



# WINTERVILLE

*A slice of the good life!*

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

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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.

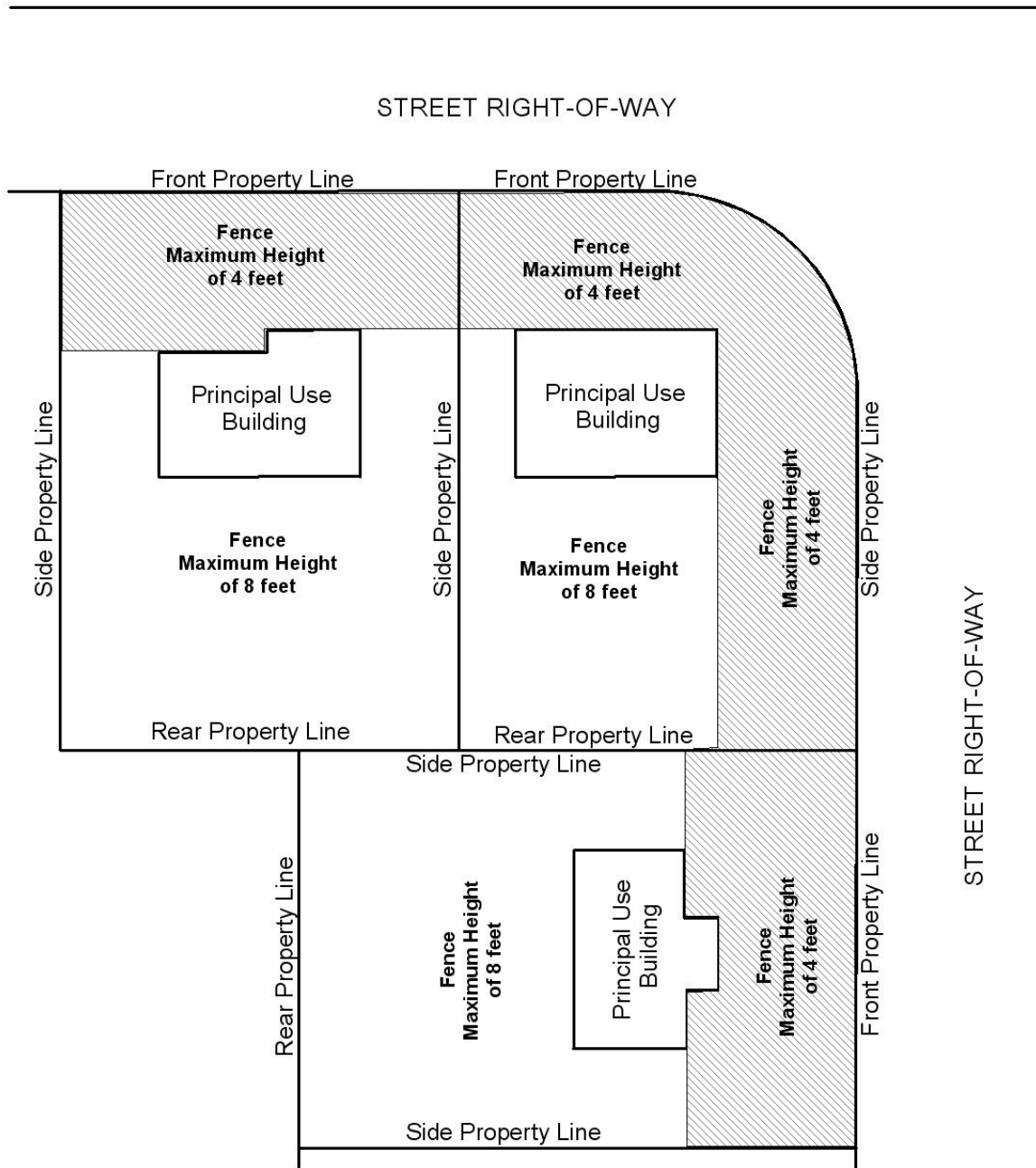
Height - Fences in non-residential districts are limited to eight (8) feet in height.

*(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

*(09-0-136, adopted 04/13/2009, 12-0-288, 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 firefighting 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 (Cycles per Second)</u>	<u>Outside of Premises</u>	<u>Outside of 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, adopted 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
<b><u>Residential Uses</u></b>																	
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																	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**

<b>USE TYPES</b>	<b>LUC</b>	<b>SIC</b>	<b>A-R</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12.5</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>	<b>M-R</b>	<b>O-I</b>	<b>C-B</b>	<b>G-B</b>	<b>I-C</b>	<b>C-N</b>	<b>I</b>	<b>SR</b>
<b>Recreational Uses</b>																	
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

**TABLE OF PERMITTED & SPECIAL USES**

<b>USE TYPES</b>	<b>LUC</b>	<b>SIC</b>	<b>A-R</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12.5</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>	<b>M-R</b>	<b>O-I</b>	<b>C-B</b>	<b>G-B</b>	<b>I-C</b>	<b>C-N</b>	<b>I</b>	<b>SR</b>
<b><u>Educational &amp; Institutional Uses</u></b>																	
ambulance services	3	4119									X	X	X			X	
cemetery	3	0000	S													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**

<b>USE TYPES</b>	<b>LUC</b>	<b>SIC</b>	<b>A-R</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12.5</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>	<b>M-R</b>	<b>O-I</b>	<b>C-B</b>	<b>G-B</b>	<b>I-C</b>	<b>C-N</b>	<b>I</b>	<b>SR</b>
<b><u>Business, Professional &amp; Personal Services</u></b>																	
accounting, auditing, or bookkeeping																	
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	
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/self-storage unit	4	0000														X	
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	

**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
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	
truck & utility trailer rental, sales & leasing, heavy																	
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

**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
<b>Retail Trade</b>																	
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	
bookstores	3	5942									X	X	X	X	X	X	
building supplydealers	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	

**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
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	
microbrewery & 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	
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	

**TABLE OF PERMITTED & SPECIAL USES**

<b>USE TYPES</b>	<b>LUC</b>	<b>SIC</b>	<b>A-R</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12.5</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>	<b>M-R</b>	<b>O-I</b>	<b>C-B</b>	<b>G-B</b>	<b>I-C</b>	<b>C-N</b>	<b>I</b>	<b>SR</b>
<b><u>Wholesale Trade</u></b>																	
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	



**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
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 & tobaccosupplies	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
<b>Public Works</b>																	
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 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, nongovernment 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
<b><u>Manufacturing &amp; Industrial Uses</u></b>																	
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	
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	

**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
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 planning 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	

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
Miscellaneous																	
adult oriented businesses																	
temporary events & structures			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		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.
  - 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.
- b. 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.
  - c. 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, 0-51-02149900, adopted 02/14/2000)*

**SR 5. Family Care Home and Family Day Care Home**

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.)	400 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. 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. | Yes |

**SR 8.                   Planned Unit Development**

- 1) 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.
  
- 2) Application for PUD shall be approved only if the following findings area made:
  - a. 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;
  
  - b. 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;
  
  - c. The application of planned unit development requirements to the property will produce a development functioning as a cohesive, unified project; and
  
  - d. 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.
  
- 3) An approved PUD Conditional District and the approved verified development plan shall govern all uses and development activities in a PUD.
  
- 4) 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.
  
- 5) 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

- 6) 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.

- 7) 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.
- 8) 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.
- a. Lot size: The exemption from the Schedule of District Regulation provisions shall not apply in the following situations:
- 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.

- b. Vehicle Access:
  - Area between structures shall be covered by easements where necessary for access and to provide for maintenance and utility service.
  - Primary vehicular access to office or commercial development shall not be through intervening residential development.
  - 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.
- c. Pedestrian Access: PUD's shall be designed and developed and uses so arranged to promote pedestrian access within the development.
- d. 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.
- e. 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.
- f. 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:
  - Floodway and floodway fringe areas
  - Steep slopes and knolls
  - Wetlands
  - Water supply watersheds and recharge areas
  - Rock outcrops
  - Soil erosion and storm water management
  - Tree and foliage preservation
  - Habitat for threatened or endangered species
  - Areas of historical, archaeological or architectural significance
  - 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.

- g. 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.
- h. 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 buffer yard and buffer screen required by Article XA may be increased as a condition of approval.

**SR 21. Mini-Warehouse/ Self-Storage Units**

- 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. Property separation shall not be required in the Central Business Districts.
- 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 stockpiles 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 turbidity 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 stockpiles 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. Tower 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)

**SR 41.1 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, adapted 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, adapted 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 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, adapted 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, adapted 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)	
<b>A-R</b>	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
<b>R-20</b>	Single-family	20,000	90	25	15	20	35
	Other Principal Structures	25,000	90	25	20	20	35
<b>R-15</b>	Single-family	15,000	80	25	12.5	20	35
	Other Principal Structures	17,000	90	25	20	20	35
<b>R-12.5</b>	Single-family	12,500	80	25	12.5	20	35
	Other Principal Structures	14,500	80	25	17.5	20	35
<b>R-10</b>	Single-family	10,000	70	25	8	20	35
	Other Principal Structures	12,000	90	25	15	20	35
<b>R-8</b>	Single-family	8,000	70	25	8	20	35
	Two-family (4)	10,000	80	25	15	20	35
	Other Principal Structures	10,000	80	25	15	20	35
<b>R-6</b>	Single-family	6,000	50	20	8	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)	
<b>M-R</b>	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
<b>O-I</b>	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
<b>C-B</b>	Principal Structures	None	None	None	None	None	50
<b>G-B</b>	Principal Structures	20,000	90	35	20	20	35
<b>I-C</b>	Principal Structures	15,000	90	30	15	20	35
<b>C-N</b>	Principal Structures	15,000	90	25	15	20	35
<b>I</b>	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**

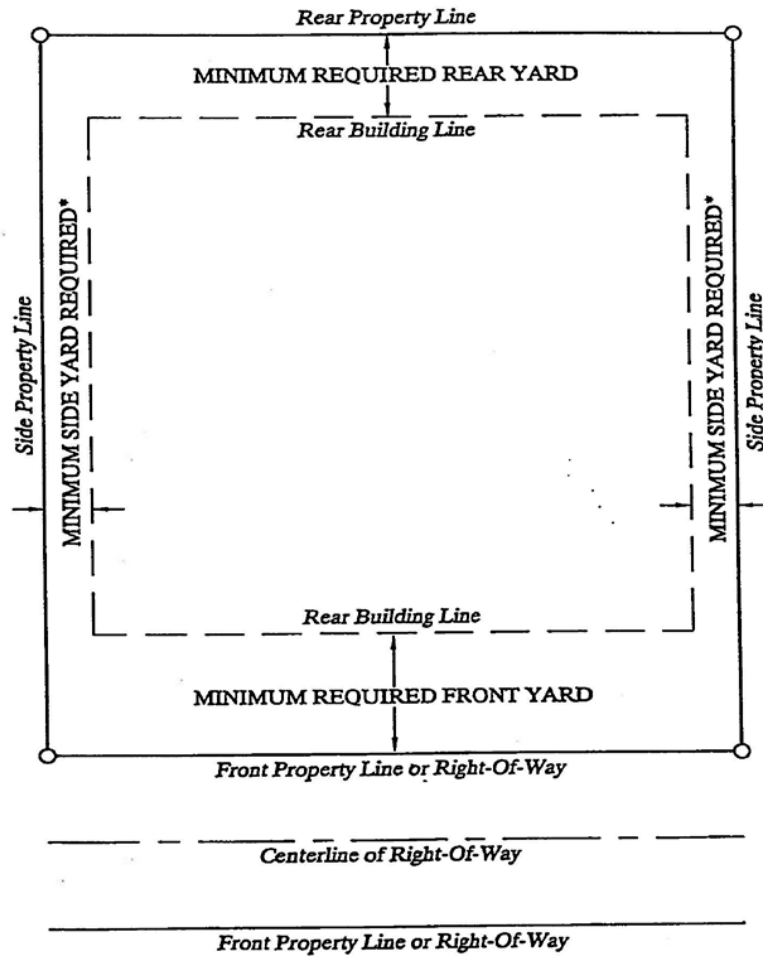
Unless specifically authorized by an Encroachment Permit issued by the Town, no portion of any building, structure, fence, or other improvement shall be erected nor encroach upon any drainage, utility, or other easements of the Town. Nor shall any tree, bush, or other plantings beyond normal ground cover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

<b><u>Classification</u></b>	<b><u>Off-Street Parking Requirement</u></b> (Any fractional space e.g., 47.3 shall be considered the next whole number, e.g., 48)
<b>Residential:</b>	
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

<b><u>Classification</u></b>	<b><u>Off-Street Parking Requirement</u></b>
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
<b>Commercial and Industrial:</b>	
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



<b><u>Classification</u></b>	<b><u>Off-Street Parking Requirement</u></b>
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

<b><u>Classification</u></b>	<b><u>Off-Street Parking Requirement</u></b>
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
<b>Office and Institutional:</b>	
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

<b><u>Classification</u></b>	<b><u>Off-Street Parking Requirement</u></b>
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
<b>Recreation:</b>	
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 travel way. *(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 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, D-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, D-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, D-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.

1) 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:

<b>Type</b>	<b>No.</b>	<b>Maximum Copy Area (sq. ft.)</b>	<b>Maximum Height if Freestanding (vert. ft.)</b>	<b>Maximum Display Time</b>
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

<b>Type</b>	<b>No.</b>	<b>Maximum Copy Area (sq. ft.)</b>	<b>Maximum Height if Freestanding (vert. ft.)</b>	<b>Maximum Display Time</b>
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:

<b>Type</b>	<b>No.</b>	<b>Maximum Copy Area (sq. ft.)</b>	<b>Maximum Height if Freestanding (vert. ft.)</b>
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



<b>Type</b>	<b>No.</b>	<b>Maximum Copy Area (sq. ft.)</b>	<b>Maximum Height if Freestanding (vert. ft.)</b>
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	I 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	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%) is 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 area 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 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. *(07-0-29, 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. *(07-0-29, 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)*

## **Section 10.5 Multi-Family Design Standards**

### **A. Purpose and Intent**

These multi-family residential design standards supplement the applicable zoning district and use-specific standards of this Ordinance by providing the minimum requirements for design and configuration of multi-family development within the Town's planning jurisdiction. They are intended to:

- 1) Ensure multi-family development takes place in a manner consistent with the contexts, scale, and proportion of surroundings;
- 2) Promote greater compatibility between new multi-family development and other allowable use types, particularly adjacent residential single-family detached dwellings;
- 3) Establish expectations for minimum level of quality for multi-family development;
- 4) Encourage creativity in design and promote individual project identity;
- 5) Create neighborhoods with enhances architectural and visual interest; and
- 6) Preserve property values and project public and private investment.

### **B. Applicability**

Except where expressly exempted in writing in this Ordinance, the standards in this section shall apply to the following forms of development:

- a. New multi-family dwellings;
- b. New triplex and quadplex dwellings; and
- c. New multi-unit residential structures within a continuing care retirement community use type; and
- d. New assisted living facilities and nursing homes.

### **C. Timing of Review**

Except where expressly exempted in writing in this Ordinance, the standards in this section shall apply to the following forms of development:

### **D. Design Requirements**

Development subject to these standards shall be designed in accordance with the following:

#### **1) Street Network**

- a. On sites including new streets, an interconnected network of streets shall be provided, to the maximum extent practicable, and streets shall connect to adjacent existing streets outside of the development.

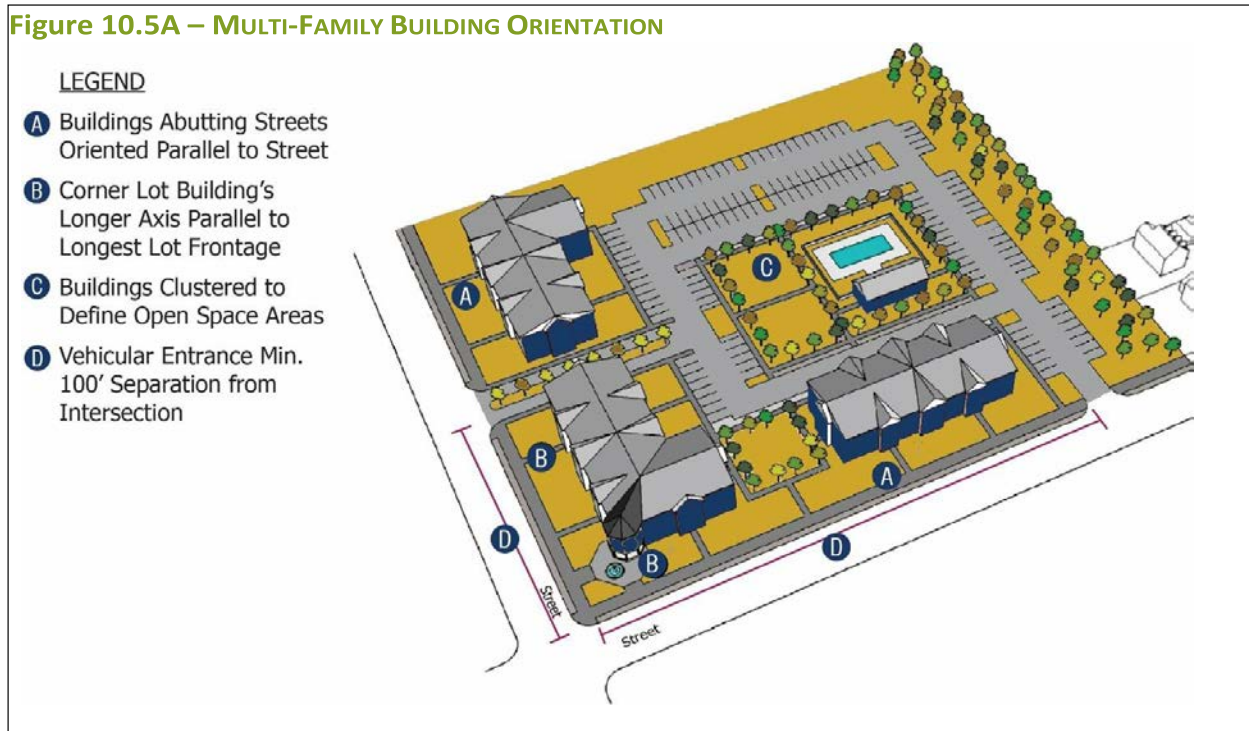


- b. Vehicular driveways into a development with 10 or more dwelling units shall be at least 100 feet away from any major intersection, to the maximum extent practicable.
- c. Driveways shall be consolidated in order to reduce curb cuts, to the maximum extent practicable.

2) Building Orientation

- a. Building that abut streets shall be oriented parallel to the street front rather than being oriented at an angle to the street.
- b. On corner lots, the long axis of the building shall be parallel to the longest lot frontage unless such orientation is incompatible with adjacent, existing development along the same street (see Figure 10.5A: Multi-family Building Orientation).
- c. Building within multiple-building developments shall be clustered in order to define open space recreation areas and development entry points.

**Figure 10.5A – MULTI-FAMILY BUILDING ORIENTATION**



3) Building Entrances

- a. The facades of building abutting streets shall be configured so that entryways to individual dwelling units or shared entrances face the street.
- b. Access to upper-floor dwelling units shall be obtained from shared internal entries. In no instance shall walkaways to individual upper-story dwelling units take place on the exterior of the building.
- c. Individual ground-floor and shared entryways shall be sheltered from the weather either by:
  - 1) Recessing the entrance at least three feet to the inside of the primary ground floor façade plane; or

- 2) Inclusion of an overhead architectural treatment that extends outward at least three feet from the primary façade plane.

#### 4) Building Facades

- a. Buildings subject to these standards shall maintain a consistent level of architectural detailing and composition on each building façade facing a street.
- b. Building facades facing streets shall provide a minimum of three of the following architectural elements (see Figure 10.5B: Multi-family Building Facades):
  - 1) A covered porch or terrace;
  - 2) One or more dormer windows or cupolas;
  - 3) Eyebrow windows;
  - 4) Awnings or overhangs;
  - 5) Decorative moldings;
  - 6) Shutters;
  - 7) Pillars, posts, or pilasters;
  - 8) One or more bay windows with a minimum twelve-inch projection from the façade plane;
  - 9) Multiple windows with a minimum of four-inch-wide trim;
  - 10) Corniced parapets;
  - 11) Eaves with a minimum of four-inch-wide trim; or
  - 12) Integral planters that incorporate landscaped areas and/or places for sitting.
- c. Garage entries, loading and service entries, utility rooms, stairs, elevators, or similar features shall not occupy more than 20 percent of the width of a building façade facing a street.
- d. Attached street-facing garages serving individual dwelling units shall be recessed at least three feet inwards from the primary first floor façade plane or be associated with an upper-story projection that exists above the garage.
- e. Developments with three or more principal buildings shall provide variation in building size, shape, height, color, and roofline in a manner that allows different building to be distinguished from one another.

**Figure 10.5B – MULTI-FAMILY BUILDING FACADES**

**LEGEND**

- Ⓐ Covered Porch or Terrace
- Ⓑ Dormer Windows or Cupolas
- Ⓒ Eyebrow Windows
- Ⓓ Awnings or Overhangs
- Ⓔ Decorative Moldings
- Ⓕ Shutters
- Ⓖ Pillars, Posts, or Pilasters
- Ⓗ Bay Window(s) (Min. 12" Projection)
- Ⓘ Windows With Minimum 4" Wide Trim
- Ⓝ Corniced Parapets
- Ⓚ Eaves With Min. 4" Wide Trim
- Ⓛ Integral Planters or Seating Areas



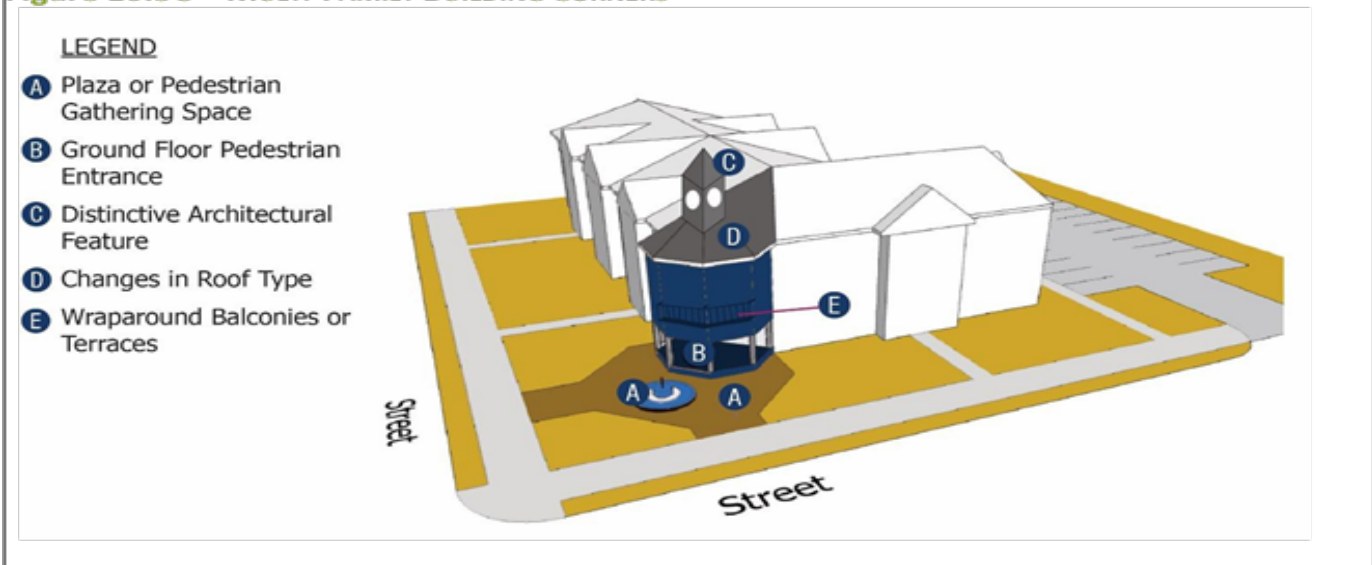
**5) Building Corners**

Building corners that are adjacent to one or more streets shall include at least one of the following features (see Figure 10.5C: Multi-family Building Corners):

- a. A plaza or other gathering space;
- b. A shared ground-floor pedestrian entryway;
- c. A distinctive roof feature such as a tower, turret, spire, pediment, or other architectural feature with a height above the roofline of adjacent dwelling units;
- d. Changes in roof type or pitch from the adjacent building sides; or
- e. Upper-story balconies or terraces that wrap both sides of the corner.



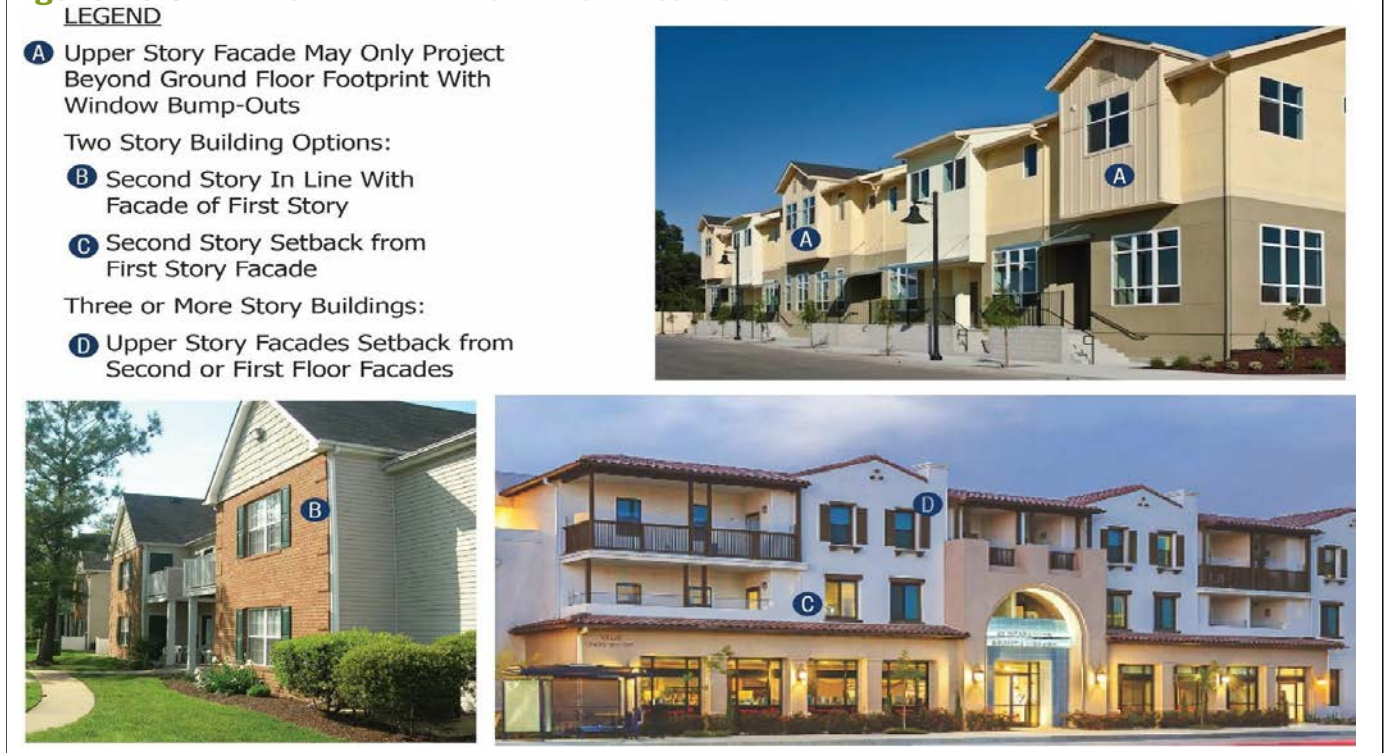
**Figure 10.5C – MULTI-FAMILY BUILDING CORNERS**



**6) Building Massing**

- a. Upper story façade walls shall not project beyond the ground floor footprint except to accommodate bump-outs with windows.
- b. In the case of two-story buildings, the exterior façade walls of the second floor shall be in line with or setback from the first-floor façade walls.
- c. In the case of three- (or more) story buildings, upper story façade walls shall be setback from the second or ground-floor floor façade walls to preserve light and air and avoid casting shadows (see Figure 10.5D: Multi-family Building Massing).

**Figure 10.5D – MULTI-FAMILY BUILDING MASSING**



## 7) Building Articulation

- a. Street-facing building facades shall be articulated with wall offsets, in the form of recesses or projections from the primary façade plane, of at least two feet for every 35 linear feet of façade frontage (see Figure 10.5E: Multi-family Façade Articulation).
- b. Where provided, projections or recesses shall extend from the grade to the top of the highest story in line with the ground-floor footprint.

**Figure 10.5E – MULTI-FAMILY FAÇADE ARTICULATION**



## 8) Roof Form

- a. Development shall incorporate roof pitches between 3:12 and 12:12 or shall incorporate parapet walls with a dimensional cornice around a flat roof.
- b. Alternative roof forms or pitches are encouraged for small roof sections over porches, entryways, or similar features.
- c. Buildings with eaves shall be configured such that no single horizontal eave continues for more than 60 linear feet without being broken up by a gable, building projection, and articulation feature.
- d. Buildings with overhanging eaves and roof rakes shall extend at least six inches past supporting walls.

## 9) Building Materials and Colors

### Configuration

- a. The predominate exterior material shall be brick, stone, cementitious, or other masonry material.

- b. Buildings subjects to these standards shall include at least two primary exterior materials on any single building.
- c. Changes in colors and materials shall take place at internal corners or in logical locations, such as: building wings, bays, bump-outs, or recesses (see Figure 10.5 F: Multi-family Building Materials). In no instance shall exterior materials or colors change at outside corners.
- d. Heavier or more bulky exterior materials shall be located beneath or below lighter materials.

Prohibited Materials

The following materials shall be prohibited on any façade facing a street, open space, or district intended primarily for single-family detached development:

- a. Smooth-faced concrete block;
- b. Corrugated metal siding;
- c. Vinyl siding (excluding windows or soffits); or
- d. Synthetic stucco within two feet of the grade.

**Figure 10.5F – MULTI-FAMILY BUILDING MATERIALS**

**LEGEND**

- A** Minimum Two Primary Exterior Materials on Each Building
- B** Material Changes at Logical Locations (Internal Corners, Wings, Bays, Bump-outs, or Recesses)
- C** Heavier Materials Below Lighter Materials





## 10) Accessory Structures

Accessory uses and structures associated with a development subject to these standards shall comply with the following:

- a. Street-facing detached garages on corner lots shall be located to the side or rear of buildings.
- b. Access to accessory structures (such as garages, carports, storage areas, etc.) shall be provided from alleys or secondary streets, to the maximum extent practicable.
- c. Accessory buildings shall include exterior materials, colors, and roof form designed to be consistent with the principal structure.
- d. Accessory structures shall not physically obstruct pedestrian entrances.
- e. Centralized refuse collection containers, if provided, shall be in an enclosed area located to the rear of principal buildings.

## 11) Site Features

- a. Except for nursing homes, development subject to the standards shall not include a gate or obstruction that blocks access to the site for vehicles, bicycles, or pedestrians.
- b. Off-street parking serving guests shall be evenly distributed throughout the development.
- c. Shared refuse collection containers shall be evenly distributed throughout the development or be centrally located.
- d. Detached garages or carports shall not be located between a principal building and the street in faces.
- e. Utilities shall be provided underground, and utility vaults shall be clustered in areas outside of required landscaping.

## 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

- 1) 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.
- 2) 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.
- 3) 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.
- 4) 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.

- 5) 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.
- 6) All open spaces shall be grassed, seeded with lawn, or provided with other acceptable ground cover or other erosion control material.
- 7) 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.
- 8) 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.
- 9) 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	DEVELOPED Adjacent Land Use Classification					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, 0-51-02149900, 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, 0-51-02149900, 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**

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, D-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 or 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 known 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 part 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-D-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 sub-rent 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 proprietary 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. reader boards 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 roof-like 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 the 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 backlit.

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 14<sup>th</sup> 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

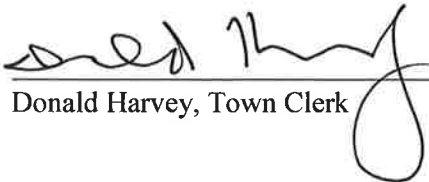
Ordinance No: 20-O-122  
Date of Adoption: December 14, 2020  
Description: Amended Ordinance to comply with Chapter 160D of the North Carolina General Statutes, a complete reorganization of the state's planning and development regulation statutes.

Ordinance No: 21-O-051  
Date of Adoption: May 10, 2021  
Description: Amended Ordinance to Mini-Warehouses: remove from all zoning districts except Industrial (I) and add "Self-Storage Units" to the use type description for clarification. Remove reference to Pitt County ("County of Pitt") in Section 14.2. This language was still included in the Ordinance from when the County administered building inspections within the Town's jurisdiction. Add language to "SR 23. ABC Sales for On Premise Consumption; Bars" to exclude property within the Central Business District from separation requirements. Add "Section 10.5 – Multifamily Residential Design Standards". This section provides design and configuration requirements for multi-family developments.

Ordinance No: 21-O-112  
Date of Adoption: November 8, 2021  
Description: Amendment to Section 7.1 Dimensional Requirements – changed Minimum Lot Width for R-10 Zoning District from 80' to 70'; changed Side yard setback for R-10, R-8, and R-6 Zoning Districts from 10' to 8'.



ATTEST:

  
\_\_\_\_\_  
Donald Harvey, Town Clerk

  
\_\_\_\_\_  
Richard (Ricky) E. Hines, Mayor Pro Tem