	
Grand Totals		26,825.88	825.88	26,000.00	

Last interest amount decreased by 0.02 due to rounding.

Winterville, NC BS&A Software (DRAFT)

Compounding Period: Annual

Nominal Annual Rate: 1.920%

Cash Flow Data - Loans and Payments

Event	Date	Amount	Number	Period	End Date
1 Loan	12/02/2020	496,000.00	1		
2 Payment	12/02/2021	76,402.43	7	Annual	12/02/2027

TValue Amortization Schedule - Normal, 360 Day Year

	Date	Payment	Interest	Principal	Balance
Loan	12/02/2020				496,000.00
2021 Totals		0.00	0.00	0.00	
1	12/02/2021	76,402.43	9,523.20	66,879.23	429,120.77
2022 Totals		76,402.43	9,523.20	66,879.23	
2	12/02/2022	76,402.43	8,239.12	68,163.31	360,957.46
2023 Totals		76,402.43	8,239.12	68,163.31	
3	12/02/2023	76,402.43	6,930.38	69,472.05	291,485.41
2024 Totals		76,402.43	6,930.38	69,472.05	
4	12/02/2024	76,402.43	5,596.52	70,805.91	220,679.50
2025 Totals		76,402.43	5,596.52	70,805.91	
5	12/02/2025	76,402.43	4,237.05	72,165.38	148,514.12
2026 Totals		76,402.43	4,237.05	72,165.38	
6	12/02/2026	76,402.43	2,851.47	73,550.96	74,963.16
2027 Totals		76,402.43	2,851.47	73,550.96	
7	12/02/2027	76,402.43	1,439.27	74,963.16	0.00
2028 Totals		76,402.43	1,439.27	74,963.16	
Grand Totals		534,817.01	38,817.01	496,000.00	

Last interest amount decreased by 0.02 due to rounding.

Governmental Finance

5130 Parkway Plaza Boulevard
Charlotte, North Carolina 28217
Phone (704) 954-1700
Fax (704) 954-1799

November 20, 2020

Mr. Anthony Bowers
Town of Winterville, NC
PO Box 1459
Winterville, NC 28590

Dear Mr. Bowers:

Truist Bank ("Lender") is pleased to offer this proposal for the financing requested by the Town of Winterville, NC ("Borrower").

PROJECT: BS&A Software

AMOUNT: \$496,000.00

TERM: 7 years

INTEREST RATE: 1.92%

TAX STATUS: Tax Exempt – Bank Qualified

PAYMENTS: Interest: Annual
Principal: Annual

**INTEREST RATE
CALCULATION:** 30/360

SECURITY: Security interest in the project being financed

**PREPAYMENT
TERMS:** Prepayable in whole at any time without penalty

**RATE
EXPIRATION:** January 29, 2021

**DOCUMENTATION/
LEGAL REVIEW
FEE:** N/A

FUNDING: Proceeds will be deposited into an account held at Lender pending disbursement unless equipment is delivered prior to closing.

DOCUMENTATION: Lender proposes to use its standard form financing contracts and related documents for this installment financing. We shall provide a sample of those documents to you should Lender be the successful proposer.

The financing documents shall include provisions that will outline appropriate changes to be implemented in the event that this transaction is determined to be taxable or non-bank qualified in accordance with the Internal Revenue Service Code. All documentation must be deemed appropriate by Lender before closing.

REPORTING

REQUIREMENTS: Lender will require financial statements to be delivered within 270 days after the conclusion of each fiscal year-end throughout the term of the financing.

Should we become the successful proposer, we have attached the form of a resolution that your governing board can use to award the financing to Lender. If your board adopts this resolution, then Lender shall not require any further board action prior to closing the transaction.

Lender shall have the right to cancel this offer by notifying the Borrower of its election to do so (whether this offer has previously been accepted by the Borrower) if at any time prior to the closing there is a material adverse change in the Borrower's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the Borrower or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to Lender.

Costs of counsel for the Borrower and any other costs will be the responsibility of the Borrower.

The stated interest rate assumes that the Borrower expects to borrow no more than \$10,000,000 in the current calendar year and that the financing will qualify as qualified tax-exempt financing under the Internal Revenue Code. Lender reserves the right to terminate this bid or to negotiate a mutually acceptable interest rate if the financing is not qualified tax-exempt financing.

We appreciate the opportunity to offer this financing proposal. Please call me at (803) 251-1328 with your questions and comments. We look forward to hearing from you.

Sincerely,

Truist Bank



Andrew G. Smith
Senior Vice President

Resolution Approving Financing Terms

WHEREAS: The Town of Winterville, NC (“Borrower”) has previously determined to undertake a project for the financing of BS&A Equipment (the “Project”), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Borrower hereby determines to finance the Project through Truist Bank (“Lender”) in accordance with the proposal dated November 20, 2020. The amount financed shall not exceed \$496,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.92%, and the financing term shall not exceed seven (7) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the Borrower are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Borrower officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer’s release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document’s final form.

4. The Borrower shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Borrower hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Borrower intends that the adoption of this resolution will be a declaration of the Borrower’s official intent to reimburse expenditures for the Project that are to be financed from the proceeds of the Lender financing described above. The Borrower intends that funds that have been advanced, or that may be advanced, from the Borrower’s general fund or any other Borrower fund related to the Project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Borrower officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this _____ day of _____, 2020

By: _____

By: _____

Title: _____

Title: _____

SEAL

Governmental Finance

5130 Parkway Plaza Boulevard
Charlotte, North Carolina 28217
Phone (704) 954-1700
Fax (704) 954-1799

November 20, 2020

Mr. Anthony Bowers
Town of Winterville, NC
PO Box 1459
Winterville, NC 28590

Dear Mr. Bowers:

Truist Bank ("Lender") is pleased to offer this proposal for the financing requested by the Town of Winterville, NC ("Borrower").

PROJECT: Installment Purchase Contract

AMOUNT: \$611,000.00

TERM: 7 years

INTEREST RATE: 1.92%

TAX STATUS: Tax Exempt – Bank Qualified

PAYMENTS: Interest: Annual
Principal: Annual

INTEREST RATE CALCULATION: 30/360

SECURITY: Vehicles and Equipment

PREPAYMENT TERMS: Prepayable in whole at any time without penalty

RATE EXPIRATION: January 29, 2021

DOCUMENTATION/ LEGAL REVIEW FEE: N/A

FUNDING: Proceeds will be deposited into an account held at Lender pending disbursement unless equipment is delivered prior to closing.

DOCUMENTATION: Lender proposes to use its standard form financing contracts and related documents for this installment financing. We shall provide a sample of those documents to you should Lender be the successful proposer.

The financing documents shall include provisions that will outline appropriate changes to be implemented in the event that this transaction is determined to be taxable or non-bank qualified in accordance with the Internal Revenue Service Code. All documentation must be deemed appropriate by Lender before closing.

REPORTING

REQUIREMENTS: Lender will require financial statements to be delivered within 270 days after the conclusion of each fiscal year-end throughout the term of the financing.

Should we become the successful proposer, we have attached the form of a resolution that your governing board can use to award the financing to Lender. If your board adopts this resolution, then Lender shall not require any further board action prior to closing the transaction.

Lender shall have the right to cancel this offer by notifying the Borrower of its election to do so (whether this offer has previously been accepted by the Borrower) if at any time prior to the closing there is a material adverse change in the Borrower's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the Borrower or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to Lender.

Costs of counsel for the Borrower and any other costs will be the responsibility of the Borrower.

The stated interest rate assumes that the Borrower expects to borrow no more than \$10,000,000 in the current calendar year and that the financing will qualify as qualified tax-exempt financing under the Internal Revenue Code. Lender reserves the right to terminate this bid or to negotiate a mutually acceptable interest rate if the financing is not qualified tax-exempt financing.

We appreciate the opportunity to offer this financing proposal. Please call me at (803) 251-1328 with your questions and comments. We look forward to hearing from you.

Sincerely,

Truist Bank



Andrew G. Smith
Senior Vice President

Resolution Approving Financing Terms

WHEREAS: The Town of Winterville, NC ("Borrower") has previously determined to undertake a project for the financing of vehicles and equipment (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Borrower hereby determines to finance the Project through Truist Bank ("Lender") in accordance with the proposal dated November 20, 2020. The amount financed shall not exceed \$611,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.92%, and the financing term shall not exceed seven (7) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Borrower are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Borrower officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The Borrower shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Borrower hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Borrower intends that the adoption of this resolution will be a declaration of the Borrower's official intent to reimburse expenditures for the Project that are to be financed from the proceeds of the Lender financing described above. The Borrower intends that funds that have been advanced, or that may be advanced, from the Borrower's general fund or any other Borrower fund related to the Project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Borrower officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this _____ day of _____, 2020

By: _____

By: _____

Title: _____

Title: _____

SEAL

Governmental Finance

5130 Parkway Plaza Boulevard
Charlotte, North Carolina 28217
Phone (704) 954-1700
Fax (704) 954-1799

November 20, 2020

Mr. Anthony Bowers
Town of Winterville, NC
PO Box 1459
Winterville, NC 28590

Dear Mr. Bowers:

Truist Bank ("Lender") is pleased to offer this proposal for the financing requested by the Town of Winterville, NC ("Borrower").

PROJECT: Nissan Pathfinder

AMOUNT: \$26,000.00

TERM: 3 years

INTEREST RATE: 1.58%

TAX STATUS: Tax Exempt – Bank Qualified

PAYMENTS: Interest: Annual
Principal: Annual

INTEREST RATE CALCULATION: 30/360

SECURITY: Security interest in the project being financed

PREPAYMENT TERMS: Prepayable in whole at any time without penalty

RATE EXPIRATION: January 29, 2021

**DOCUMENTATION/
LEGAL REVIEW
FEE:** N/A

FUNDING: Proceeds will be deposited into an account held at Lender pending disbursement unless equipment is delivered prior to closing.

DOCUMENTATION: Lender proposes to use its standard form financing contracts and related documents for this installment financing. We shall provide a sample of those documents to you should Lender be the successful proposer.

The financing documents shall include provisions that will outline appropriate changes to be implemented in the event that this transaction is determined to be taxable or non-bank qualified in accordance with the Internal Revenue Service Code. All documentation must be deemed appropriate by Lender before closing.

REPORTING

REQUIREMENTS: Lender will require financial statements to be delivered within 270 days after the conclusion of each fiscal year-end throughout the term of the financing.

Should we become the successful proposer, we have attached the form of a resolution that your governing board can use to award the financing to Lender. If your board adopts this resolution, then Lender shall not require any further board action prior to closing the transaction.

Lender shall have the right to cancel this offer by notifying the Borrower of its election to do so (whether this offer has previously been accepted by the Borrower) if at any time prior to the closing there is a material adverse change in the Borrower's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the Borrower or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to Lender.

Costs of counsel for the Borrower and any other costs will be the responsibility of the Borrower.

The stated interest rate assumes that the Borrower expects to borrow no more than \$10,000,000 in the current calendar year and that the financing will qualify as qualified tax-exempt financing under the Internal Revenue Code. Lender reserves the right to terminate this bid or to negotiate a mutually acceptable interest rate if the financing is not qualified tax-exempt financing.

We appreciate the opportunity to offer this financing proposal. Please call me at (803) 251-1328 with your questions and comments. We look forward to hearing from you.

Sincerely,

Truist Bank



Andrew G. Smith
Senior Vice President

Resolution Approving Financing Terms

WHEREAS: The Town of Winterville, NC (“Borrower”) has previously determined to undertake a project for the financing of a Nissan Pathfinder (the “Project”), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Borrower hereby determines to finance the Project through Truist Bank (“Lender”) in accordance with the proposal dated November 20, 2020. The amount financed shall not exceed \$26,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.58%, and the financing term shall not exceed three (3) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the Borrower are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Borrower officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The Borrower shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Borrower hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Borrower intends that the adoption of this resolution will be a declaration of the Borrower's official intent to reimburse expenditures for the Project that are to be financed from the proceeds of the Lender financing described above. The Borrower intends that funds that have been advanced, or that may be advanced, from the Borrower's general fund or any other Borrower fund related to the Project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Borrower officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this _____ day of _____, 2020

By: _____

By: _____

Title: _____

Title: _____

SEAL



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: New Business

Meeting Date: December 14, 2020

Presenter: Ben Williams, Assistant Town Manager

Item to be Considered

Subject: Sanitary Sewer Gravity Collection System Rehabilitation Project.

Action Requested: Award of Contract to North American Pipeline Management, Inc.

Attachment: Certified Bid Tab, Letter of Recommendation, and Tentative Award Resolution.

Prepared By: Ben Williams, Assistant Town Manager

Date: 12/8/2020

ABSTRACT ROUTING:

TC: 12/8/2020

TM: 12/10/2020

Final: tlp - 12/10/2020

Supporting Documentation

In 2018, the Town applied for funding assistance for collection system rehabilitation. In January 2019, the NC Department of Environmental Quality (NCDEQ) Division of Water Infrastructure (DWI) reviewed the funding application and approved the Town of Winterville for loan assistance from the Clean Water State Revolving Fund (CWSRF) in the amount of \$3,532,000 with \$500,000 in principal forgiveness.

The original estimated loan amount for the project was \$3,032,200, with a term of twenty (20) years and an interest rate of 0%.

Engineering design fees, including inspection and construction administration services, total \$422,750.

Bids were opened on Tuesday November 17, 2020. The lowest responsible bidder was North American Pipeline Management, Inc., with a low bid of \$3,076,961. The lowest bid was 9.7% higher than the original construction estimate.

The Town has requested additional funding for the project in the amount of \$190,829.03. This requested amount is based on the revised project budget reflecting the received bid price and construction contingency. This requested increase will bring the total loan amount to \$3,223,029.03 and the total project cost of \$3,723,029.03 not including closing costs (\$74,460).

Budgetary Impact: 100% of this project including all engineering fees and construction costs will be covered by the loan/grant that the Town received.

Recommendation: Award of contract to North American Pipeline Management, Inc. and adopt Resolution No. 20-R-124



11/18/20

**RIVERS AND ASSOCIATES, INC.
 BID TABULATION SHEET**

CERTIFICATION

I CERTIFY THAT THIS IS A TRUE RECORD OF BIDS RECEIVED.

OWNER: Town of Winterville
PROJECT: Sanitary Sewer Rehabilitation 2019
 CWSRF Project No. CS370879-02
LOCATION: Rivers & Associates, Inc.
BIDS OPENED: Tuesday, Nov. 17, 2020 at 2:00pm

CONTRACTOR ADDRESS	North American Pipeline Management, Inc. 62 Hamby Road SE Marietta, GA 30067 70877 / 5%	Jones and Smith Contractors, LLC 112 W. Firetower Road Winterville, NC 28590 66110 / 5%
LIC# / BID BOND		

ITEM NO.	QTY.	UNIT	DESCRIPTION	UNIT PRICE	COST	UNIT PRICE	COST
1.	1	LS	Mobilization and Bonding (±3%)	\$88,000.00	\$88,000.00	\$117,000.00	\$117,000.00
2.	7,855	LF	8" Pipe Liner	\$33.00	\$259,215.00	\$40.00	\$314,200.00
3.	3,670	LF	10" Pipe Liner	\$40.00	\$146,800.00	\$50.00	\$183,500.00 *
4.	1,748	LF	12" Pipe Liner	\$52.00	\$90,896.00	\$60.00	\$104,880.00
5.	1	EA	8" PVC 5 LF Point Repair (0-6)	\$4,700.00	\$4,700.00	\$5,000.00	\$5,000.00
6.	1	EA	8" PVC 5 LF Point Repair (6-8)	\$5,000.00	\$5,000.00	\$5,500.00	\$5,500.00
7.	1	EA	8" PVC 5 LF Point Repair (8-10)	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00
8.	3	EA	8" PVC 10 LF Point Repair (10-12)	\$7,000.00	\$21,000.00	\$8,000.00	\$24,000.00
9.	3	EA	10" PVC 5 LF Point Repair (10-12)	\$7,000.00	\$21,000.00	\$8,000.00	\$24,000.00
10.	1	EA	10" PVC 10 LF Point Repair (6-8)	\$6,000.00	\$6,000.00	\$10,000.00	\$10,000.00
11.	2	EA	10" PVC 20 LF Point Repair (10-12)	\$7,500.00	\$15,000.00	\$11,000.00	\$22,000.00
12.	2	EA	12" PVC 5 LF Point Repair (12-16)	\$10,000.00	\$20,000.00	\$15,000.00	\$30,000.00
13.	650	LF	8-inch DIP Gravity Sewer Pipe (0-6)	\$180.00	\$117,000.00	\$95.00	\$61,750.00
14.	365	LF	8" PVC Gravity Sewer Pipe (0-6)	\$170.00	\$62,050.00	\$70.00	\$25,550.00
15.	550	LF	8" PVC Gravity Sewer Pipe (6-8)	\$180.00	\$99,000.00	\$80.00	\$44,000.00
16.	1,010	LF	10" PVC Gravity Sewer Pipe (10-12)	\$220.00	\$222,200.00	\$160.00	\$161,600.00
17.	5	EA	Replace Manhole (0-6)	\$4,500.00	\$22,500.00	\$4,500.00	\$22,500.00
18.	2	EA	Replace Manhole (6-8)	\$5,000.00	\$10,000.00	\$5,500.00	\$11,000.00
19.	3	EA	Replace Manhole (8-10)	\$5,500.00	\$16,500.00	\$7,000.00	\$21,000.00
20.	5	EA	Replace Manhole (10-12)	\$6,300.00	\$31,500.00	\$9,500.00	\$47,500.00
21.	6	EA	Replace Manhole (12-14)	\$7,400.00	\$44,400.00	\$12,000.00	\$72,000.00
22.	1	EA	Replace Manhole (14-16)	\$8,700.00	\$8,700.00	\$14,000.00	\$14,000.00
23.	1	EA	Replace Manhole w/ Corrosion Resistant Lining (8-10)	\$11,000.00	\$11,000.00	\$12,000.00	\$12,000.00
24.	2	EA	Replace Drop Manhole (10-16)	\$14,000.00	\$28,000.00	\$20,000.00	\$40,000.00
25.	1	EA	Replace Drop Manhole (Double) (10-16)	\$16,500.00	\$16,500.00	\$26,000.00	\$26,000.00
26.	2	EA	New Manhole (0-6)	\$4,500.00	\$9,000.00	\$4,500.00	\$9,000.00
27.	2	EA	New Manhole (6-8)	\$5,000.00	\$10,000.00	\$5,500.00	\$11,000.00
28.	28	VF	Cementitious Manhole Liner	\$400.00	\$11,200.00	\$600.00	\$16,800.00
29.	100	LF	3/4" Water Service Tubing	\$65.00	\$6,500.00	\$6.00	\$600.00
30.	5	EA	Water Service Replacement	\$1,903.00	\$9,515.00	\$600.00	\$3,000.00
31.	5	EA	Water Service Connection	\$988.00	\$4,940.00	\$800.00	\$4,000.00
32.	80	LF	6" Water Main Replacement (DIP)	\$150.00	\$12,000.00	\$80.00	\$6,400.00
33.	40	LF	6" Water Main Replacement (C900)	\$130.00	\$5,200.00	\$70.00	\$2,800.00
34.	20	LF	8" Water Main Replacement (DIP)	\$220.00	\$4,400.00	\$100.00	\$2,000.00
35.	17	EA	Rehab Moderate Manhole Leak	\$600.00	\$10,200.00	\$2,000.00	\$34,000.00

RIVERS AND ASSOCIATES, INC.

BID TABULATION SHEET

OWNER: Town of Winterville
 PROJECT: Sanitary Sewer Rehabilitation 2019
 CWSRF Project No. CS370879-02
 LOCATION: Rivers & Associates, Inc.
 BIDS OPENED: Tuesday, Nov. 17, 2020 at 2:00pm

CONTRACTOR		North American Pipeline Management, Inc.		Jones and Smith Contractors, LLC	
ADDRESS		62 Hamby Road SE Marietta, GA 30067		112 W. Firetower Road Winterville, NC 28590	
LIC# / BID BOND		70877 / 5%		66110 / 5%	
ITEM NO.	QTY. UNIT DESCRIPTION	UNIT PRICE	COST	UNIT PRICE	COST
36.	6 EA Rebuild Manhole Bench	\$500.00	\$3,000.00	\$2,600.00	\$15,600.00
37.	228 EA 4" Sewer Service Cleanout	\$350.00	\$79,800.00	\$700.00	\$159,600.00
38.	10 EA 6" Sewer Service Cleanout	\$450.00	\$4,500.00	\$800.00	\$8,000.00
39.	100 LF 4" DIP Sewer Service Line and Fittings	\$120.00	\$12,000.00	\$100.00	\$10,000.00
40.	50 LF 6" DIP Sewer Service Line and Fittings	\$122.00	\$6,100.00	\$150.00	\$7,500.00
41.	6,750 LF 4" PVC Sewer Service Line and Fittings	\$34.00	\$229,500.00	\$50.00	\$337,500.00
42.	250 LF 6" PVC Sewer Service Line and Fittings	\$37.00	\$9,250.00	\$60.00	\$15,000.00
43.	25 EA 4" PVC Sewer Wye	\$700.00	\$17,500.00	\$5,000.00	\$125,000.00
44.	1 EA 4" DIP Sewer Wye	\$1,000.00	\$1,000.00	\$6,000.00	\$6,000.00
45.	5 EA 6" PVC Sewer Wye	\$720.00	\$3,600.00	\$6,000.00	\$30,000.00
46.	200 EA 4" Sewer Service Inserta-Tee	\$3,650.00	\$730,000.00	\$3,000.00	\$600,000.00
47.	10 EA 6" Sewer Service Inserta-Tee	\$3,800.00	\$38,000.00	\$4,000.00	\$40,000.00
48.	228 EA 4" Cleanout Box	\$250.00	\$57,000.00	\$300.00	\$68,400.00
49.	10 EA 6" Cleanout Box	\$250.00	\$2,500.00	\$400.00	\$4,000.00
50.	235 EA Reconnect Existing Sewer Service	\$200.00	\$47,000.00	\$300.00	\$70,500.00
51.	6 EA Directional Bore Sewer Service Installation	\$1,500.00	\$9,000.00	\$3,000.00	\$18,000.00
52.	40 LF Temporary Sheeting	\$150.00	\$6,000.00	\$1,000.00	\$40,000.00
53.	225 LF Abandon Utilities with Flowable Fill	\$20.00	\$4,500.00	\$40.00	\$9,000.00
54.	1,000 LB Additional Ductile Iron Fittings	\$16.00	\$16,000.00	\$10.00	\$10,000.00
55.	60 LF 12" RCP	\$97.00	\$5,820.00	\$90.00	\$5,400.00
56.	20 LF 15" RCP	\$109.00	\$2,180.00	\$100.00	\$2,000.00
57.	20 LF 18" RCP	\$119.00	\$2,380.00	\$110.00	\$2,200.00
58.	20 LF 24" RCP	\$141.00	\$2,820.00	\$120.00	\$2,400.00
59.	20 LF 36" RCP	\$197.00	\$3,940.00	\$200.00	\$4,000.00
60.	1 EA 12" Interference Manhole	\$13,000.00	\$13,000.00	\$9,000.00	\$9,000.00
61.	1 EA 15" Interference Manhole	\$16,000.00	\$16,000.00	\$10,000.00	\$10,000.00
62.	1 EA 36" Interference Manhole	\$19,000.00	\$19,000.00	\$11,000.00	\$11,000.00
63.	2,200 LF Street Repair (NCDOT)	\$40.00	\$88,000.00	\$225.00	\$495,000.00
64.	5,000 LF Street Repair (Non-NCDOT Asphalt)	\$20.00	\$100,000.00	\$50.00	\$250,000.00
65.	20 LF Concrete Driveway Replacement	\$80.00	\$1,600.00	\$100.00	\$2,000.00
66.	20 LF Asphalt Driveway Replacement	\$70.00	\$1,400.00	\$100.00	\$2,000.00
67.	20 LF Gravel Driveway Replacement	\$45.00	\$900.00	\$30.00	\$600.00
68.	840 LF Concrete Curb & Gutter Replacement	\$35.00	\$29,400.00	\$30.00	\$25,200.00
69.	20 SY Concrete Sidewalk Replacement	\$54.00	\$1,080.00	\$75.00	\$1,500.00
70.	50 EA Curb Inlet Sediment Barrier	\$115.00	\$5,750.00	\$350.00	\$17,500.00
71.	5 EA Rock Inlet Sediment Trap	\$150.00	\$750.00	\$600.00	\$3,000.00

RIVERS AND ASSOCIATES, INC.

BID TABULATION SHEET

OWNER: Town of Winterville
PROJECT: Sanitary Sewer Rehabilitation 2019
 CWSRF Project No. CS370879-02
LOCATION: Rivers & Associates, Inc.
BIDS OPENED: Tuesday, Nov. 17, 2020 at 2:00pm

CONTRACTOR		North American Pipeline Management, Inc.		Jones and Smith Contractors, LLC	
ADDRESS		62 Hamby Road SE Marietta, GA 30067		112 W. Firetower Road Winterville, NC 28590	
LIC# / BID BOND		70877 / 5%		66110 / 5%	
ITEM NO.	QTY. UNIT DESCRIPTION	UNIT PRICE	COST	UNIT PRICE	COST
72.	10 EA Straw Wattle	\$100.00	\$1,000.00	\$300.00	\$3,000.00
73.	350 LF Silt Fence	\$4.00	\$1,400.00	\$6.00	\$2,100.00
74.	25 EA Silt Fence Outlet	\$115.00	\$2,875.00	\$300.00	\$7,500.00
75.	500 CY Select Backfill	\$45.00	\$22,500.00	\$25.00	\$12,500.00
76.	100 CY Stabilization Stone - Trench	\$80.00	\$8,000.00	\$30.00	\$3,000.00
77.	1 LS Testing Allowance		\$10,000.00		\$10,000.00
78.	1 LS Traffic Signal Electrical Allowance		\$5,000.00		\$5,000.00
TOTAL BASE BID			\$3,076,961.00		\$3,954,580.00 *
Underground CIPP		North American Pipeline Management, Inc.		N/A	
Manhole Lining		Granite Inliner		N/A	
Sewer Pipe Lining		Dunn-Right, Inc.		N/A	
Total Value of Minority Business Contracting (MB-1)		\$2,645,288.56		A-K Utility	
Listing of Good Faith Efforts (MB-2)		80 points		Granite Inliner	
E-Verify and Iran Divestment		Submitted		Submitted	
AIS Certification		Submitted		Submitted	

P:\Muni\WintervilleSanitarySewerRehab2018\Bid Submittal\BidTab

* INDICATES CORRECTED FIGURE

November 30, 2020

Ms. Terri Parker
Town Manager
2571 Railroad Street
Winterville, NC 28590

SUBJECT: Town of Winterville – Sanitary Sewer Rehabilitation 2019
Tentative Recommendation of Award
Rivers Project No. 2018123

Dear Ms. Parker,

A bid opening was held for the subject project at 2:00 p.m. on Thursday, October 29th, 2020 at Rivers and Associates. Only two bids were presented at this initial bid opening, and bids were not opened. A second bid date was scheduled for November 17th, 2020. The second formal bid opening was held at 2:00 p.m. on Tuesday, November 17th, 2020 at Rivers and Associates, where only two bids were submitted. The bids were opened and read aloud. The initial Advertisement for Bids was published in the *Daily Reflector* and the *Greater Diversity News*, with the re-advertisement published in the *Daily Reflector*, in addition to direct solicitation to area contractors and plan rooms. Fifteen (15) sets of plans and specifications were distributed to the Town, plan rooms, contractors, and the funding agency. The two Bids received were from North American Pipeline Management, Inc. and Jones and Smith Contractors, LLC as follows:

North American Pipeline Management, Inc.	\$3,076,961.00
Jones and Smith Contractors, LLC	\$3,954,580.00*

*Corrected Total

Enclosed with this letter is a copy of the certified Bid Tabulation Sheet. Based on the bids received we recommend that the Town of Winterville issue tentative award for the Sanitary Sewer Rehabilitation 2019 project to North American Pipeline Management, Inc. for the bid amount of \$3,076,961.00. Final award of the project should be subject to funding approval and Authorization to Award from CWSRF.

If you have any questions or concerns regarding this project, please call at (252) 752-4135. Thank you for this opportunity to serve the Town of Winterville. We look forward to assisting you in the construction phase of this project.

Sincerely,



Seth Anderson, P.E.
Project Engineer

Enclosures

cc: Ben Williams, Assistant Town Manager, Town of Winterville (w/ enclosures)
M. Blaine Humphrey, P.E., Rivers and Associates (w/o enclosures)
Rivers File 2018123C (w/ enclosures)

**TOWN OF WINTERVILLE
RESOLUTION**

WHEREAS, the Town of Winterville is in the process making improvements to its wastewater collection system by repairing and improving its sanitary sewer system, and

WHEREAS, The Town of Winterville has applied for loan financing from the State of North Carolina for the replacement project designated as CS370879-02, and

WHEREAS, less than three bids as required by North Carolina General Statutes were received on the first scheduled bid opening date for the sanitary sewer rehabilitation, and

WHEREAS, the scheduled bid opening was re-advertised, and two bids were received by The Town of Winterville from North American Pipeline Management, Inc. and Jones and Smith Contractors, LLC on November 17, 2020, and

WHEREAS, The Town of Winterville desires to accept the lowest, responsive bid received and make tentative award of a construction contract based upon the bid price.

NOW THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF WINTERVILLE:

THAT, The Town of Winterville hereby accepts the lowest, responsive bid received on November 17, 2020, for making improvements to its wastewater collection system by repairing and improving its sanitary sewer system.

THAT, a construction contract be tentatively awarded to the bidder, North American Pipeline Management, Inc., for the Bid amount of \$3,076,961.00, subject to review of the bid-award actions and subsequent approval by the funding agency, the North Carolina Department of Environmental Quality, Division of Water Infrastructure.

Adopted this the 14th day of December 2020 at a regularly scheduled meeting of the Town of Winterville Town Council held at the Assembly Room at the Winterville Town Hall Remote via Zoom in Winterville, North Carolina.

Douglas A. Jackson, Mayor

Attest:

Donald Harvey, Town Clerk
(SEAL)