



**WINTERVILLE TOWN COUNCIL AGENDA  
MONDAY, MAY 13, 2024 - 6:00 PM  
WINTERVILLE TOWN HALL ASSEMBLY ROOM**

- I. CALL TO ORDER.**
- II. INVOCATION.**
- III. PLEDGE OF ALLEGIANCE.**
- IV. WELCOME.**
- V. ROLL CALL.**
- VI. APPROVAL OF AGENDA.**
- VII. PROCLAMATIONS:**
  1. Mother's Day 2024.
  2. Memorial Day 2024.
  3. Emergency Medical Services Week 2024.
  4. Police Week 2024.
  5. Public Works Week 2024.
- VIII. PUBLIC HEARINGS:**
  1. Amend Title XV: Land Usage of the Town of Winterville Code of Ordinances.
- IX. PUBLIC COMMENT:** *The Public Comment period of thirty minutes provides an opportunity for residents to comment on any item included in the agenda or to address the Town Council on any other matter related to the Town of Winterville. For an item included in the Public Hearing section of the agenda, residents should address the Council at the time the Mayor invites public comment on the item. No public comment may be made to the Council during the meeting, except during the Public Comment period or as part of a Public Hearing. Individual speakers are limited to a maximum of three minutes, and no more than three speakers may address the Council on a single matter. The Town Council may elect to take no action on the matter addressed by a speaker, may schedule the matter for further consideration at a future Council meeting, or may refer the matter to Town staff for disposition. Copies of the Town Public Comment Policy are available in the rear of the Assembly Room.*
  1. Rebecca Caveness – Winterville Watermelon Festival.
- X. CONSENT AGENDA:** *The following items are considered routine in nature and will not be discussed by the Town Council unless a Councilman or citizen requests that an item be removed from the Consent Agenda for further discussion. The Mayor may allow citizens to address an item or ask questions.*
  1. Approval of the following sets of Council Meeting Minutes:
    - April 8, 2024 Regular Meeting Minutes.
  2. Budget Amendment 2023-2024-6.
  3. Eli's Ridge Phase 5 Annexation, Set Public Hearing for June 10, 2024.
  4. Cornerstone Annexation; Town Clerk Investigate Sufficiency.
  5. Internet Sweepstakes Ordinance Amendment; Schedule Public Hearing.
  6. Tobacco Shop Ordinance Amendment; Schedule Public Hearing.

7. A-R Zoning District Ordinance Amendment; Schedule Public Hearing.
8. Variance Text Amendment; Schedule Public Hearing.
9. Flood Damage Prevention Ordinance Amendment; Schedule Public Hearing.

**XI. OLD BUSINESS:**

1. Update on Human Relations Board.

**XII. NEW BUSINESS:**

1. Storm Debris Removal Services Contract.
2. Axon-Police Taser Camera Contract.
3. Janitorial Services Contract.

**XIII. OTHER AGENDA ITEMS:**

1. Protecting Pedestrian Safety. (Councilwoman Hawkins).
2. Fair Housing in Our Town. (Councilwoman Hawkins).
3. Main Street / Mill Street Parking. (Councilwoman Hawkins).
4. Intersection of Reedy Branch Road / Memorial Drive / South Square Drive. (Councilwoman Hawkins).

**XIV. ITEMS FOR FUTURE AGENDAS/FUTURE WORK SESSIONS.**

**XV. QUARTERLY REPORTS FROM DEPARTMENT HEADS.**

**XVI. ANNOUNCEMENTS:**

- 2024 Second Primary Election: Tuesday, May 14, 2024; 6:30 am – 7:30 pm – Community Room and Operation Center Training Room.
- Human Relations Board Information Meeting: Thursday, May 16, 2024 @ 7:00 – Town Hall Executive Conference Room.
- Coffee with a Cop: Friday, May 17, 2024; 9:00 am - 10:30 am – Community Room.
- Planning and Zoning Board Meeting: Monday, May 20, 2024 @ 7:00 pm - Town Hall Assembly Room.
- Budget Work Session #1: Tuesday, May 21, 2024 @ 6:00 pm - Town Hall Assembly Room.
- Budget Work Session #2: Thursday, May 23, 2024 @ 6:00 pm - Town Hall Assembly Room.
- Memorial Day Holiday - Town Offices Closed: Monday, May 27, 2024.
- Recreation Advisory Board: Tuesday, May 28, 2024 @ 6:30 pm – A.W. Ange House.
- Budget Public Hearing: Monday, June 3, 2024 @ 6:00 pm - Town Hall Executive Conference Room.
- Regular Town Council Meeting: Monday, June 10, 2024 @ 6:00 pm - Town Hall Assembly Room.

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

**XVIII. ADJOURN.**

**SPECIAL NOTICE:** *Anyone who needs an interpreter or special accommodations to participate in the meeting should notify the Town Clerk, Don Harvey at (252) 756-2221 ext. 2344 at least forty-eight (48) hours prior to the meeting. (Americans with Disabilities Act (ADA) 1991.)*



## **PROCLAMATION**

***Mother's Day  
May 12, 2024***

**WHEREAS**, On Mother's Day, we honor the grace, wisdom, and strength of our mothers, and we celebrate the special bonds shared between mothers and their children; and

**WHEREAS**, Mothers work tirelessly to help their children build healthy and successful lives through their positive examples and countless acts of kindness, and mothers teach the values of generosity and compassion and the importance of family and community by providing a nurturing environment where their children can grow in confidence and character, mothers lay the foundation for the next generation to realize their full potential; and

**WHEREAS**, Our Town is grateful for the sacrifice's mothers make every day and for the unconditional love they give their children; and

**WHEREAS**, Every child blessed with a mother's love has been given one of life's great gifts. On this Mother's Day, we recognize the extraordinary contributions America's mothers make to their children, their families, our Town, and our country; and

**WHEREAS**, To honor mothers, the second Sunday in May each year has been designated as "Mother's Day" and called for its appropriate observance. May God bless mothers across America and especially the Town of Winterville on this special day and throughout the year; and

**NOW, THEREFORE**, I, Richard E. Hines, Mayor of the Town of Winterville hereby proclaim May 12, 2024, as Mother's Day. I encourage all citizens to show their gratitude and love to mothers for making a difference in the lives of their children, families, and community. I call upon citizens to observe this day with appropriate activities.

**IN WITNESS WHEREOF**, I do set my hand, and cause the seal of Winterville to be affixed this 13<sup>th</sup> day of May 2024.

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Richard E. Hines, Mayor

**Attest:**

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Donald Harvey, Town Clerk



## **PROCLAMATION**

**Memorial Day – May 27, 2024**

**WHEREAS**, on Memorial Day, we remember our debt to those who have died so that we might live in freedom; and

**WHEREAS**, we also remember those Americans who today, at home and in the lands of our allies, stand guard against all who threaten our freedom; and

**WHEREAS**, on this Memorial Day, we who remain free by the sacrifice of the dead and the service of the living will repay our debt to both with thoughts and acts of gratitude and love; and

**WHEREAS**, and we will gain renewed inspiration from their sacrifice to push forward with the task of trying to bring about a just and enduring peace by every reasonable means; and

**WHEREAS**, the Congress, by joint resolution of May 11, 1950, has requested the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period during such day when the people of the United States might unite in such supplication; and

**WHEREAS**, we urge the press, radio, television, and all other information media to cooperate in this observance; and

**WHEREAS**, we urge all Americans, wherever they may be on this designated day, to join their prayers to bestow upon this Nation the blessing of peace restored and lasting among all the nations of the world; and

**WHEREAS**, on this Memorial Day, as a special mark of respect to the memory of the gallant Americans who have sacrificed their lives, so that this Nation might live to be for all people everywhere a symbol of peace and justice and freedom; and

**WHEREAS**, we also direct that the flag be flown at half-staff on all public buildings during that entire day and request the people of Winterville to display the flag at half-staff from their homes for the same period; and

**NOW, THEREFORE**, I, Richard E. Hines, Mayor of the Town of Winterville hereby designate Memorial Day, Monday, May 27, 2024, as a day of prayer for permanent peace, and I designate the hour beginning at eleven o'clock in the morning of that day as a time to unite in such prayer.

**IN WITNESS WHEREOF**, I do set my hand, and cause the seal of Winterville to be affixed this 13<sup>th</sup> day of May 2024.

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Richard E. Hines, Mayor

**Attest:**

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Donald Harvey, Town Clerk



## **PROCLAMATION**

***National Emergency Medical Services Week  
May 19 – 25, 2024  
50th Anniversary of National EMS Week***

**WHEREAS**, emergency medical services are a vital public service; and,

**WHEREAS**, the members of emergency medical service teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and,

**WHEREAS**, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and,

**WHEREAS**, emergency medical services have grown to fill a gap by providing important, out of hospital care, including preventative medicine, follow-up care, and access to telemedicine; and,

**WHEREAS**, the emergency medical service system consists of first responders, emergency medical technicians, paramedics, emergency medical dispatchers, firefighters, police officers, educators, administrators, pre-hospital nurses, emergency nurses, emergency physicians, trained members of the public, and other out of hospital medical care providers; and,

**WHEREAS**, the members of emergency medical service teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and,

**WHEREAS**, it is appropriate to recognize the value and the accomplishments of emergency medical service providers by designating Emergency Medical Services Week; and,

**NOW, THEREFORE**, I, Richard E. Hines, Mayor of the Town of Winterville hereby in recognition of this event do hereby proclaim the week of May 19-25, 2024 as Emergency Medical Services Week; and,

**IN WITNESS WHEREOF**, I do set my hand, and cause the seal of Winterville to be affixed this 13<sup>th</sup> day of May 2024.

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Richard E. Hines, Mayor

**Attest:**

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Donald Harvey, Town Clerk



## **PROCLAMATION**

***National Police Week***

***May 12 – May 18, 2024***

**WHEREAS**, the Congress and the President of the United States have designated that there be a national Law Enforcement Officers Week; and

**WHEREAS**, the men and women of the law enforcement agency of the Town of Winterville unceasingly provide a vital public service; and

**WHEREAS**, the members of the Winterville Police Department play an essential role in safeguarding the rights and freedoms of our community; and

**WHEREAS**, the citizens of Winterville recognize and appreciate the contributions made by law enforcement officers at all levels of government; and

**WHEREAS**, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agencies, and that officers of the Town of Winterville recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

**WHEREAS**, the men and women of law enforcement of the Town of Winterville unceasingly provide a vital public service by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to this community and in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens; and

**NOW, THEREFORE**, I, Richard E. Hines, Mayor of the Town of Winterville, call upon all citizens to observe May 12 - 18, 2024, as "NATIONAL POLICE WEEK" in Winterville, North Carolina, and that all of our people join in commemorating law enforcement officers, past and present, who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities. In so doing, they have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

**IN WITNESS WHEREOF**, I do set my hand, and cause the seal of Winterville to be affixed this 13<sup>th</sup> day of May 2024.

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Richard E. Hines, Mayor

**Attest:**

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Donald Harvey, Town Clerk



**PROCLAMATION**  
**National Public Works Week**  
**May 19-25, 2024**

**WHEREAS**, public works professionals focus on infrastructure, facilities, and services that are of vital importance to sustainable and resilient communities and the public health, high quality of life, and well-being of the citizens of Winterville; and

**WHEREAS**, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers, and employees at all levels of government and the private sector, who are responsible for rebuilding, improving, and protecting our nation’s transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and

**WHEREAS**, these facilities and services could not be provided without the dedicated efforts of public works professionals; and

**WHEREAS**, these individuals build, operate, maintain, and administer the streets, sidewalks, stormwater infrastructure, solid waste and recycling collections, public buildings, and other structures and facilities that are vital to the citizens of Winterville; and

**WHEREAS**, it is in the interest of the public for citizens, civic leaders, and children to continue to gain information and to understand the role public works plays in the Town of Winterville; and

**NOW, THEREFORE**, I, Richard E. Hines, Mayor of the Town of Winterville joins the American Public Works Association in recognizing the contributions of public works professionals to the health, safety, and quality of life in Winterville. The Town Council also encourages all residents of Winterville to thank the public works professionals for their continued dedication and hard work to this community. We proclaim the week of May 19 through May 25, 2024 as “National Public Works Week” in the Town of Winterville

**IN WITNESS WHEREOF**, I do set my hand, and cause the seal of Winterville to be affixed this 13<sup>th</sup> day of May 2024.

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Richard E. Hines, Mayor

**Attest:**

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Donald Harvey, Town Clerk



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Public Hearings

**Meeting Date:** May 13, 2024

**Presenter:** Evan Johnston, Building Inspector

**Item to be Considered**

**Subject:** Amend Title XV: Land Usage of the Town of Winterville Code of Ordinances

**Action Requested:** Hold the Public Hearing and Approve Title XV Ordinance 24-O-051.

**Attachment:** Ordinance 24-O-051 containing Title XV; Chapters 140, 141, 142, 143, 144, and Notice of Publication.

**Prepared By:** Evan Johnston, Building Inspector

**Date:** 4/29/2024

**ABSTRACT ROUTING:**

TC: 5/6/2024

TM: 5/6/2024

Final: tlp - 5/6/2024

**Supporting Documentation**

Creating and amending chapters of the existing Title XV: Land Usage of the Town of Winterville Code of Ordinances are recommended. These recommendations include general clarification and modification, change in chapter numbering, and changes stemming from GS 160D.

Chapter 140: Building Regulations

- Change chapter number and statutory references. Replacement of existing Chapter 150.

Chapter 141: Minimum Housing Code

- Change chapter number. Replacement of existing Chapter 151.

Chapter 142: Nonresidential Building or Structure Code

- Create new Chapter for the repair, closing or demolition of nonresidential buildings or structures.

Chapter 143: Repair, Closing or Demolition of Abandoned Structures

- Create new Chapter for the repair, closing or demolition of abandoned structures.

Chapter 144: Closing or Securing Vacated and Closed Buildings

- Create new Chapter for closing or securing structures as determined by aforementioned chapters 141, 142, or 143.

**Budgetary Impact:** None.

**Recommendation:** Town Staff recommends adoption of Ordinance 24-O-051.

**ORDINANCE NO. 24-O-051**

**ORDINANCE CREATING CHAPTER 140 OF THE CODE OF ORDINANCES  
OF THE TOWN OF WINTERVILLE, NORTH CAROLINA**

BE IT ORDAINED by the Town Council of the Town of Winterville, North Carolina that Title XV Chapter 140 of the Code of Ordinances of the Town of Winterville is hereby amended as follows:

**CHAPTER 140**

**BUILDING REGULATIONS**

**SECTION 140.01 STATE'S BUILDING, RESIDENTIAL, PLUMBING, MECHANICAL, ELECTRICAL AND FIRE CODE APPLICABLE WITHIN TOWN.**

The provisions of the most current editions of the North Carolina State Building, Residential, Plumbing, Mechanical, Electrical and Fire Code shall be applicable within the corporate limits of the town.

**SECTION 140.02 EXTRATERRITORIAL EFFECT OF BUILDING REGULATIONS.**

All building regulations of the town pertaining to construction or renovation of properties within the town shall apply not only to the area within the corporate limits of the town, but also within the extraterritorial jurisdiction of the town as pursuant to G.S. Chapter 160D, Article 2.

***Statutory reference:***

*Extraterritorial jurisdiction, see G.S. 160D-201*

**SECTION 140.03 INSPECTIONS DIVISION.**

(A) Organization of Division. The Inspections Division of the town shall consist of building inspectors (which have plumbing, electrical, mechanical, etc. certifications) or deputy or assistant inspectors as authorized by the governing body.

(B) General duties of Division and inspectors. It shall be the duty of the Inspection Division to enforce all of the provisions of this section and of the regulatory codes adopted herein, and to make all inspections necessary to determine whether or not the provisions of this section and those codes are being met.

(C) Conflicts of interest. No officer or employee of the Inspection Division shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building or any part thereof, or in the making of plans or specifications within the town's jurisdiction or the ETJ, unless he or she is the owner of the building. No officer or employee of the Inspections Division shall engage in any work which is inconsistent with his or her duties or with the interests of the town.

(D) Report and records. The Inspections Division, and each inspector, shall keep complete, permanent, and accurate records in convenient for of all applications received, permits issued, inspections and re-inspections made, and all other work and activities of the Inspection Division. Periodic reports shall be submitted to the Town Council, and to other agencies as required.

(E) Inspection procedure.

(1) Inspections. The Inspections Division shall inspect all buildings and structures and work therein for which a permit of any kind has been issues as often as necessary in order to determine whether the work complies with this section and the appropriate codes.

(2) When deemed necessary by the appropriate inspector, materials, and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be approved and recognized inspection organizations; provided, no approval shall be based upon reports of such organizations unless the same are in writing and certified by a responsible officer of the organization.

(3) All holders of permits, or their agents, shall notify the Inspection Division and/or the appropriate inspector at each stage of construction as outlined in the North Carolina Administrative Code and Policies so that approval may be given before work is continued.

(F) Calls for inspection.

(1) Requests. Request for inspections may be made to the office of the Inspection Division or to the appropriate inspector. The Inspection Division shall make inspections as soon as practicable after request is made therefore, provided the work is ready for inspection at the time the request is made.

(2) Re-inspections may be made at the convenience of the inspector. No work shall be inspected until it is in proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate inspector in the form of a notice posted on the building or given to the permit holder or his or her agent. Failure to call for inspections or proceeding without approval at each stage of construction shall be deemed a violation of this section.

(3) Street or alley lines. Where the applicant for a permit proposes to erect any building or structure on the line of any street, alley or other public place, he or she shall secure a survey of the line of the street, alley or other public place, adjacent to the property upon which the building or structure is to be erected before proceeding with construction of the building or structure. It shall be the duty of the Building Inspector to verify that the building does not encroach upon the street, alley, or other public place.

(4) Certificate of occupancy.

(a) No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the Inspection Division has issued a certificate of occupancy therefor. A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building. Application for a certificate of occupancy may be made by the owner or his or her agent after all final inspections have been made for new buildings, or, in the case of existing buildings, after supplying the information and data necessary to determine compliance with this article, the appropriate regulatory codes and the Zoning Ordinance for the occupancy intended. The Inspection Division shall issue a certificate of occupancy when, after examination and inspection, it is found that the building in all respects conforms to the provisions of this section, the regulatory codes and the Zoning Ordinance for the occupancy intended.

(b) No oversight or dereliction of duty on the part of any inspector or other official or employee of the Inspection Division shall be deemed to legalize the violation of any provision of this section or any provision of any regulatory code herein adopted.

(G) Powers of inspection officials.

(1) Authority. Inspectors are hereby authorized, empowered and directed to enforce all the provisions of this section and the regulatory codes herein adopted, excepting for the provisions of this section designated to be enforced by the Code Enforcement Coordinator or officer.

(2) Right-of-entry. With an appropriate warrant or permission from the owner or occupant, inspectors shall have the right-of-entry on any premises within the jurisdiction of the regulatory codes herein adopted at reasonable hours for the purpose of inspection or enforcement of the requirements of this section and the applicable regulatory codes.

(3) Stop orders. Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered or repaired in a hazardous manner, or in violation of any provision of this part or any other town ordinance, or in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit or permits issued therefor, or in such manner as to endanger life or property, the appropriate inspector may order the work to be immediately stopped. Such order shall be in writing to the owner of the property or to his or her agent, or to the person doing the work, and shall state the reasons therefor and the conditions under which the work may be resumed.

(Ord. 13-O-297, passed 5-13-2013)

#### **SECTION 140.04 ENFORCEMENT.**

(A) Registration of contractors. Every person carrying on the business of building contractor, plumbing contractor, heating-air conditioning contractor or electrical contractor within the town shall register at the office of the Inspection Division, giving name and place of business.

(B) Permits required.

(1) Building permit.

(a) No person shall commence or proceed with the construction, reconstruction, alteration, repair, removal or demolition of any building or other structure, or any part thereof, without a written permit therefor from the Inspection Division; provided, however, that no building permit shall be required for work the total cost of which does not exceed \$5,000 and which does not involve any change of the load bearing structural parts or the stairways, elevators, fire escapes or other means of egress of the building or the structure in question. County Board of Health approval of a septic tank is required.

(b) In all cases of removal or demolition of a building or structure, a good and sufficient bond may be required to be posted by the property owner or by his or her contractor at the time of application for a permit, to insure complete removal or demolition, including all rubble and debris. Failure on the part of the property owner or his or her contractor to completely demolish, remove and clear the premises, after 30 days' notice by the

(c) Building Inspector shall be cause for forfeiture of the bond.

(2) Plumbing permit. No person shall commence or proceed with the installation, extension or general repair of any plumbing system without a written permit therefor from the Inspection Division; provided, however, no permit shall be required for minor repairs or replacements on the house side of a trap to an installed system of plumbing if the repairs or replacements do not disrupt the original water supply or the waste or ventilating systems.

(3) Mechanical permit. No person shall commence or proceed with the installation, extension, alteration or general repair of any heating or cooling equipment system without a written permit from the Inspection Division; provided, however, no permit shall be required for minor repairs or minor burner services or filter replacements of warm air furnaces or cooling systems.

(4) Electrical permit. No person shall commence or proceed with the installation, extension, alteration or general repair of any electrical wiring, devices, appliances or equipment without a written permit therefor from the Inspection Division; provided, however, no permit shall be required for minor repair work such as the replacement of lamps or the connection of portable devices to suitable receptacles which have been permanently installed; provided, further, no permit shall be required for the installation, alteration or repair of the electrical wiring, devices, appliances and equipment installed by or for an electrical public utility corporation for the use of the corporation in the generation, transmission, distribution or metering of electrical energy.

(C) Application for permit.

(1) Written application shall be made for all permits required by this section and shall be made on forms provided by the Inspection Division.

(2) Such application shall be made by the owner of the building or structure affected or by his or her authorized agent or representative, and, in addition to such other information as may be required by the appropriate inspector to enable him or her to determine whether the permit applied for should be issued, shall show the following:

(a) Name, residence, and business address of owner;

(b) Name, residence and business of authorized representative or agent, if any; and

(c) Name and address of the contractor, if any, together with evidence that he or she has obtained a certificate from the appropriate state licensing board for such contractors, if such be required for the work involved in the permit for which application is made.

(D) Plan Review. Detailed plans and specifications shall accompany each application for a permit when the estimated total cost of the building or structure is in excess of \$90,000 and for any other building or structure where plans and specifications are deemed necessary by the appropriate inspector in order for him or her to determine whether the proposed work complies with the appropriate regulatory codes. Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this section and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work until all authorized operations have been completed and approved by the appropriate inspector.

(E) Limitations on issuance of permits.

(1) No building permit shall be issued for any building or structure, the estimated total cost of which is \$40,000 or greater unless the work is to be performed by a licensed general contractor.

(2) No building permit shall be issued for any building or structure, other than a one or two-family dwelling, if the estimated total cost of which is more than that outlined in Section 302.4 of the North Carolina Administration and Enforcement Requirements Code, unless the plans bear the North Carolina seal of a registered architect or a registered engineer.

(3) Where any provisions of the General Statutes of North Carolina or of any ordinance require that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless it is to be performed by the licensed specialty contractor.

(4) Where detailed plans and specifications are required under this section, no building permit shall be issued unless the plans and specifications have been provided.

(F) Issuance of permit. When proper application for a permit has been made, and the appropriate inspector is satisfied that the application and the proposed work comply with the provisions of this section and the appropriate regulatory codes, he or she shall issue the permit, upon payment of the proper fee or fees as hereinafter provided in division (I).

(G) Revocation of permits. Permits may be revoked in accordance with state law.

(H) Time limitations on validity of permits. All permits issued under this section shall expire six months after the date of issuance if the work authorized by the permit has not been commenced. If after commencement the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any permit which has expired shall thereafter be performed until a new permit therefor has been secured.

(I) Changes in work. After a permit has been issued, changes or deviations from the terms of the application and permit, or changes or deviations from the plans or specifications involving any work under the jurisdiction of this section or of any regulatory code adopted herein, shall not be made until specific written approval of the changes or has been obtained from the appropriate inspector.

(J) Permit fees. Fees for building, plumbing, mechanical and electrical permits shall be as fixed from time to time by the Town Council, a schedule of which shall be maintained in the Town of Winterville Schedule of Fees.

(K) Penalties for violations of regulatory codes.

(1) Any violation this chapter, specifically including violation of any regulatory codes adopted in that section of this chapter, shall subject the offender to a civil penalty of \$50. Violators shall be issued a written citation which must be paid within 72 hours.

(2) Each day's continuing violation shall be a separate and distinct offense.

(3) Notwithstanding division (K)(1) above, provisions of this chapter may be enforced through equitable remedies issued by a court of competent jurisdiction.

(4) In addition to, or in lieu of, remedies authorized in divisions (K)(1) and (K)(3) above, violations of this chapter may be prosecuted as a misdemeanor in accordance with G.S. 160A-175.

**SECTION 140.05 COPIES OF CODES TO BE FILED WITH TOWN CLERK.**

Official copies of state regulatory codes and official copies of all amendments thereto shall be kept on file in the office of the Town Clerk. The copies shall be the official copies of the code and the amendments.

**SECTION 140.06 FIRE LIMITS.**

The fire limits of the town shall be defined as the area lying within the town limits as established by the Town Council and shown on the official town limits map on file in the office of the Town Clerk.

Cross-reference:

Town limits, see § 11.01

**SECTION 140.07 DEBRIS FROM NEW CONSTRUCTION.**

All refuse, scrap lumber and debris, remaining both as a result of the repair of any new buildings, or of the erection and completion of any new buildings, shall be removed by the property owner within ten days from the completion of the work.

## CHAPTER 141

### MINIMUM HOUSING CODE

#### SECTION 141.01 FINDINGS; PURPOSE.

(A) Pursuant to G.S. 160D-1201, it is hereby found and declared that there exists in the town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the town.

(B) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. Chapter 160D, Article 12 of the North Carolina General Statutes, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160D-1201.

#### SECTION 141.02 DEFINITIONS.

Whenever the words “dwelling, dwelling unit, rooming house, rooming unit, premises” are used in this chapter, they shall be construed as though they were followed by the words “or any part thereof.” For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Basement.* A portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

*Cellar.* A portion of a building which is located partly or wholly underground, having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

*Code Enforcement officer.* A Code Enforcement officer of the Town of Winterville or any agent of the Town who is authorized to enforce the provisions of this chapter.

*Deteriorated.* A dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by the finding of the Code Enforcement officer.

*Dilapidated.* A dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 50% of its value, as established by the finding of the Code Enforcement officer.

*Dwelling.* Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of G.S. Chapter 160D Article 12. the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

*Dwelling unit.* Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

*Extermination.* The control and elimination of insects, rodents or other pests by eliminating their harborage places by removing or making inaccessible materials that may serve as their food, or by poisoning, spraying, fumigating, trapping or by other recognized and legal pest elimination methods approved by the Code Enforcement officer.

*Garbage.* The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

*Habitable room.* A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or connecting corridors, closets, and storage spaces.

*Infestations.* The presence, within or around a dwelling, of any insects, rodents, or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

*Multiple dwelling.* Any dwelling containing more than two dwelling units.

*Occupant.* Any person over one year of age, living, sleeping, cooking, or eating in, or having actual possession of a dwelling unit or rooming unit.

*Operator.* Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

*Owner.* Any person who alone, or jointly, or severally with others:

(1) Shall have title in fee simple to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(2) Shall have charge, care, or control of any dwelling or dwelling unit as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

*Plumbing.* Includes all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

*Public authority.* Any housing authority or any officer who is in charge of any department or branch of the government of the town, county, or state relating to health, fire, building regulations, or other activities concerning dwellings or buildings in the municipality.

*Rooming house.* Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, sister or brother of the owner or operator.

*Rooming units.* Any room or group of rooms forming a single habitable unit used or intended to be used for living or sleeping, but not for cooking or eating purposes.

*Rubbish.* Combustible and noncombustible waste materials, except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

*Supplied.* Paid for, furnished, or provided by or under the control of the owner or operator.

*Temporary housing.* Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

*Unfit for human habitation.* A residential building which contains any of the following conditions which the Code Enforcement officer shall have found render the building dangerous or injurious to the health or safety of the occupants of the dwelling or neighboring dwellings or other residents of the town:

(1) Interior walls or vertical studs which seriously lean or buckle to such an extent as to render the building unsafe;

(2) Supporting member or members which show 33% or more damage or deterioration, or nonsupporting enclosing or outside wall or covering which shows 50% or more of damage or deterioration;

(3) Floors or roofs which have improperly distributed loads which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;

- (4) Such damage by fire, wind, or other causes as render the building unsafe;
- (5) Dilapidation, decay, unsanitary conditions, or disrepair which is dangerous to the health, safety, or general welfare of the occupants of the dwelling or neighboring dwellings or other residents;
- (6) Inadequate facilities for egress in case of fire, accident, or other calamities;
- (7) Defects significantly increasing hazards of fire, accident, or other calamities;
- (8) Lack of adequate ventilation, light, heating, or sanitary facilities to such an extent as to endanger the health, safety or general welfare of the occupants or other residents of the town;
- (9) Lack of proper electrical heating or plumbing facilities required by this chapter which constitute a health or safety hazard;
- (10) Lack of adequate weatherization;
- (11) Lack of an operable smoke detector; or
- (12) Any combination of substandard items which in the judgment of the Code Enforcement officer renders any building dangerous or injurious to the health, safety, or general welfare of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the town.

### **SECTION 141.03 MINIMUM STANDARDS OF FITNESS FOR DWELLINGS AND DWELLING UNITS.**

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all the minimum standards of fitness for human habitation and all of the requirements of sections 141.04 through 141.14 of this chapter. No person shall occupy as owner or occupant or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all the minimum standards of fitness for human habitation. Only approved building materials for specific purposes may be used in making necessary repairs. Future changes to this chapter may occur as result to changes to North Carolina Building Codes.

### **SECTION 141.04 MINIMUM STANDARDS FOR STRUCTURAL CONDITIONS.**

#### *(A) Foundation.*

- (1) A foundation wall system shall support the building at all points and shall be free of holes, cracks, and loose mortar or masonry which would admit rodents, water or dampness to the interior of the building or which lessen the capability of the foundation to support the building.
- (2) Crawl space shall be graded so as to prevent any water standing.
- (3) Foundation walls and footings shall be free of defects such as cracks, holes, and loose mortar.
- (4) Piers shall be sound with no loose mortar or masonry.

#### *(B) Floors.*

- (1) There shall not be decayed, termite-damaged, fire-damaged, broken, overloaded or sagging sills that adversely affect the structural integrity of the building framing system.
- (2) Joists shall not be decayed or broken so as to adversely affect the structural integrity of the floor framing system.
- (3) Flooring shall be weathertight without holes or cracks which permit excessive air to penetrate rooms.
- (4) There shall be no loose flooring.
- (5) Bathroom and kitchen flooring surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit the flooring to be easily kept in a clean and sanitary condition.

(6) All floor covering shall be constructed and maintained as not to constitute a trip hazard and kept in a clean and sanitary condition.

(7) There shall be no use of the ground for floors, or wood floors on the ground.

(C) *Exterior walls.*

(1) There shall be no broken, cracked or fire damaged structural members.

(2) All siding shall be weathertight, with no holes or excessive cracks or decayed boards which permit excessive air or moisture to penetrate rooms.

(3) There shall be no loose siding.

(4) Exterior surfaces not inherently resistant to deterioration shall be treated with a protective coating or covering and maintained in good repair to prevent deterioration.

(D) *Interior walls.*

(1) The interior finish shall be free of holes and cracks.

(2) All interior walls shall be treated and maintained so as to be easily kept in a clean and sanitary condition.

(3) No loose plaster, loose boards or other loose wall materials shall be allowed.

(4) There shall be no decayed or termite-damaged studs.

(5) There shall be no broken or cracked studs, or other broken or cracked structure members allowed.

(E) *Ceilings.*

(1) There shall be no joists which are decayed or broken, sagging, or improperly supported.

(2) There shall be no holes or excessive cracks which permit air to penetrate rooms.

(3) There shall be no loose plaster, boards, gypsum wall board or other ceiling finish.

(4) There shall be no evidence of water damage.

(F) *Roof.*

(1) There shall be no rafters which are decayed or broken.

(2) No rafters shall be damaged by fire.

(3) Sheathing shall not be loose.

(4) No loose roof covering shall be allowed, nor shall there be any holes or leaks which could cause damage to the structure.

(5) There shall be proper flashing at walls and roof penetrations.

(6) There shall be no chimneys or part thereof which are defective, deteriorated or in danger of falling, or in such condition to constitute a fire hazard.

**SECTION 150.05 MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES.**

(A) *Plumbing system.*

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewer disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet and an adequate supply of both cold water and hot water. All systems must be connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the North Carolina Plumbing Code and shall be maintained in a state of good repair and good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(5) Water closet shall be functional and free of leaks.

(6) Water closet shall not be loose from floor or leaking.

(7) Tub and shower stall floors and walls shall be watertight.

(8) Fixtures shall not be cracked or broken and function as designed.

(9) Sewer and water lines shall be properly supported, with no broken or leaking lines.

(B) *Heating system.*

(1) Heating required. Every dwelling and dwelling unit shall provide central heat or other approved permanent source of heating.

(2) *Central and electric heating system.*

(a) Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected a minimum temperature of 68° Fahrenheit measured at a point three feet above the floor during ordinary winter conditions.

(b) All ducts, pipes and tubes should be free of leaks and functioning properly.

(3) Other heating facilities. Where central or electric heating system are not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances are connected so as to heat all habitable rooms with a minimum temperature of 68° Fahrenheit measured at a point three feet above the floor during ordinary winter conditions.

(a) All floor, wall or room heaters must comply with standards of Chapter 16, Volume VII of the State Building Code.

(b) Chimneys shall have no loose bricks or mortar and shall have a flue.

(c) Flues shall have no holes.

(d) Open masonry fireplaces shall only be used as supplemental heat and not as a primary source of heating.

(e) No portable kerosene space heater may be used as a primary source of heat.

(f) If fireplace opening is closed, the closure shall be of noncombustible material and airtight.

(g) No hanging chimneys will be allowed.

(C) *Electrical system.*

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall type electric convenience receptacles, connected in such manner as determined by the North Carolina Electric Codes. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall type electric fixture for lighting. In the event wall or ceiling light fixtures are not provided in any habitable room, then the habitable room shall contain at least three floor or wall type electric convenience receptacles.

(2) Every common hall and stairway in every multiple dwelling shall have adequate lighting by electric lights at all times when natural lighting is not sufficient.

(3) All fixtures, receptacles, equipment, and wiring shall be maintained in a state of good repair and installed in accordance with the North Carolina Electrical Code.

(4) All receptacles shall have outlet covers installed.

(5) All light switches shall have covers installed.

(6) Each dwelling unit shall have electric service from a separately metered delivery system provided by a licensed utility company. No drop cords, extension cords or similar wiring mechanism may be utilized in any fashion other than in conformance with the purposes in which it was designed.

#### **SECTION 141.06 MINIMUM STANDARDS FOR SMOKE DETECTORS.**

(A) Every owner of a residential dwelling unit shall have UL approved smoke detectors installed, mounted on or near the ceiling on every level, at a point centrally located in the corridor or area giving access to each group of rooms used for sleeping purposes. Where bedrooms are not centrally located more than one smoke detector may be required.

(B) Every owner of a residential dwelling unit shall have UL approved carbon monoxide detectors as required by State Building Code.

#### **SECTION 141.07 MINIMUM STANDARDS FOR VENTILATION.**

(A) All habitable rooms shall be provided with aggregate glazing area of not less than 8% of the total floor area of the rooms. One-half of the required area of glazing shall be openable. For the purpose of determining the light and ventilation requirement, any room may be considered as a portion of an adjoining room when one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room or 25 square feet, whichever is greater. Exceptions to this standard are as follows:

(1) The glazed areas need not be openable where the opening is not required by Section 310 of Volume VII of the State Building Code and an approved mechanical ventilation system is provided capable of producing 0.35 air change per hour in the room or a whole-house mechanical ventilation system is installed capable of supplying outdoor ventilation air of 15 cubic feet per minute (cfm) (7.08 L/s) per occupant computed on the basis of two occupants for the first bedroom and one occupant for each additional bedroom.

(2) The glazed areas may be omitted in rooms where the opening is not required by Section 310 of Volume VII of the State Building Code and an approved mechanical ventilation system is provided capable of producing 0.35 air change per hour in the room or a whole-house mechanical ventilation system is installed capable of supplying outdoor ventilation air of 15 cubic feet per minute (cfm) (7.08 L/s) per occupant computed on the basis of two occupants for the first bedroom and one occupant for each additional bedroom, and artificial light is provided capable of producing an average illumination of six foot candles (6.46 L/s) over the area of the room at a height of 30 inches above the floor level.

(B) All exterior windows and doors shall be reasonably weathertight, shall have no broken glass, and shall have adequate operable locks and hardware.

(C) All interior windows and hardware shall be in good repair.

(D) Required glazed openings shall open directly onto a street or public alley, or a yard or court located on the same lot as the building.

(E) (1) Bathrooms, water closet compartments and other similar rooms shall be provided with aggregate glazing area in windows of not less than three square feet, one-half of which must be openable.

(2) An exception to this standard is as follows: The glazed areas shall not be required where artificial light and an approved mechanical ventilation system capable of producing a change of air every 12 minutes are provided. Bathroom exhausts shall be vented directly to the outside.

## **SECTION 141.08 MINIMUM STANDARDS FOR SPACE, USE, AND LOCATION.**

(A) *Ceiling height.* Habitable rooms, except kitchens, shall have a ceiling height of not less than seven feet six inches for at least 50% of their required areas. Not more than 50% of the required area may have a sloped ceiling less than seven feet six inches in height with no portion of required areas less than five feet in height. If any room has a furred ceiling, the prescribed ceiling height is required for at least 50% of the area thereof, but in no case shall the height of the furred ceiling be less than seven feet. A portion of a room with a sloping ceiling measuring less than five feet zero inches or a furred ceiling measuring less than seven feet zero inches from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required habitable area for that room. Exceptions to this standard are as follows:

(1) Beams and girders spaced not less than four feet on center may project not more than six inches below the required ceiling height.

(2) All other rooms including kitchens, baths and hallways may have a ceiling height of not less than seven feet measured to the lowest projection from the ceiling.

(3) Ceiling height in basements without habitable spaces may not be less than six feet eight inches clear except for under beams, girders, ducts, or other obstructions, where the clear height shall be six feet four inches.

(B) *Cellar.* No cellar shall be used for living purposes.

(C) *Basements.* No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight;

(2) The total window area, total openable window area, and ceiling height are equal to those required for habitable rooms; and

(3) The required minimum window area of every habitable room is entirely above the grade adjoining the window area, except where the window or windows face a stairwell, window well or access way.

## **SECTION 141.09 MINIMUM STANDARDS FOR SAFE AND SANITARY MAINTENANCE.**

(A) *Exterior foundation, walls, curtain wall and roofs.* Every foundation wall, exterior curtain wall, and exterior roof shall be substantially weathertight and rodent proof, shall be kept in sound condition and good repair, shall be capable of affording privacy and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or weather.

(B) *Interior floors, walls, and ceilings.* Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(C) *Windows and doors.* Every window, exterior door, basement or cellar door, and hatchway shall be substantially weathertight, watertight, and rodent proof, and shall be kept in sound working condition and good repair.

(D) *Stairs, porches, and appurtenances.* Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit the floor to be easily kept in a clean and sanitary condition.

(F) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed so that it will function safely and effectively and shall be maintained in satisfactory working condition.

## **SECTION 141.10 MINIMUM STANDARD TO MEANS OF EGRESS.**

(A) Every dwelling shall have safe, unobstructed means of egress with a minimum ceiling height of seven feet leading to a safe and open space at ground level.

(B) Every exterior, cellar or basement door and hatchway shall be substantially weathertight and rodent proof and shall be kept in sound working condition and good repair.

(C) Every exterior door shall be provided with properly installed hardware that is maintained to ensure reasonable ease of operation to open, close and secure as intended by the manufacturer of the door and attached hardware.

(D) Exterior door frames shall be properly maintained and shall be affixed with weather-stripping and thresholds as required to be substantially weathertight, watertight, and rodent and insect resistant when the door is in a closed position.

(E) Exterior door jams, stops, headers and molding shall be securely attached to the structure, maintained in good condition without splitting or deterioration that would minimize the strength and security of the door in a closed position.

(F) All exterior doors shall have manufactured locks specifically designed for use with exterior doors requiring a key and/or code to be unlocked from the outside.

(G) Every sleeping room shall have at least one openable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside to a full clear opening without the use of a key or tool. Where windows are provided as a means of egress or rescue, they shall have a sill height of not more than 44 inches above the floor.

(H) All egress or rescue windows from sleeping rooms must have a net clear opening of 4.0 square feet. The minimum net clear opening height shall be 22 inches. The minimum net clear opening width shall be 20 inches. Each egress window from sleeping rooms must have a minimum total glass area of not less than 5.0 square feet in the case of a second story window.

(I) Bars, grills, screens, or other obstructions placed over emergency escape windows shall be releasable or removable from the inside without the use of a key or tool.

## **SECTION 141.11 MINIMUM STANDARDS FOR PORCHES OR RAISED PLATFORMS.**

(A) Foundation flooring, ceiling, and roofing for porches and raised platforms shall be equal to standards set forth in section 141.04, except sills and joists need not be level if providing drainage of floor, and floors need not be weathertight.

(B) Roof post and attached railings shall be structurally sound.

(C) Every porch terrace or raised platform located at least 40 inches above the adjacent finished grade shall be equipped with guardrails not less than 36 inches high. Open guardrails shall have intermediate rails such that a six-inch sphere cannot pass through any opening.

## **SECTION 141.12 MINIMUM STANDARDS FOR STAIRS AND STEPS.**

(A) Stairs and steps shall not be decayed and shall be in good repair.

(B) Every rail shall be firmly fastened and maintained in good condition.

(C) No flight of stairs more than one inch out of its intended position or pulled away from supporting or adjacent structures shall be allowed.

(D) Supports shall be structurally sound.

(E) Where steps and stairs that must be replaced due to deterioration, construction must comply with State Building Code standards.

(F) Stairways having four or more risers above a floor or finished ground level shall be equipped with handrails located not less than 30 inches nor more than 38 inches above the leading edge of a tread. An exception from this standard is that handrails that form part of a guardrail may be 42 inches high.

(G) Gripping surfaces shall be continuous without interruption.

### **SECTION 141.13 MINIMUM STANDARDS FOR CONTROL OF INSECTS, RODENTS, AND INFESTATIONS.**

(A) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device, where an air conditioner is not provided. Every window or other device with openings to outdoor space shall be supplied with screens where an air conditioner is not provided.

(B) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement which might provide an entry for rodents shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.

(C) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her or her dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonable insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any structure or in the shared or public parts of any structure containing two or more dwelling units, extermination shall be the responsibility of the owner.

(D) *Garbage storage and disposal.* Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers as required by the Code of Winterville and the owner, operator, or agent in control of the dwelling or dwelling unit shall be responsible for the removal of garbage.

### **SECTION 141.14 MINIMUM STANDARDS APPLICABLE TO ROOMING HOUSES; EXCEPTIONS.**

All the provisions of this chapter, and all of the minimum standards and requirements of this chapter, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following subsections:

(A) *Water closet, hand lavatory and bath facilities.* At least one water closet, lavatory basin, and bathtub or shower, properly connected to an approved water system and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever the facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing the facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(B) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age or older and at least 35 square feet of floor area for each occupant under 12 years of age.

(C) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin, bathtub or shower required by subsection (A) of this section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from habitable rooms, which are accessible from a common hall and without going outside the rooming house or through any other room therein.

(D) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house; he or

she shall further be responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

**SECTION 141.15 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.**

(A) *Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and the premises thereof.

(B) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling or dwelling unit and the premises thereof which he or she occupies or controls.

(C) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his or her rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(E) *Care of facilities, equipment, and structure.* No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

**SECTION 141.16 DUTIES OF THE CODE ENFORCEMENT OFFICER.**

The Code Enforcement officer is hereby designated as the public officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. It shall be the duty of the Code Enforcement officer:

(A) To investigate the dwelling conditions and to inspect dwellings and dwelling units located in the town in order to determine which dwellings and dwelling units are unfit for human habitation and for the purpose of carrying out the objectives of this chapter with respect to the dwellings or dwelling units;

(B) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(C) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed; and

(D) To perform such other duties as may be herein prescribed.

**SECTION 141.17 POWERS OF THE CODE ENFORCEMENT OFFICER.**

The Code Enforcement officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to others herein granted:

(A) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;

(B) To administer oaths and affirmations, examine witnesses and receive evidence;

(C) To enter upon premises for the purpose of making examinations and inspections provided that the entries shall be made in accordance with law and in such manner as to cause the least possible inconvenience to the persons in possession; and

(D) To appoint and fix duties of such officers, agents, and employees as he or she deems necessary to carry out the purposes of this chapter.

## **SECTION 141.18 INSPECTIONS; DUTY OF OWNERS AND OCCUPANTS.**

For the purpose of making inspections, the Code Enforcement officer is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming units, and premises. The owner or occupant of every dwelling, dwelling unit, rooming unit, or the person in charge thereof, shall give the Code Enforcement officer free access to the dwelling, dwelling unit, rooming unit and its premises at all reasonable times for the purpose of the inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his or her agent or employee, access to any part of the dwelling or dwelling unit and its premises, at all reasonable times for the purpose of making the repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

## **SECTION 141.19 PROCEDURE FOR ENFORCEMENT.**

(A) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the Code Enforcement officer by a public authority or by at least five residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Code Enforcement officer, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for the charges, cause to be served upon the owner and the parties in interest in the dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Code Enforcement officer at a place therein fixed, not less than ten days nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one person signing a petition relating to the dwelling. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Code Enforcement officer.

(1) *Filing a Notice of Lis Pendens.* After a Code Enforcement officer issues a complaint and a notice of hearing or issues findings of fact and an order pursuant thereto, any Code Enforcement officer may file a notice of Lis pendens with the Clerk of Superior Court of the county where the property is located. A copy of the complaint and notice of hearing or a copy of the findings of fact and order shall be attached to the notice of Lis pendens. The notice of Lis pendens and a copy of the complaint and notice or findings of fact and order shall be indexed and cross-indexed in accordance with the indexing procedures of G.S. 1-117. From the date and time of indexing, the complaint and notice or findings of fact and order shall be binding upon the successors and assigns of the owners of and parties in interest in the building or dwelling at the time of filing. When the notice of Lis pendens is filed with the Clerk, it shall also be served on the owners and parties in interest in the building or dwelling, including any lienholders and tenants who may be determined by the exercise of reasonable diligence in accordance with G.S. § 160D-1206 and the method of service procedures set forth in Title 15, Chapter 141, Section 141.21 "Methods of Service of Complaints and Orders." The notice of Lis pendens shall remain in full force and effect until it is cancelled.

2. *Cancellation of Notice of Lis Pendens.* Any Code Enforcement officer may cancel the notice of Lis pendens upon a determination by the Code Enforcement officer that the property fully complies with Title 15, Chapter 141, "Minimum Housing Code" or if the enforcement action is settled, discontinued or abated. Cancellation of the notice of Lis pendens must be made in a writing signed by the Code Enforcement officer and filed with the Clerk of Superior Court where the property is located.

(B) *Procedure after hearing.*

(1) After the notice and hearing, the Code Enforcement officer shall state in writing his or her determination whether the dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

(2) If the Code Enforcement officer determines that the dwelling or dwelling unit is deteriorated, he or she or she shall state in writing his or her findings of fact in support of the determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, and improve the

dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter or to vacate and close the dwelling within a specified period of time, not to exceed 90 days.

(3) If the Code Enforcement officer determines that the dwelling is dilapidated, he or she or she shall state in writing his or her findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either remove or demolish the same within a specified period of time, not to exceed 90 days.

(4) If the Code Enforcement officer determines that the dwelling or dwelling unit does not meet any of the requirements of sections 9-1-94 through 9-1-105 of this chapter but is not unfit for human habitation, then he or she shall state in writing his or her findings of fact in support of the determination and shall issue and cause to be served on the owner thereof an order directing and requiring the owner to repair, alter or improve the dwelling to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed 90 days.

*(C) Failure to comply with order.*

(1) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Code Enforcement officer to repair, alter or improve or to vacate or close the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the Code Enforcement officer to remove or demolish the same within the time specified therein, the Code Enforcement officer may submit to Town Council a resolution directing the Town Attorney to petition the Superior Court for an order directing the owner to comply with the order of the officer, as authorized by G.S. 160D-1208(d).

(2) *In rem remedy.* After failure of an owner of a deteriorated dwelling or of a dilapidated dwelling to comply with an order of the Code Enforcement officer within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding subsection (C)(1), the Code Enforcement officer shall submit to the Town Council an ordinance ordering the Code Enforcement officer to cause the dwelling or dwelling unit to be repaired, altered or improved, or vacated and closed or to be removed or demolished as provided in the original order of the Code Enforcement officer. The Code Enforcement officer may cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor, as provided by G.S. 160D-1203(4).

(3) *Civil penalty.* If the owner of a dwelling or dwelling unit determined not to comply with any of the minimum standards of fitness established by this chapter but not determined to be unfit for human habitation shall fail to comply with an order of the Code Enforcement officer to repair, alter or improve the same within the time specified therein, then the Code Enforcement officer may impose the civil fines authorized by section 141.28.

*(D) Appeals from orders of the Code Enforcement officer.*

(1) An appeal from any decision or order of the Code Enforcement officer may be taken by any person aggrieved thereby. Any appeal from the Code Enforcement officer shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the Code Enforcement officer and with the Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Code Enforcement officer shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When the appeal is from a decision of the Code Enforcement officer refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in force until modified or reversed. When any appeal is from a decision of the Code Enforcement officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Code Enforcement officer certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant) a suspension of his or her requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Code Enforcement officer, by the Board, or by a court of record upon petition made pursuant to G.S. 160D-1208(d) and subsection (E) of this section.

(2) The Board shall fix a reasonable time for the hearing of all appeals, shall give notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make the decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Code Enforcement officer, but the concurring vote of four-fifths of the members of the Board shall be necessary to reverse or modify any decision or order of the Code Enforcement officer. The Board shall have power also in passing upon appeals, in any case when practical difficulties or unnecessary hardships would result from carrying out the strict letter of this chapter, to adapt the application of the chapter to the necessities of the case to the end that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done.

(3) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(E) *Petition to Superior Court by owner.* Any person aggrieved by an order issued by the Code Enforcement officer or a decision rendered by the Board of Adjustment shall have the right within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Code Enforcement officer pending a final disposition of the cause, as provided by G.S. 160D-1208(d).

(F) *Additional notices to affordable housing organizations.* Whenever a determination is made pursuant to section 141.19 that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this subsection, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the public officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Code Enforcement officer or Town Clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition.

## **SECTION 141.20 VACATED AND CLOSED DWELLINGS.**

(A) If the Town Council shall have adopted an ordinance, or the Code Enforcement officer shall have issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in section 141.19, and if the owner has vacated and closed the dwelling and kept the dwelling vacated and closed for a period of six months pursuant to the ordinance or order, then if the Town Council shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the town in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this state, then in such circumstances, the Town Council may, after the expiration of the six-month period, enact an ordinance and serve the ordinance on the owner, setting forth the following:

(1) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding 50% of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or

(2) If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding 50% of the then current value of the structure, the ordinance shall require that the owner demolish and remove the structure within 90 days.

(B) An ordinance adopted pursuant to this section shall be recorded in the office of the Register of Deeds of Pitt County and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with that ordinance, the Code Enforcement officer shall effectuate the purpose of the ordinance. The cost

to repair or demolish and remove the dwelling shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have priority, and be collected in the same manner as the lien for special assessments established by G.S. Chapter 160A, Article 10.

#### **SECTION 141.21 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

(A) In accordance with G.S. 160D-1206, complaints or orders issued by the Code Enforcement officer under this chapter shall be served upon persons either personally or by registered or certified mail and, in conjunction therewith, may be served by regular mail. When the manner or service is by regular mail in conjunction with registered or certified mail, and the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after mailing, service shall be deemed sufficient. The person mailing the notice or order by regular mail shall certify that fact and the date thereof, and the certificate shall be conclusive in the absence of fraud.

(B) If the identities of any owner or the whereabouts of persons are unknown and cannot be ascertained by the Code Enforcement officer in the exercise of reasonable diligence, and the Code Enforcement officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under the provisions of this chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

#### **SECTION 141.22 IN REM ACTION BY THE CODE ENFORCEMENT OFFICER.**

After failure of an owner of a dwelling or dwelling unit to comply with an order of the Code Enforcement officer issued pursuant to the provisions of this chapter and upon adoption by the Town Council of an ordinance authorizing and directing him or her to do so, as provided by G.S. 160D-1203(6), Session Law 2005-200 and section 141.19 or section 141.20 of this chapter, the Code Enforcement officer shall proceed to cause the dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Town Council.

#### **SECTION 141.23 COSTS, A LIEN ON PREMISES.**

As provided by G.S. 160D-1203(7), the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Code Enforcement officer pursuant to section 141.19(C) or section 141.20 shall be a lien against the real property upon which the costs were incurred. The lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Chapter 160A, Article 10, of the North Carolina General Statutes.

#### **SECTION 141.24 FILING OF ORDINANCES.**

An ordinance adopted by Town Council pursuant to sections 141.19 and 141.20 of this chapter shall be recorded in the office of the Register of Deeds of Pitt County and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160D-1203(6).

#### **SECTION 141.25 ALTERNATIVE REMEDIES.**

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S. 160D-1203(4), and section 141.28 of this chapter, and the enforcement of any remedy provided herein or in other ordinances or laws.

#### **SECTION 141.26 BOARD OF ADJUSTMENT TO HEAR APPEALS.**

All appeals which may be taken from decisions or orders of the Code Enforcement officer pursuant to 141.19(D) of this chapter shall be heard and determined by the Board of Adjustment. As the appeals body, the Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and

any other rules and regulations which may be necessary for the proper discharge of its duties. In addition to its other duties as prescribed under this Title, and applicable State laws, the Board shall perform the duties prescribed

#### **SECTION 141.27 CONFLICT WITH OTHER PROVISIONS.**

In the event any provision standard or requirement of this chapter is found to be in conflict with any other ordinance or code of the town, the provisions which establish the higher standard or more stringent requirement for the promotion and protection of health and safety of the residents of the town shall prevail; provided, however, such provision, standard, or requirement shall be consistent with applicable State laws.

#### **SECTION 141.28 VIOLATIONS; PENALTY.**

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Code Enforcement officer duly made and served in accordance with the provisions of this chapter, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 141.19 of this chapter, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration, improvement, or its vacation and closing, and each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

(B) *Penalties.* A violation of this chapter may subject the violator to any or all of the following penalties:

(1) *Criminal.* The violation of any provisions of this chapter shall constitute a class 1 misdemeanor, as provided by G.S. 160D-1203(4).

(2) *Civil.*

(a) A violation of any of the provisions of this of this chapter shall subject the violator to a civil penalty by way of a civil ticket in an amount as follows:

1. *First violation.* A violation of an order issued by the Code Enforcement officer shall subject the violator to a civil penalty of \$100.

2. *Second violation within 365 days of the first violation.* A second violation of this section by the violator within 365 days from herein defined first violation shall subject the violator to a civil penalty of \$250.

3. *Third and subsequent violations within 365 days of the first violation.* A third violation and any subsequent violations of this section by the violator within 365 days from herein defined first violation shall subject the violator to a civil penalty of \$500 per violation.

(b) *Appeals; payment of civil penalty.* Whenever a citation has been issued for a violation of a provision of this chapter, the person who has been issued the citation may appeal the citation to the department head of the department which has issued the citation or the designee of the department head. The appeal shall be in writing, shall state the reason for the appeal, and shall be filed with the office of the department head within five calendar days of the issuance of the citation. The department head or designee shall conduct an informal hearing with the person appealing the citation and consider matters presented by the person appealing the citation. The department head or designee shall provide a written decision on the appeal to the person appealing the citation.

Unless appealed in accordance with this chapter, a civil penalty assessed for a violation of any provision of this section must be paid to and received by the Town's Financial Department within five business days from the date of issuance.

(c) *Methods of recovery of unpaid civil penalty.* Unless appealed in accordance with the appeal provisions of this chapter, if full payment for an assessed civil penalty is not timely received by Town's Finance Department, the town may recover the unpaid civil penalty by any or all of the following methods:

1. A civil action in the nature of a debt.

2. The use of a collections agency and the assessment of an administrative fee.
3. The use of the provisions of Chapter 105 A (The Setoff Debt Collection Act) and G.S. 18C-134.
4. Equitable remedies issued by a court of competent jurisdiction.
5. Any other method authorized by law to secure, collect, satisfy, or otherwise recover any civil penalty owed.

(3) *Separate offenses.* Each day's continuing violation shall be a separate and distinct offense.

(C) In addition to or in lieu of the other remedies provided by this chapter, any owner of a dwelling or dwelling unit that fails to comply with an order of the Code Enforcement officer within the time specified therein, shall be subject to a civil penalty in the amount of \$50 for the first offense, \$100 for the second offense in the calendar year, and \$250 for the third and subsequent offenses in the calendar year. Each subsequent offense after the third will be subject to a civil penalty of \$250. Each 30-day period or part thereof in which a violation is allowed to persist will constitute a separate and distinct offense.

## CHAPTER 142

### NONRESIDENTIAL BUILDING OR STRUCTURE CODE

#### SECTION 142.01 TITLE.

This chapter shall be known and may be cited and referred to as the “Nonresidential Building or Structure Code.”

#### SECTION 142.02 PURPOSE.

In order to protect the health, safety and welfare of the town and its citizens, it is the purpose of this chapter to establish minimum standards of maintenance, sanitation, and safety relating to nonresidential buildings or structures, as expressly authorized by G.S. 160D-1129. This chapter provides for the repair, closing or demolition of nonresidential buildings or structures as a result of a public necessity caused by conditions that are dangerous to the public health, safety, and welfare.

#### SECTION 142.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Basic structural elements.* The parts of a building which provide the principal strength, stability, integrity, shape and safety of the building, including but not limited to plates, studs, joists, rafters, stringers, stairs, sub-flooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, masonry and all other essential components.

*Building.* Any structure, place or any other construction built for the shelter or enclosure of persons, animals, chattels or property of any kind or any part of the structure, shelter, or property.

*Enforcement officer.* A town code enforcement officer, building inspector, fire code inspector, or other employee designated by the Town Manager to enforce the provisions of this chapter.

*Nonresidential.* Any building or structure or portion of a building or structure occupied or intended to be occupied, in whole or in part, for a use other than a dwelling, home, residing place, living space or sleeping space for one or more human beings, either permanently or transiently.

*Occupant.* Any person who is a tenant or has actual possession of a nonresidential building or structure or part thereof.

*Operator.* Any person who has charge, care or control of a nonresidential building or structure, or part thereof.

*Owner.* Any person who alone, or jointly, or severally with others:

(1) Shall have title in fee simple to any nonresidential building or structure, with or without accompanying actual possession thereof; or

(2) Shall have charge, care or control of any nonresidential building or structure as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any person thus representing the actual owner shall be bound to comply with the provisions of this chapter and of rules and regulations adopted pursuant thereto, to the same extent as if he or she or she were the owner.

*Parties in interest.* All individuals, associations and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

*Premises.* Any lot or parcel of land inclusive of any building or improvements located thereon.

*Safe.* A condition which is not likely to do harm to humans or to real or personal property.

*Structurally sound.* Substantially free from flaw, defect, decay, or deterioration to the extent that the building or structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.

*Structure.* Anything constructed or placed upon a property which is supported by the ground or which is supported by any other structure, except a currently operable licensed vehicle.

*Unsafe.* A condition which is reasonably likely to do harm to humans or to real or personal property if not corrected or stopped.

*Vacant industrial warehouse.* Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

*Vacant manufacturing facility.* Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

#### **SECTION 142.04 APPLICABILITY AND COMPLIANCE**

(A) The provisions of this chapter shall apply to all nonresidential buildings or structures which are now in existence or which may be built within the corporate limits of the town.

(B) Every nonresidential building or structure and the premises on which it is situated shall comply with the provisions of this chapter, whether or not the building or structure shall have been constructed, altered or repaired before or after the enactment of this chapter, and irrespective of any permits or licenses which have been issued for the use or occupancy of the building or structure or for the installment or repair of equipment or facilities. This chapter establishes minimum standards for all nonresidential buildings and structures and does not replace or modify standards otherwise established for the construction, repair, alteration or use of the building or structure, equipment or facilities contained therein.

#### **SECTION 142.05 MAINTENANCE STANDARDS FOR NONRESIDENTIAL BUILDINGS AND STRUCTURES.**

(A) All nonresidential buildings and structures shall be free of all conditions that are dangerous and injurious to the public health, safety and welfare of occupants or members of the general public.

(B) Without limitation of the foregoing requirement, the existence of any of the following conditions shall be deemed to be dangerous to the public health, safety and welfare for which a public necessity exists for the repair, closing or demolition of the building or structure and must be corrected in accordance with the provisions of this chapter:

(1) Interior walls, vertical studs, partitions, supporting members, sills, joists, rafters, or other basic structural members that list, lean, or buckle to such an extent as to render the building unsafe, that are rotted, deteriorated or damaged, and that have holes or cracks which might admit rodents;

(2) Exterior walls that are not structurally sound, free from defects and damages, and capable of bearing imposed loads safely. Where a wall of a building has become exposed as a result of demolition of adjacent buildings, the wall must have all doors, windows, vents, or other similar openings closed with material of the type comprising the wall. The exposed wall shall be painted, stuccoed or bricked and sufficiently weatherproofed to prevent deterioration of the wall;

(3) Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used. Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used. Roofs shall be kept structurally sound and shall be maintained in such a manner so as to prevent rain or other objects from penetrating into the interior of the building;

(4) Such damage by fire, wind, or other causes as to render the building unsafe;

(5) Dilapidation, decay, unsanitary conditions, or disrepair, which is dangerous to the health and safety of the occupants or members of the general public;

(6) Lack of adequate ventilation, light, heating, or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or members of the general public;

(7) Buildings and structures including their environs that have accumulations of garbage, trash, or rubbish, which creates health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary manner;

(8) Buildings and structures that have loose and insufficiently anchored overhanging objects, which constitute a danger of falling on persons or property;

(9) Buildings and structures including their environs that have insufficiently protected holes, excavations, breaks, projections, obstructions, and other such dangerous impediments on and around walks, driveways, parking lots, alleyways and other areas which are accessible to and generally used by persons on or around the premises;

(10) Buildings and structures that have cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic, or other dangerous objects or similar hazardous conditions. Exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration and repaired or replaced with like or similar material according to its original use;

(11) Buildings and structures that have objects and elements protruding from building walls or roofs, which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets, and similar objects;

(12) Chimneys, flues, and vent attachments thereto which are not structurally sound. Chimneys, flues, gas vents or other draft-producing equipment which are in use shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight, and capable of withstanding the action of flue gases;

(13) Exterior porches, landings, balconies, stairs, or fire escapes which are not structurally sound. All exterior porches, landings, balconies, stairs, and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept sound, in good repair and free of defects;

(14) Cornices which are not structurally sound. Rotten or weakened portions shall be repaired and/or replaced. All exposed wood shall be treated or painted;

(15) Improperly attached gutters or down-spouts that are located so as to cause a hazard to pedestrian, vehicular traffic, or adjacent property;

(16) Advertising sign structures, attached or freestanding awnings, marquees and their supporting members, and other similar attachments and structures that cause a safety hazard to the occupants or members of the general public;

(17) All exterior surfaces that may cause unsafe conditions due to a lack of maintenance. Exterior surfaces shall be painted or sealed in order to protect the underlying surface from deterioration. All exterior surfaces that have been painted shall be maintained generally free of peeling and flaking. Where 50% or more of the aggregate of any painted surface shall have peeling or flaking or previous paint worn away, the entire surface shall be repainted in order to prevent further deterioration;

(18) Windows containing broken or cracked glass that could be in danger of falling or shattering. All windows must be tight-fitting and have sashes of proper size and design and free from rotten wood, broken joints, or broken or loose mullions;

(19) All openings originally designed as windows, doors, loading docks or other means of egress or ingress which have been temporarily closed by boarding or other manner in a non-secure manner so as to allow unauthorized admittance. If an opening is temporarily closed by boarding to secure the building or structure, the

boarding shall be trim fit, sealed to prevent water intrusion, and painted or stained to properly conform with the other exterior portions of the building and the building or structure shall be maintained in a state that secures the building or structure from any unauthorized admittance from humans, animals or birds; and

(20) Any combination of conditions which in the judgment of the Enforcement Officer renders any building or structure dangerous or injurious to the health, safety or general welfare of occupants or members of the general public.

#### **SECTION 142.06 DUTIES OF THE ENFORCEMENT OFFICER.**

(A) The Enforcement Officer is hereby designated as the public officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed.

(B) It shall be the duty of the Enforcement Officer:

(1) To investigate the conditions of nonresidential buildings and structures in the town and to inspect nonresidential buildings and structures located in the town in order to determine which nonresidential buildings and structures are not being maintained so that the health and safety of its occupants or members of the general public are jeopardized, and for the purpose of carrying out the objectives of this chapter with respect to the nonresidential buildings and structures;

(2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effectuate the repair or demolition of nonresidential buildings and structures which have not been properly maintained in compliance with minimum standards established by this chapter;

(3) To keep a record of the results of inspections made under this chapter and an inventory of those nonresidential buildings and structures which have not been properly maintained in compliance with the minimum standards established by this chapter; and

(4) To perform such other duties as may be herein prescribed.

#### **SECTION 142.07 POWERS OF ENFORCEMENT OFFICER.**

The Enforcement Officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to others herein granted:

(A) To investigate nonresidential buildings and structures in the town to determine whether they have been properly maintained in compliance with the minimum standards established by this chapter so that the safety or health of the occupants or members of the general public are not jeopardized;

(B) To administer oaths and affirmations, examine witnesses and receive evidence;

(C) To enter upon premises for the purpose of making examinations and inspections, provided that the entries shall be made in accordance with law and in such manner as to cause the least possible inconvenience to the persons in possession; and

(D) To appoint and fix duties of such officers, agents and employees as the Enforcement Officer deems necessary to carry out the purposes of this chapter.

#### **SECTION 142.08 INSPECTIONS.**

(A) For the purpose of making inspections, the Enforcement Officer is hereby authorized to enter, examine, and survey, at all reasonable times, nonresidential buildings, and structures.

(B) If entry upon the premises for purposes of investigation is necessary, the entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant or other person legally in possession of the premises.

## **SECTION 142.09 PROCEDURE FOR ENFORCEMENT.**

(A) *Preliminary investigation.* Whenever it appears to the Enforcement Officer that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by this chapter, the Enforcement Officer shall undertake a preliminary investigation.

(B) *Complaint and hearing.* If the preliminary investigation discloses evidence of a violation of the minimum standards established by this chapter, the Enforcement Officer shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that a hearing will be held before the Enforcement Officer at a place therein fixed, not less than ten days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Enforcement Officer.

(C) *Procedure after hearing.*

(1) If, after notice and hearing, the Enforcement Officer determines that the nonresidential building or structure has been maintained in that the property meets the minimum standards established by this chapter, the Enforcement Officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof a copy of the determination.

(2) If, after notice and hearing, the Enforcement Officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by this chapter, the Enforcement Officer shall state, in writing, findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order in accordance with the provisions of subsections (C)(3) and (C)(4) of this section and subject to the limitations set forth in sections 142.10 and 142.11.

(3) If the Enforcement Officer determines that the cost of repair, alteration or improvement of the building or structure would not exceed 50% of its then current value, then the Enforcement Officer shall state in writing the findings of fact in support of the determination and issue an order that requires the owner, within a reasonable time specified in the order, to either: repair, alter or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by this chapter; or vacate and close the nonresidential building or structure for any use.

(4) If the Enforcement Officer determines that the cost of repair, alteration or improvement of the building or structure would exceed 50% of its then current value, then the Enforcement Officer shall state in writing the findings of fact in support of the determination and issue an order that requires the owner, within a reasonable time specified in the order, to either: remove or demolish the nonresidential building or structure; or repair, alter or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this chapter.

(D) *Failure to comply with order and ordinances.*

(1) If the owner fails to comply with an order to either repair, alter or improve the nonresidential building or structure, or vacate and close the nonresidential building or structure, the Enforcement Officer shall submit to the Town Council an ordinance ordering the Enforcement Officer to cause the nonresidential building or structure to be repaired, altered or improved in order to bring it into compliance with the minimum standards established by this chapter or to be vacated and closed for any use. The property shall be described in the ordinance. If Town Council adopts the ordinance, the Enforcement Officer shall cause the building or structure to be vacated and closed for any use.

(2) If the owner fails to comply with an order to either: remove or demolish the nonresidential building or structure; or repair, alter or improve the nonresidential building or structure, the Enforcement Officer shall submit to the Town Council an ordinance ordering the Enforcement Officer to cause the nonresidential building or

structure to be removed or demolished. No ordinance shall be adopted to require removal or demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the Town Council. The property shall be described in the ordinance. If Town Council adopts the ordinance, the Enforcement Officer shall cause the building or structure to be removed or demolished.

**SEC. 142.10 LIMITATIONS ON ORDERS AND ORDINANCES; HISTORIC LANDMARK OR HISTORIC DISTRICT.**

Notwithstanding any other provision of this chapter, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the Town Council determines, after a public hearing, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, an order issued by the Enforcement Officer pursuant to section 142.09(C) and an ordinance approved by Town Council pursuant to section 142.09(C) may only require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this chapter.

**SECTION 142.11 LIMITATIONS ON ORDERS AND ORDINANCES; VACANT MANUFACTURING FACILITY OR VACANT INDUSTRIAL WAREHOUSE.**

Notwithstanding any other provision of this chapter, an order issued by the Enforcement Officer pursuant to section 142.09(C) and an ordinance approved by Town Council pursuant to section 142.09(D) may not require repairs, alterations or improvements to be made to a vacant manufacturing facility or a vacant industrial warehouse to preserve the original use. The order and ordinance may require the building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

**SECTION 142.12 VACATED AND CLOSED NONRESIDENTIAL BUILDINGS OR STRUCTURES.**

(A) If the Town Council has adopted an ordinance or the Enforcement Officer has issued an order requiring the building or structure to be repaired, altered or improved, or vacated and closed, and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, then if the Town Council finds that the owner has abandoned the intent and purpose to repair, alter or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety and welfare of the town in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area, then Town Council may, after the expiration of the two-year period, adopt an ordinance and serve the ordinance on the owner, setting forth the following:

(1) The ordinance shall require that the owner either demolish and remove the nonresidential building or structure within 90 days, or repair, alter, or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this chapter within 90 days.

(2) The ordinance shall require that if the owner does not either demolish and remove the nonresidential building or structure within 90 days, or repair, alter or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this chapter within 90 days, then the officer shall demolish and remove the nonresidential building or structure.

(B) In the case of a vacant manufacturing facility or a vacant industrial warehouse, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before Town Council may take action under this section.

(C) If the owner fails to comply with the requirements of the ordinance within 90 days, the Enforcement Officer shall demolish and remove the nonresidential building or structure.

### **SECTION 142.13 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

(A) In accordance with G.S. 160D-1129(h), complaints or orders issued by the Enforcement Officer under this chapter shall be served upon persons either personally or by certified mail, so long as the means used are reasonably designed to achieve actual notice. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. When the manner of service is by regular mail in conjunction with certified mail, and the certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after mailing, service shall be deemed sufficient. The person mailing the complaint or order by regular mail shall certify that fact and the date thereof, and the certificate shall be conclusive in the absence of fraud. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(B) If the identities of any owner or the whereabouts of persons are unknown and cannot be ascertained by the Enforcement Officer in the exercise of reasonable diligence, and the Enforcement Officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under the provisions of this chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

### **SECTION 142.14 IN REM ACTION BY THE ENFORCEMENT OFFICER.**

After failure of an owner of a nonresidential building or structure to comply with an order of the Enforcement Officer issued pursuant to the provisions of this chapter and upon adoption by the Town Council of an ordinance authorizing and directing the owner to do so, as provided by G.S. 160D-1129(f) and section 142.09(D) of this chapter, the Enforcement Officer shall proceed to cause the nonresidential building or structure to be repaired, altered or improved to comply with the minimum standards established by this chapter, or to be vacated and closed or to be removed or demolished, as directed by the ordinance of the Town Council. The Enforcement Officer may cause to be posted on the main entrance of any nonresidential building or structure which is to be vacated and closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 1 misdemeanor, as provided by G.S. 160D-1124.

### **SECTION 142.15 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

(A) As provided by G.S. 160D-1129(i), the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Enforcement Officer pursuant to section 142.09(D) or section 142.12 shall be a lien against the real property upon which the costs were incurred. The lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Chapter 160A, Article 10. The amount of the costs shall also be a lien on any other real property of the owner located within the town limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(B) If the nonresidential building or structure is removed or demolished by the Enforcement Officer, the Enforcement Officer shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition. Any balance remaining shall be deposited in the Superior Court by the Enforcement Officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing body to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

### **SECTION 142.16 EJECTMENT.**

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the Enforcement Officer may file a civil action in the name of the town to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties' defendant any

person occupying the nonresidential building or structure. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the Enforcement Officer produces a certified copy of an ordinance adopted by the Town Council pursuant to G.S. 160D-1129(f) and section 142.09(D) to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the Town Council has ordered the Enforcement Officer to proceed to exercise his or her duties under G.S. 160D-1129(f) and section 142.09(D) to vacate and close or remove and demolish the nonresidential building or structure.

#### **SECTION 142.17 FILING OF ORDINANCES.**

An ordinance adopted by Town Council pursuant to section 142.09(D) or section 142.12 of this chapter shall be recorded in the office of the Register of Deeds of Pitt County and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160D-1129(f) and (g).

#### **SECTION 142.18 ALTERNATIVE REMEDIES.**

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S. 160D-1120 and section 142.22 of this chapter, and the enforcement of any remedy provided herein or in other ordinances or laws.

#### **SECTION 142.19 BOARD OF ADJUSTMENT TO HEAR APPEALS.**

(A) All appeals which may be taken from decisions or orders of the Enforcement Officer pursuant to this chapter shall be heard and determined by the Board of Adjustment. As the appeals body, the Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties.

(B) Appeals shall be subject to the following:

(1) An appeal from any decision or order of the Enforcement Officer may be taken by any person aggrieved thereby, and otherwise entitled to bring an appeal under applicable State law. Any appeal from the Enforcement Officer shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the Enforcement Officer and with the Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Enforcement Officer shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When the appeal is from a decision of the Enforcement Officer refusing to allow the person aggrieved thereby to do any act, the Enforcement Officer's decision shall remain in force until modified or reversed. When any appeal is from a decision of the Enforcement Officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Enforcement Officer certifies to the Board, after the notice of appeal is filed, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant) a suspension of the requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Enforcement Officer, by the Board, or by a court of record upon petition made pursuant to G.S. 160D-1208(d) and section 142.20.

(2) The Board shall fix a reasonable time for the hearing of all appeals, shall give notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The

Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Enforcement Officer, but the concurring vote of four-fifths of the members of the Board shall be necessary to reverse or modify any decision or order of the Enforcement Officer. The Board shall have power also in passing upon appeals, in any case when practical difficulties or unnecessary hardships would result from carrying out the strict letter of this chapter, to adapt the application of the chapter to the necessities of the case to the end that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done.

(C) Every decision of the Board shall be subject to review by the Superior Court by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

#### **SECTION 142.20 TEMPORARY INJUNCTION REMEDY FOR AGGRIEVED PERSON.**

Any person aggrieved by an order issued by the Enforcement Officer or a decision rendered by the Board of Adjustment shall have the right within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Enforcement Officer pending a final disposition of the cause, as provided by G.S. 160D-1208(d).

#### **SECTION 142.21 CONFLICT WITH OTHER PROVISIONS.**

In the event any provision standard, or requirement of this chapter is found to be in conflict with any other ordinance or code of the town, the provisions which establishes the higher standard or more stringent requirement for the promotion and protection of health and safety of the citizens of the town shall prevail.

#### **SECTION 142.22 VIOLATIONS; PENALTY.**

(A) It shall be unlawful for the owner of any nonresidential building or structure to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the Enforcement Officer duly made and served in accordance with the provisions of this chapter, within the time specified in the order, and each day that any such failure, neglect, or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any nonresidential building or structure, with respect to which an order has been issued pursuant to section 142.09(C) of this chapter, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration, improvement, or its vacation and closing, and each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

(B) *Penalties.* A violation of this chapter may subject the violator to any or all of the following penalties:

(1) *Criminal.* The violation of any provisions of this chapter shall constitute a class 1 misdemeanor, as provided by G.S. 160D-1124.

(2) *Civil.*

(a) A violation of any of the provisions of this of this chapter shall subject the violator to a civil penalty by way of a civil ticket in an amount as follows:

1. *First violation.* A violation of an order issued by the Enforcement officer shall subject the violator to a civil penalty of \$100.

2. *Second violation within 365 days of the first violation.* A second violation of this section by the violator within 365 days from herein defined first violation shall subject the violator to a civil penalty of \$250.

3. *Third and subsequent violations within 365 days of the first violation.* A third violation and any subsequent violations of this section by the violator within 365 days from herein defined first violation shall subject the violator to a civil penalty of \$500 per violation.

(b) *Appeals; payment of civil penalty.* Whenever a citation has been issued for a violation of a provision of this chapter, the person who has been issued the citation may appeal the citation to the department head of the

department which has issued the citation or the designee of the department head. The appeal shall be in writing, shall state the reason for the appeal, and shall be filed with the office of the department head within five calendar days of the issuance of the citation. The department head or designee shall conduct an informal hearing with the person appealing the citation and consider matters presented by the person appealing the citation. The department head or designee shall provide a written decision on the appeal to the person appealing the citation.

Unless appealed in accordance with this chapter, a civil penalty assessed for a violation of any provision of this section must be paid to and received by the Town's Financial Department within five business days from the date of issuance.

(c) *Methods of recovery of unpaid civil penalty.* Unless appealed in accordance with the appeal provisions of this chapter, if full payment for an assessed civil penalty is not timely received by Town's Finance Department, the town may recover the unpaid civil penalty by any or all of the following methods:

1. A civil action in the nature of a debt.
2. The use of a collection's agency and the assessment of an administrative fee.
3. The use of the provisions of Chapter 105 A (The Setoff Debt Collection Act) and G.S. § 18C-134.
4. Equitable remedies issued by a court of competent jurisdiction.
5. Any other method authorized by law to secure, collect, satisfy, or otherwise recover any civil penalty owed.

(3) *Separate offenses.* Each day's continuing violation shall be a separate and distinct offense.

## **CHAPTER 143**

### **REPAIR, CLOSING OR DEMOLITION OF ABANDONED STRUCTURES**

#### **SECTION 143.01 FINDING; INTENT.**

It is hereby found that there exist within the town abandoned structures which the Town Council finds to be hazardous to the health, safety and welfare of the residents of the town due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. Therefore, pursuant to the authority granted by G.S. 160D-1201, it is the intent of this chapter to provide for the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation.

#### **SECTION 143.02 DUTIES OF CODE ENFORCEMENT OFFICER.**

The Code Enforcement officer is hereby designated as the town officer to enforce the provisions of this chapter. It shall be the duty of the Code Enforcement officer:

- (A) To locate abandoned structures within the town and determine which structures are in violation of this chapter;
- (B) To take such action pursuant to this chapter as may be necessary to provide for the repair, closing or demolition of the structures;
- (C) To keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this chapter; and
- (D) To perform such other duties as may be prescribed herein or assigned to him or her by the Town Council.

#### **SECTION 143.03 POWERS OF CODE ENFORCEMENT OFFICER.**

The Code Enforcement officer is authorized to exercise such powers as may be necessary to carry out the intent and provisions of this chapter, including the following powers in addition to others herein granted:

- (A) To investigate the conditions of buildings within the town in order to determine which structures are abandoned and in violation of this chapter;
- (B) To enter upon premises for the purpose of making inspections;
- (C) To administer oaths and affirmations, examine witnesses and receive evidence; and
- (D) To designate such other officers, agents, and employees of the town as he or she deems necessary to carry out the provisions of this chapter.

#### **SECTION 143.04 STANDARDS FOR ENFORCEMENT.**

(A) Every abandoned structure within the town shall be deemed in violation of this chapter whenever the structure constitutes a hazard to the health, safety, or welfare of the town citizens, as a result of:

- (1) The attraction of insects or rodents;
- (2) Conditions creating a fire hazard;
- (3) Dangerous conditions constituting a threat to children; or
- (4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) In making the preliminary determination of whether or not an abandoned structure is in violation of this chapter, the Code Enforcement officer may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

(1) Holes or cracks in the structure's floors, walls, ceilings, or roof which might attract or admit rodents and insects, or become breeding places for rodents and insects;

(2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects;

(3) Violations of the State Building Code, the State Electrical Code, or the Fire Prevention Code, which constitute a fire hazard in the structure;

(4) The collection of garbage, rubbish or combustible material which constitutes a fire hazard in the structure;

(5) The use of the structure or nearby grounds or facilities by children as a play area;

(6) Violations of the State Building Code which might result in danger to children using the structure or nearby grounds or facilities as a play area; and

(7) Repeated use of the structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking, or eating.

### **SECTION 143.05 PROCEDURE FOR ENFORCEMENT.**

(A) Preliminary investigation; notice; hearing. Whenever a petition is filed with the Code Enforcement officer by at least five residents of the town charging that any structure exists in violation of this chapter, or whenever it appears to the Code Enforcement officer, upon inspection, that any structure exists in violation hereof, he or she shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in the structure a complaint stating the charges and containing a notice that a hearing will be held before the Code Enforcement officer at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the structure. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Code Enforcement officer.

(1) Filing a Notice of Lis Pendens. After a Code Enforcement officer issues, a complaint and a notice of hearing or issues findings of fact and an order pursuant thereto, any Code Enforcement officer may file a notice of Lis pendens with the Clerk of Superior Court of the county where the property is located. A copy of the complaint and notice of hearing or a copy of the findings of fact and order shall be attached to the notice of Lis pendens. The notice of Lis pendens and a copy of the complaint and notice or findings of fact and order shall be indexed and cross-indexed in accordance with the indexing procedures of G.S. 1-117. From the date and time of indexing, the complaint and notice or findings of fact and order shall be binding upon the successors and assigns of the owners of and parties in interest in the building or dwelling at the time of filing. When the notice of Lis pendens is filed with the Clerk, it shall also be served on the owners and parties in interest in the building or dwelling, including any lienholders and tenants who may be determined by the exercise of reasonable diligence in accordance with G.S. 160D-1206 and the method of service procedures set forth in Title 15, Chapter 143, Section 143. 06 "Methods of Service of Complaints and Orders." The notice of Lis pendens shall remain in full force and effect until it is cancelled.

(2) Cancellation of Notice of Lis Pendens. Any Code Enforcement officer may cancel the notice of Lis pendens upon a determination by the Code Enforcement officer that the property fully complies with Title 15, Chapter 143 "Repair, Closing or Demolition of Abandoned Structures" or if the enforcement action is settled, discontinued or abated. Cancellation of the notice of Lis pendens must be made in a writing signed by the Code Enforcement officer and filed with the Clerk of Superior Court where the property is located.

(B) Procedure after hearing. After such notices and hearing, the Code Enforcement officer shall state in writing his or her determination whether the structure violates this chapter. If the Code Enforcement officer determines that the dwelling is in violation, he or she shall state in writing his or her findings of fact to support that determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the

owner to either repair, alter and improve the structure or else remove or demolish the same within specified period of time, not to exceed 90 days.

(C) Failure to comply with order.

(1) In personam remedy. If the owner of any structure shall fail to comply with an order of the Code Enforcement officer within the time specified therein, the Code Enforcement officer may submit to the Town Council at its next regular meeting a resolution directing the Town Attorney to petition the Superior Court for an order directing the owner to comply with the order of the Code Enforcement officer, as authorized by G.S. 160D-1208(d).

(2) In rem remedy. After failure of an owner of a structure to comply with an order of the Code Enforcement officer within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding subsection (C)(1), the Code Enforcement officer shall submit to the Town Council an ordinance ordering the Code Enforcement officer to cause the structure to be removed or demolished, as provided in the original order of the Code Enforcement officer and pending the removal or demolition, to placard the dwelling as provided by G.S. 160D-1203.

(D) Petition to Superior Court by owner. Any person aggrieved by an order issued by the Code Enforcement officer shall have the right, within 30 days after issuance of the order, to petition the Superior Court for a temporary injunction restraining the Code Enforcement officer pending a final disposition of the cause, as provided by G.S. 160D-1208(d).

#### **SECTION 143.06 VACATED AND CLOSED STRUCTURES.**

(A) If the Town Council shall have adopted an ordinance, or the Code Enforcement officer shall have issued an order, ordering an abandoned structure to be repaired, altered, or improved as provided in section 143.04, and if the owner has vacated and closed the structure and kept the structure vacated and closed for a period of six months pursuant to the ordinance or order, then if the Town Council shall find that the owner has abandoned the intent and purpose to repair, alter or improve the structure and that the continuation of the structure in its vacated and closed status would be inimical to the health, safety, morals and welfare of the town in that the structure would continue to deteriorate, and would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, and would cause or contribute to blight and the deterioration of property values in the area, then in such circumstances, the Town Council may, after the expiration of the six-month period, enact an ordinance and serve the ordinance on the owner, setting forth the following:

(1) If it is determined that the repair of the structure can be made at a cost not exceeding 50% of the then current value of the structure, the ordinance shall require that the owner either repair or demolish and remove the structure within 90 days; or

(2) If it is determined that the repair of the structure cannot be made at a cost not exceeding 50% of the then current value of the structure, the ordinance shall require that the owner demolish and remove the structure within 90 days.

(B) An ordinance adopted pursuant to this section shall be recorded in the office of the Register of Deeds of Pitt County and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with that ordinance, the Code Enforcement officer shall effectuate the purpose of the ordinance. The cost to repair or demolish and remove the dwelling shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have priority, and be collected in the same manner as the lien for special assessments established by G.S. Chapter 160A, Article 10.

#### **SECTION 143.07 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

(A) Complaints and orders issued by the Code Enforcement officer under this ~~article~~ chapter shall be served upon persons either personally or by registered or certified mail and, in conjunction therewith, may be served by regular mail. When the manner of service is by regular mail in conjunction with registered or certified mail, and the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office

within ten days after mailing, service shall be deemed sufficient. The person mailing the notice or order by regular mail shall certify that fact and the date thereof, and the certificate shall be conclusive in the absence of fraud.

(B) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Code Enforcement officer in the exercise of reasonable diligence, and the Code Enforcement officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under the provisions of this chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

Statutory reference: Service of complaints and orders, see G.S. 160D-1206

#### **SECTION 143.08 IN REM ACTION BY CODE ENFORCEMENT OFFICER; PLACARDING.**

(A) After failure of an owner of a structure to comply with an order of the Code Enforcement officer issued pursuant to the provisions of this chapter, and upon adoption by the Town Council of an ordinance authorizing and directing him or her to do so, as provided by G.S. 160D-1203(5), Session Law 2005-200, and section 143.04(C) of this chapter, the Code Enforcement officer shall proceed to cause the structure to be removed or demolished, as directed by the ordinance of the Town Council and shall cause to be posted on the main entrance of the structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor, as provided by G.S. 160D-1203(4).

(B) Each such ordinance shall be recorded in the office of the Register of Deeds of Pitt County, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160D-1203(6).

#### **SECTION 143.09 COSTS; A LIEN ON PREMISES.**

As provided by G.S. 160D-1203(7), the amount of the cost of any removal or demolition caused to be made or done by the Code Enforcement officer pursuant to this chapter shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Chapter 160A, Article 10.

#### **SECTION 143.10 ALTERNATIVE REMEDIES.**

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

**CHAPTER 144**

**CLOSING OR SECURING VACATED AND CLOSED BUILDINGS**

**SECTION 144.01 APPLICABILITY.**

The provisions of this section shall apply to the following:

(A) Abandoned structures which are being vacated and closed as a result of an order by the Code Enforcement officer or an ordinance adopted by Town Council pursuant to the abandoned structure provisions of Chapter 143;

(B) Dwellings which are being vacated and closed as a result of an order by the Code Enforcement officer or an ordinance adopted by Town Council pursuant to the Minimum Housing Code provisions of Chapter 141;

(C) Nonresidential buildings or structures which are being vacated and closed as a result of an order by the Code Enforcement officer or an ordinance adopted by Town Council pursuant to the Nonresidential Building or Structure Code provisions of Chapter 142; and

**SECTION 144.02 STANDARDS.**

(A) When a building or structure subject to the provisions of this chapter is closed or secured, all openings to be boarded shall be covered in one piece of wood, cut to size to fit and secured by screws no less than three inches in length. Broken windows must be either completely repaired or securely boarded.

(B) After a building or structure subject to the provisions of this section is closed or secured, the owner or manager of the building or structure shall remain responsible for compliance with maintenance of the exterior including the grounds and for interior safety including preventing access to the interior during the period of closure.

**SECTION 144.03 PENALTY.**

Any violation of the provisions of this chapter shall subject the offender to a civil penalty in the amount of \$25. Each day that any violation continues shall be considered a separate offense for the purpose of the penalty. Violators shall be issued a written citation, which must be paid within 72 hours. If the person fails to pay the civil penalty within 72 hours, the town may recover the penalty including all costs and attorney's fees by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

Adopted this the 13<sup>th</sup> day of May 2024.

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Richard E. Hines, Mayor

ATTEST:

---

Donald Harvey, Town Clerk

**Notice of Public Hearing  
Town of Winterville**

NOTICE IS HEREBY GIVEN that the Winterville Town Council will meet on Monday, May 13, 2024 at 6:00 pm in the Town Hall Assembly Room at 2571 Railroad Street, to consider the following:

Amend Title XV: Land Usage of the Town of Winterville Code of Ordinances.

Copies of the Ordinance and Amendments are on file at the Inspections / GIS Department Office in the Town Hall and are available for public inspection by contacting [evan.johnston@wintervillenc.com](mailto:evan.johnston@wintervillenc.com) or the Winterville Inspections / GIS Department at (252) 756-2221; ext. 2419 or at [www.wintervillenc.com](http://www.wintervillenc.com).

The meeting is open to the public and will be available electronically. The public is encouraged to attend the meeting or watch the meeting live on YouTube ([www.wintervillenc.com/videos](http://www.wintervillenc.com/videos)). Persons having an interest in this matter and desiring to speak either for or against are encouraged to submit comments in writing prior to the meeting to [evan.johnston@wintervillenc.com](mailto:evan.johnston@wintervillenc.com)

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**Notes to Publisher:**

Legal Advertisements  
[legals@apgenc.com](mailto:legals@apgenc.com)  
(252) 329-9521

Subject: Winterville Public Hearing – Amend Title XV: Land Usage of the Town of Winterville Code of Ordinances.

Please place the above legal advertisement in the Daily Reflector on Wednesday, May 1, 2024 and Wednesday, May 8, 2024. Should you have any questions please contact me.

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

Thanks,

Donald Harvey, NCCMC  
Town Clerk  
Town of Winterville  
2571 Railroad Street/PO Box 1459  
Winterville, NC 28590  
(252) 756-2221 ext. 2344– Phone  
[don.harvey@wintervillenc.com](mailto:don.harvey@wintervillenc.com)



# TOWN OF WINTERVILLE PUBLIC COMMENT APPLICATION

Name of Applicant: Rebecca Caveness

Date: 5/13/2024  
~~XXXXXX~~

Address: 2214 Papa's Place, Greenville

Phone: 902-7898

Town Council Meeting Date Requesting to Provide Comment:

~~XXXXXXXX~~ 5/13/2024

Description of the item(s) to be presented to the Town Council Members. Please be specific.

Watermelon Festival board speaking on 2024 events to presenting ask for this year's grant.

Name(s) of Speaker(s):

- (1) Heather Jackson, Watermelon Fest Chair
- (2) Rebecca Caveness, Watermelon Fest president
- (3) \_\_\_\_\_

My signature below acknowledges that I have read the Town of Winterville Public Comment Policy. I agree that as applicant, the speaker(s) named above shall adhere to the Public Comment Policy of the Town of Winterville.

Reb C  
Signature



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Consent Agenda

**Meeting Date:** May 13, 2024

**Presenter:** Donald Harvey, Town Clerk

**Item to be Considered**

**Subject:** Council Meeting Minutes.

**Action Requested:** Approval of Minutes.

**Attachment:** Draft Minutes of the Council meetings listed below.

**Prepared By:** Donald Harvey, Town Clerk

**Date:** 5/1/2024

**ABSTRACT ROUTING:**

TC: 5/2/2024

TM: 5/2/2024

Final: tlp - 5/2/2024

**Supporting Documentation**

Approval of the following set of Council Meeting Minutes:

- ❖ April 8, 2023 Regular Meeting Minutes.

**Budgetary Impact:** NA.

**Recommendation:** Approval of Minutes.



**WINTERVILLE TOWN COUNCIL  
MONDAY, APRIL 8, 2024 – 6:00 PM  
REGULAR MEETING MINUTES**

The Winterville Town Council met in a Regular Meeting on the above date at 6:00 PM in the Town Hall Assembly Room, with Mayor Richard E. Hines presiding. The following were present:

Richard E. Hines, Mayor  
Brandy Harrell, Mayor Pro Tem  
Shantel Hawkins, Councilwoman  
Johnny Moye, Councilman  
Veronica W. Roberson, Councilwoman  
Lisa Smith, Councilwoman  
Keen Lassiter, Town Attorney  
Terri L. Parker, Town Manager  
Anthony Bowers, Assistant Town Manager  
Chris Williams, Interim Police Chief  
David Moore, Fire Chief  
Cliff McGuffin, Public Works Director  
Ron Mills, Interim Electric Director  
Jessica Manning, Finance Director  
Evan Johnston, Building Inspector/Code Enforcement Officer  
Diane White, Parks and Recreation Director  
Stephen Penn, Planning and Economic Development Director  
Angela Fuller, Human Resource Director  
Donald Harvey, Town Clerk

**CALL TO ORDER:** Mayor Hines called the meeting to order.

**INVOCATION:** Councilwoman Smith gave the Invocation.

**PLEDGE OF ALLEGIANCE:** Mayor Hines led everyone in the Pledge of Allegiance.

**WELCOME:** Mayor Hines welcomed the public.

**ROLL CALL:** All members in attendance.

**APPROVAL OF AGENDA:**

Town Manager Parker requested noted the amendment to the Agenda.

**Motion made by Councilwoman Smith and seconded by Mayor Pro Tem Harrell to approve the amended agenda. Motion carried unanimously, 5-0.**

**PROCLAMATIONS:** Town Clerk Harvey noted the following Proclamation.

1. Spring Litter Sweep Proclamation.



**PROCLAMATION**  
**SPRING LITTER SWEEP WEEK - APRIL 13-27, 2024**

**WHEREAS**, the Town of Winterville is rich in beauty and natural resources; and

**WHEREAS**, the Town Council of the Town of Winterville strives to improve the quality of life in our community through enhanced community awareness, education, and the collaboration of public and private partnerships to work on projects that keep our environment clean and free of debris, beautify our neighborhoods and public spaces, and instill pride and a sense of ownership in our community; and

**WHEREAS**, citizens of Winterville realize a cleanup effort is needed to display pride in our community for ourselves, our visitors, and for business prospects; and

**WHEREAS**, all people, regardless of race, gender, income, or geography, have a moral right to a healthy, sustainable environment capable of economic growth; and

**WHEREAS**, the residents of the Town of Winterville have a citizenship responsibility to protect and care for the beauty and natural resources of Winterville, and a county-wide cleanup campaign will encourage individuals to participate in the improvement of their community's environment through the three main focus areas of litter prevention: waste reductions, recycling, and beautification; and

**NOW, THEREFORE**, I, Richard E. Hines, Mayor of the Town of Winterville hereby proclaim April 13-27, 2024 as Spring Litter Sweep Week and urge the residents of our community to participate in activities to commemorate this event and help make Winterville a more beautiful place to live, work, and play.

**IN WITNESS WHEREOF**, I do set my hand, and cause the seal of Winterville to be affixed this 8<sup>th</sup> day of April 2024.

\_\_\_\_\_  
Richard E. Hines, Mayor

**Attest:**

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

**PRESENTATIONS:**

1. Safe Routes to School Grant Presentation: Dr. Katherine Dale, Grant Coordinator:

Awarded a \$10,000 “mini grant” for improving street safety for youth (and the rest of our community!)



**Winterville**  
Anthony Bowers  
Stephen Penn  
Diane White  
Chief Williams  
Chief Moore

**NC DOT**  
Jeff Cabaniss  
Jeremy Stroud  
Len White  
Bill Cox

**National Center for SRTS**  
Nancy Pullen-Suefert  
Wes Kumfer  
Lauren Marchetti  
Alessandro Figuero

**Pitt County, GUAMPO, City of Greenville**  
Ellen Walston  
Kat Dale  
Eliud de Jesus  
Jeff Rashko  
Stacey Pigford



*An early win for this coalition – new crosswalks installed by NC DOT (three days after we requested them!)*

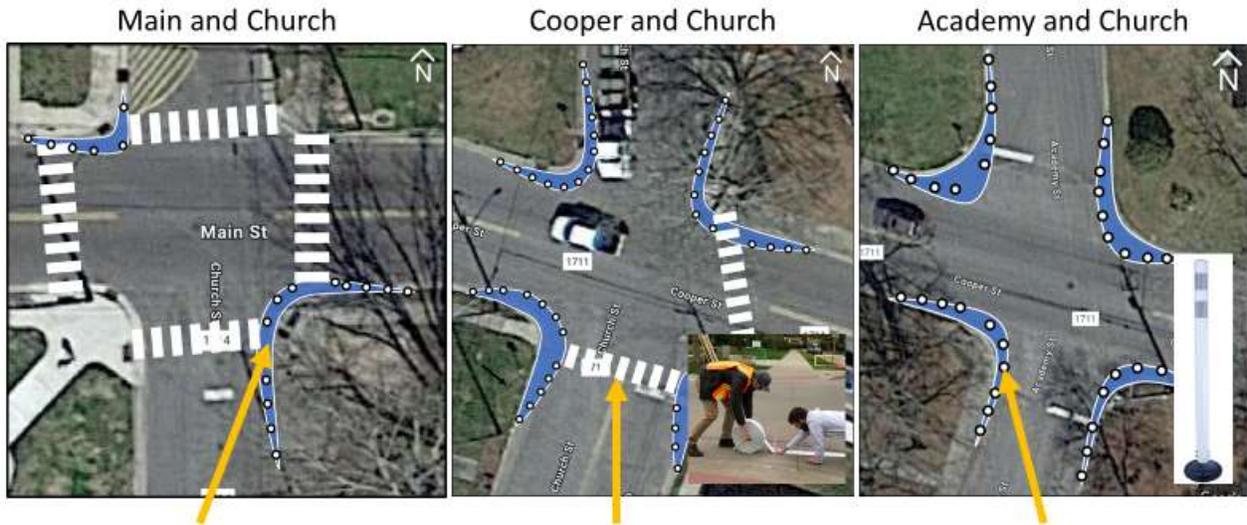


Temporary curb extensions and high-visibility crosswalks will be used to calm traffic.

**Curb extensions** decrease crossing distance, slow traffic, and make pedestrians more visible.

**High-visibility ladder-style crosswalks** remind drivers to watch for pedestrians.





**Blue paint and contractor tape** will be used to demarcate extensions (matching Winterville's aesthetic).

High-visibility, reflective crosswalks will be constructed out of **contractor-grade traffic tape**.

Flexible **delineator posts** adhered to surface will allow for straightforward removal.

## Timeline



## PUBLIC HEARINGS:

1. Ludie Ange Moore Family Partnership Rezoning. (Parcel 54421) - Planning and Economic Development Director Penn gave the request with the following presentation:

REZONING REQUEST  
“Ludie Ange Moore Family  
Partnership”  
Public Hearing  
PARCEL 54421

Presenter:  
Stephen Penn,  
Director of Planning & Economic Development



- Applicant: KPMEHRA, LLC.
- Location: 161 Vernon White Rd; North-east of Vernon White, Mill Street and Winterville Parkway Intersection.
- Parcel Numbers: 54421
- Site Data: 1.57 acres
- Current Zoning District: Agricultural Residential (AR)
- Proposed Zoning District: General Business (GB)



- Notification was posted on the site on February 7, 2024.
- Adjacent property owners were mailed notification of the rezoning request on February 7, 2024 to notify them of the request and P&Z Meeting.
- Adjacent Property owners were mailed notification of the Public Hearing on March 25, 2024 to notify them of the request and the Town Council Public Hearing.
- The rezoning's were published within the Daily Reflector on 3/27/24 and 4/3/24 to notify the public of the Town Council Public Hearing.





**FUTURE LAND USE CHARACTER AREAS**

- Conservation**  
 The 100-year floodplain is regulated in order to prevent loss of living flood. These areas are appropriate for outdoor recreation, agriculture / silviculture, and are otherwise predominantly unsuitable for development. This area also includes cemeteries.
- Rural Residential**  
 Very low density single family detached residential on very large lots in a rural setting. Generally less than 1 dwelling per acre, and almost always without sewer service. Industrial agricultural operations are still active in these locations.
- Suburban Residential**  
 Primarily the large lot, single family detached residential that many people love about the town's housing stock. Generally 2-3 dwelling units per acre, larger lots, with front- and side-loaded garages. Smaller lot sizes occasionally if minimum standards for open space and amenities are exceeded.
- Urban Neighborhood**  
 Primarily medium-sized lots with single family detached residential and occasionally smaller scale, attached multi-family townhomes and attached residential permitted if design criteria are met. Generally 3-6 dwellings per acre. Some on-site services, walkways, or offices encouraged at select locations with good access.
- Commercial Overlay**  
 Potential for small-scale commercial that is sensitive to existing residential development if good transportation access is possible.
- Neighborhood Center**  
 Controls appropriate commercial, retail, services, professional offices, and occasionally residential located at key locations and crossroads that serve the general neighborhood around them. Small lot residential or patio homes and/or attached residential could be part of land use mix.
- Mixed Use Center**  
 Mix of commercial, retail, restaurants, and service-oriented businesses, with a variety of residential options, including multi-family, townhomes, and upper story residential. Offices also potentially on upper floors. Walkable places with a pedestrian-focused "downtown" feel.
- Regional Center**  
 High- to medium-intensity commercial, retail and lodging uses that act as regional activity centers, with offices and residential potentially mixed in. Primarily auto-oriented destinations with national or regional businesses.
- Employment / Residential**  
 These areas could include office buildings, storage and flex uses, supporting commercial uses and/or medium to high-intensity residential uses.
- Office & Employment**  
 Large office buildings, manufacturing, distribution, and light- to medium-industrial uses, storage and flex uses, along with associated offices and supporting commercial uses.
- Institution or Park**  
 Community schools, the PFD Community College campus, town parks, and open space areas form a fabric that binds the community together. New institutional, civic, and open space uses are potentially allowed in any future land use category.

## FUTURE LAND USE CHARACTER AREA



### General Character

These larger, auto-oriented commercial areas serve a regional market, and are high-intensity shopping centers. With good design, they can provide a pleasant outdoor and indoor shopping experience that complements the surrounding community as a commercial/retail/service activity center.



### Uses

Commercial uses of a regional nature, including big box stores, chain restaurants, and other highway-oriented uses. Hotels and multi-family uses could also be appropriate.



### Buildings & Parking

Buildings set back from the street with landscaping and limited parking in front. More internal parking to the side or behind businesses.



### Streets & Connections

Vehicles prioritized with pedestrian facilities present. Secondary roads (off of the primary boulevard (NC 11)) lead to shared parking lots for large shopping centers. Greenway connections to other destinations.



Examples of Regional Centers

Regional Center

Typical Components	
Density	Up to 16 units per acre
Lot coverage	Medium to high
Building height	1.5-6 stories
Parking	Off-street, internal lots
Street pattern	Suburban grid
Right-of-way width	50'-60' with 70'-100' boulevards
Block length	500'-1000'
Drainage	Curb-and-gutter
Bicycle/Pedestrian	Sidewalks, internal walkways through parking areas
Civic Space	Limited, small plazas, patios, dining, greenway connections
Potential zoning	G-B, possibly D-1, I-C, C-N, or M-R



## RECOMMENDATIONS & IMPLEMENTATION

### Winterville's Land Use Goals:

#### Organizing Goals:

##### Primary Goals:

- Strengthen and Diversify the Economy
- Safe, Healthy Neighborhoods and Environment
- Activate Downtown

##### Supporting Goals:

- Create a town-wide identity
- Connectivity and Mobility

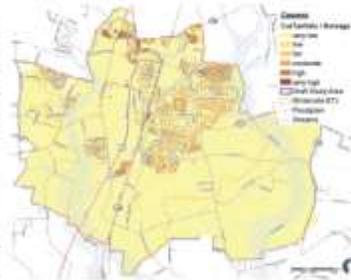
#### Policies and Strategies

- Policy 1:** Encourage a balanced tax base while managing growth.
  - Strategies**
  - 1.1:** Utilize the Future Land Use Map and character areas when considering land use decisions (i.e. development approvals and rezoning decisions) and infrastructure improvement priorities.
  - 1.2:** Encourage non-residential growth in the form of retail, restaurants, professional offices and industrial development

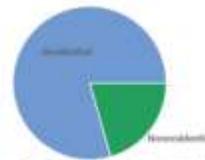
In areas designated as such on the Future Land Use Map.

#### 1.3: Encourage a logical progression of development and extension of utilities and discourage leap-frog development.

- "Leap frog development" is a term used for development that occurs far away from existing utilities in an area that is separated from existing development by undeveloped properties.
- The future land use map presents a view of the future many years from the current, and each rezoning should be considered on its own merits. It may be necessary to deny rezoning requests if they are premature or do not fit well with surrounding uses, even if the Future Land Use Map supports the rezoning.



Legend:  
 - Green: Town Center / Village  
 - Yellow: Office  
 - Orange: Retail  
 - Red: Industrial  
 - Blue: Medium Density Residential  
 - Light Blue: Single-Family Residential  
 - Dark Blue: High Density Residential  
 - Grey: Other  
 - Dashed line: Utility Lines  
 - Solid line: Major Road



Residential properties make up the bulk of the tax base (nearly 80%).

## Economic Development

#### Organizing Goals:

##### Primary Goals:

- Strengthen and Diversify the Economy
- Create a town-wide identity

##### Supporting Goals:

- Activate Downtown

#### Policies and Strategies

- Policy 1:** Continue to implement previous plans.
  - Strategies**
  - 1.1:** Continue to implement relevant recommendations from the adopted economic development plan.
    - Update the Economic Development Strategy periodically (typically every 5-6 years).
  - 1.2:** Continue to market the assets and opportunities of Winterville as stated in the adopted economic development plan.
  - 1.3:** Emphasize retail, office, light industrial and other commercial development

especially along Winterville Parkway and other appropriate areas.

#### Policy 2: Improve self-sufficiency and reduce retail leakage.

##### Strategies

- 2.1:** Support Winterville's transformation from a "bedroom community" to a "neighboring community" of Greenville.
  - The Economic Development Task Force recommended that Winterville grow into its own vibrant community with its own commercial and employment sectors. This will help the town become a self-sufficient community that recaptures retail leakage from nearby Greenville.
- 2.2:** Discourage rezonings to residential zoning districts in high visibility corners with good access and parcels within Office & Employment future land use areas.

#### Policy 3: Reinforce the Town's identity as a family-friendly community.

##### Strategies

- 3.1:** Support rezonings to residential uses in the Suburban Residential and Urban Neighborhood areas identified on the future land use map.
- 3.2:** Continue to support and promote



The majority of Winterville's residential growth has been and will likely be in the form of single family detached residential subdivisions.



Encouraging commercial development on sites with good transportation access will help balance the tax base and create a more self-sufficient community.

RECOMMENDATIONS & IMPLEMENTATION

family friendly events including the Christmas Parade and Tree Lighting, the Watermelon Festival, Summer Movie and Concert Series and other events.

Policy 4: Respond to recent and planned transportation improvements

Strategies

4.1: Encourage new commercial development at key intersections along Fortines Road and Fire Tower Road Extension.

- Capitalize on opportunities that will arise due to the Southwest Bypass and planned extension of Fire Tower Road.

4.2: Encourage new commercial and industrial businesses to locate along the Laurie Ellis Extension

Policy 5: Promote retirement-focused living

Strategies

5.1: Continue participation in the N.C. Department of Commerce's Certified Retirement Community Program

5.2: Remove barriers to and consider incentives for senior-friendly housing types in downtown and other appropriate locations

5.3: Recruit developers for individualy-owned patio homes and life care facilities

to broaden market offerings to appeal to the retirement age demographic.

5.4: Encourage alternative forms of transportation that are senior-friendly

- Improve pedestrian facilities
- Improve connections to transit service
- Encourage bicycle and golf cart usage
- Provide bicycle and golf cart parking at town owned facilities
- Consider incentives for bicycle and golf cart parking elsewhere

★ Policy 6: Focus on business recruitment, expansion and retention

Strategies

6.1: Recruit new national and local businesses to Regional Center future land use areas.

★ 6.2: Encourage and support local businesses, especially in expansion efforts.

6.3: Coordinate with Pitt Community College for expansions or other infrastructure needs.

- This might include facilities to support the college, such as hotels, better road connections or intersection realignments, pedestrian connections, etc.

6.4: Coordinate with Pitt County and neighboring community economic development efforts.



The number of Winterville residents age 40 to 70 grew by 35% between 2010 and 2016. Green maintenance patio homes and pocket neighborhoods may appeal to this demographic. Current zoning regulations could be modified to encourage the type of housing real developers and other appropriate investors.

**Pocket Neighborhoods**  
Langley, Washington adopted a new Cottage Housing Development option that allows for double the density of detached homes in address zones of homes from a green space and meet other design criteria. The image above is from a "pocket neighborhood" in Langley.

**Calls, Emails, Letters, & P&Z Comments/Concerns :**

- 2.7.24 Phone Call from an area resident- concerned about noise, development's affect on property value, and how development may affect traffic. Stated that they were neither for or against the rezoning but does have those concerns.
- 2.22.24 Phone call from area resident- concerned by congestion and traffic, noise, crime and safety, and property value.

**REZONING PROCESS:**

- Planning and Zoning Board reviewed rezoning at their February 19, 2024 meeting and unanimously recommended approval of the rezoning.
- The Public Hearing as be scheduled at the March Town Council Meeting.
- Town Council is holding a Public Hearing, tonight, 4/8/24 to consider the request.



**Recommendation:**

**Planning & Zoning:** Unanimously Recommended Approval.

**Staff:**

- The General Business (GB) rezoning request is consistent with the intent and purpose of the Zoning Ordinance, the Future Land Use Plan, and is compatible with the existing development and trends in the surrounding area.
- Staff recommends approval of the request to rezone 1.57 acres from AR to GB as it is consistent with the Comprehensive Land Use Plan.

Questions?



Councilwoman Roberson asked if we have the infrastructure needed. Planning and Economic Development Director Penn noted that we have the existing infrastructure needed.

Mayor Hines declared the public hearing open, asked if anyone would like to speak in opposition of the rezoning request. No one spoke.

Mayor Hines asked if anyone would like to speak in favor of the annexation/rezoning request.

Scott Anderson, engineer for the applicant spoke about combining parcels in the area and the infrastructure available.

Mayor Hines asked for any further discussion or any more questions. Hearing none what is Council's pleasure.

Planning and Economic Development Director Penn noted the special language to use for the motion.

Rezoning Voting Language for:

- Ludie Ange Moore Family Partnership Rezoning of Parcel Number 54421 from AR to GB..
  
- Motion Approving rezoning:
  - Approve GB Rezoning as it is “Consistent with the Winterville Comprehensive Plan, is reasonable, and in the public’s interest.”
  
- Motion Denying Rezoning:
  - Deny the GB Rezoning “After consideration of the Comprehensive Land Use Plan and other factors, this proposal is found to be unreasonable”; Explain why:
    - Possible Reasons (among other factors):
      - (1)The size, physical conditions, and other attributes of any areas proposed to be rezoned;
      - (2)The benefits and detriments to the landowners, the neighbors, and the surrounding community;
      - (3)The relationship between the current actual and permissible development and the development under the proposed amendment;
      - (4)Why the action taken is in the public interest; and
      - (5)Any changed conditions warranting the amendment. (NC GS 160D-605)

**Motion made by Councilwoman Smith and seconded by Councilman Moye to approve the . Ludie Ange Moore Family Partnership (Parcel Number 54421) Rezoning request from agricultural residential to general business as it is consistent with the Winterville Comprehensive Plan, is reasonable, and in the public’s interest. Motion carried unanimously, 5-0.**

**PUBLIC COMMENT:** Mayor Hines read the Public Comment Policy.

1. Rashana Carmon spoke saying she would like to thank the Council, and everyone involved for quickly addressing the concerns she brought up at the forum.
2. James G. Jones noted that Public Works Director McGuffin came out, someone was contacted to help, and they have not come out yet. Does the drainage flow correctly and have others been contacted for resources?

**CONSENT AGENDA:**

Items included in the Consent Agenda:

1. Approval of the following sets of Council Meeting Minutes:
  - February 26, 2024 Recycle/Solid Waste Work Session Minutes; and
  - March 7, 2024 Town Hall Meeting Minutes; and
  - March 11, 2024 Regular Meeting Minutes.
2. Retention Schedule Updates.
3. Eli’s Ridge Phase 5 Annexation Petition.
4. Resolution of Support for Old Tar Road - Vernon White Road All Way Stop.
5. Set Public Hearing for May 13, 2024 to Amend Title XV: Land Usage of the Town of Winterville Code of Ordinances.

**Motion made by Councilwoman Roberson and seconded by Mayor Pro Tem Harrell to approve the consent agenda Motion carried unanimously, 5-0.**

**OLD BUSINESS:**

1. Update on Human Relations Board: Town Manager Parker commented.

Councilwoman Hawkins asked the status of the 2 ladies appointed to the Board. Town Manager Parker outlined the status that one has decided not to be a member and one desires to continue involvement. Councilwoman Moye asked if we have applicants. Councilwoman Roberson suggested we meet with applicants that have shown interest. Town Clerk Harvey noted that we have 6 applicants on file. Mayor Hines expressed that we explain what the Board is, and the commitment required. Councilwoman Roberson noted that County struggled. Town Manager Parker said that the roles and responsibilities can be confusing. Mayor Hines noted that Council should not serve on Board. Councilwoman Roberson said we should look at the County Board. Mayor Hines said let citizens drive the train. Councilwoman Hawkins said we need to educate citizens on the role of the Board. Councilwoman Roberson as a liaison has guided well and wants to stay a part of the Board. Mayor Pro Tem Harrell asked how do we need to proceed. Town Attorney Lassiter said Staff is looking for direction, a motion would be in order. Councilwoman Roberson said she wants to move forward and bring the Board together.

**Motion made by Councilman Moye and seconded by Councilwoman Roberson to invite 6 candidates and meet to share the role of the board.**

Mayor Hines said things are improving in the Town. Councilwoman Roberson said we still have many bridges to cross. Councilwoman Hawkins read the Human Relations Board mission statement. Town Manager Parker asked who will spearhead the effort. Mayor Hines suggested the Town Manager. Mayor Pro Tem Harrell noted to get out the meaning and efforts. Town Manager Parker said Council can bring out the citizens' real voice.

**Motion carried unanimously, 5-0.**

**NEW BUSINESS:**

1. NCLM Voting Delegate for CityVision:

Town Clerk Harvey noted that the League Constitution provides that each member municipality is entitled to one vote. Designation of your town's voting delegate must be completed prior to April 12, 2024. Voting delegates will receive their credentials and voting instructions allowing them to cast electronic votes. Council needs to select voting delegate for the Town. The appointed voting delegate from each member municipality shall vote on the slate of candidates via electronic means between April 12 – April 19, 2024. During CityVision, held April 23-25 in Winston-Salem, League members will attend the annual business meeting where the 2024-2025 electronic Board of Directors election results will be announced. The Town is receiving this because each member municipality shall designate one voting delegate who is eligible to cast a single vote for the 2024-2025 League Board of Directors in advance of the annual business meeting.

**Motion made by Councilwoman Roberson and seconded by Mayor Pro Tem Harrell to nominate Mayor Hines as the Winterville voting delegate for 2024-2025 League Board of Directors election. Motion carried unanimously, 5-0.**

2. Solid Waste/Recycling Service and Rate Recommendations:

Assistant Town Manager Bowers noted that due to the recent problems with sanitation services and complaints from citizens, Staff held a workshop with the Council to discuss the issues on February 26, 2024. At this meeting, Staff presented several options to provide relief to the problems identified during that work session. At the conclusion of that meeting Councilman Moye asked Staff for our recommendation. After the meeting Staff had conversations with GFL and reviewed our significant financial losses. We are recommending that we renew our contract with GFL. They have agreed to make significant changes to their operations and our points of contact within the company. They were the low bid in the recent RFP by a significant margin.

**Recommendation is as follows:**

- Award Contract to GFL.
- Change Routes to 4 days a week with recycling and garbage being the same day.
- Reduce Recycling pickup from weekly to biweekly.
- Increase the sanitation rate to equal the minimum of surrounding communities. \$15.00 per month. This is a monthly increase in the amount of \$3.50. The sanitation contract increases by the CPI every year. So, this rate should be revisited in two years to address inflation. This monthly fee equates to \$2.33 per pick up. (less than a cup of coffee and is a real value).
- Only collect construction debris will be collected from homeowners for a fee of \$175 per load. Must be prepaid and with a one load minimum. This does not include work performed by contractors.
- Tires will be picked up for \$25 per tire if prepaid.
- Please keep in mind we are losing \$1.2 million per year in the Public Works.
- Budgetary Impact: Significant reduction in losses in the amount of \$260,000 per year; roughly 3 cents on the tax rate.

Councilwoman Moye asked what if resident leaves debris along the curb. Assistant Town Manager Bowers said we will take steps to see that it is removed. Councilwoman Moye asked what if GFL does not perform and is concerned about another increase. Assistant Town Manager Bowers said he feels confident that with commitments, they will perform. Mayor Hines said we are going backwards now; we have to move forward and not lose the money we have now. Town Manager Parker said the other bidder is most likely in line with other places. Councilwoman Smith noted with the current contractor are we confident they will perform. Mayor Pro Tem Harrell said going with existing contractor, we must be transparent with citizens that further increases could occur. Town Manager Parker we have been losing money for a long time, we have an obligation to the citizen. Councilwoman Hawkins noted historically we have had a problem with GFL, what about a staggered increase. Assistant Town Manager Bowers said staggered increase not considered, contract is separate, this affects losses the Town has made. Public Works Director McGuffin said this is only service that citizen get. Mayor Hines asked if the increase and Contract be on.

**Motion made by Councilwoman Smith and seconded by Mayor Pro Tem Harrell to approve the Solid Waste/Recycling Service and Rate Recommendations presented by staff. Motion carried, 3-2. Councilwoman Hawkins and Councilman Moye opposed.**

**3. Solid Waste Management Contract Recommendation:**

Assistant Town Manager Bowers noted that the Town received bids for sanitation on February 20, 2024. The Town held a required pre-bid conference and had three bidders attend. They were Republic Sanitation Services, GFL, and Waller Sanitation Services. We only received 2 bids with the final submittal. Contract changes include 4-day routes, Biweekly sanitation, lower rate, large scale can replacement of all old Waste Industries cans, and a performance bond to require services are being managed properly. GFL is also willing to agree to a 6-month probationary contract to allow for the changes to be made and ensure that we are getting the service we expect. The contract can be terminated at that point if terms are not being met. The agreement is for 3 years with the two-year annual renewal. Agreement will be signed upon approval of the contract by the Town attorney.

<b>Republic Proposal</b>	<u>Weekly GA and Rec</u>	<u>Weekly GA Biweekly Rec</u>
Solid Waste	\$ 13.45	\$ 13.45
Recycling	\$ 8.05	\$ 8.05
Combined Total	\$ 21.50	\$ 21.50

<b>GFL</b>	<u>Weekly GA and Rec</u>	<u>Weekly GA Biweekly Rec</u>
Solid Waste	\$ 7.95	\$ 7.95
Recycling	\$ 3.95	\$ 1.95
Combined Total	\$ 11.90	\$ 9.90

Councilwoman Moye asked what the terms of the contract are. Assistant Town Manager Bowers reiterated terms and noted the CPI increase.

**Motion made by Councilwoman Roberson and seconded by Mayor Pro Tem Harrell to approve the Solid Waste Management Contract Recommendation presented by Staff. Motion carried, 3-2. Councilwoman Hawkins and Councilman Moye opposed.**

4. 2023-2024 Audit Contract Award:

Finance Director Manning noted that each year the Town Council must approve the contract with the audit firm that it will use for its independent review of the Town’s Finances. The Town submitted a Request for Proposal for Audit Services on February 7, 2024. We received a response from Mauldin & Jenkins, LLC Certified Public Accountants in Raleigh, NC and Thompson, Price, Scott, Adams & Co, P.A. in Wilmington, NC. The audit contract fee proposed for the June 30, 2024 fiscal year audit was \$45,000 by Mauldin and Jenkins and \$43,000 by Thompson, Price, Scott, and Adams.

After careful review of both proposals, numerous reference checks, and conversations with the lead auditor for each firm; we believe that Mauldin & Jenkins, LLC in Raleigh, NC would be the best fit for the Town. Although their contract fee is slightly higher than the other firm’s proposal, we believe that Mauldin and Jenkins will best meet the expectations, needs of the Town, and bring forth a great deal of knowledge and experience. This contract would be a three-year contract for the fiscal year ending June 30, 2024 through June 30, 2026. The contract fee proposed is \$45,000 for 2024, an estimated \$47,000 for 2025, and an estimated \$49,000 for 2026.

Mauldin & Jenkins is nationally recognized and ranked in the Top 100 by various publications as one of the largest certified public accounting firms in the country. They audit more than 650 state and local governments across the Southeastern United States. The firm’s main goal is to ensure accurate information is reported to the governing board, management, and citizens; as well as to help governments improve their financial processes and strategies. We believe these goals match the goals and objectives of the Town; therefore, we are recommending Council to approve the Audit Contract with Mauldin and Jenkins, LLC. The Audit Contract is covered by the annual appropriation for audit services.

Mayor Hines asked what the nearest town is that they serve. Finance Director Manning noted New Bern.

**Motion made by Councilwoman Smith and seconded by Councilwoman Roberson to approve the 2023-2024 Audit Contract Award as presented by Staff. Motion carried unanimously, 5-0.**

**OTHER AGENDA ITEMS:**

1. All Alert System-Winterville Notification App/Method/Timeframe to Completion. (Councilwoman Hawkins):

Councilwoman Hawkins said this item keeps being brought up; want to see progress or stagnation, what is the status of item. Town Manager Parker said she is working with 2 companies, discussing

possibilities to have something up and running in the new fiscal year. Councilwoman Hawkins asked what it will look like. Town Manager Parker said she will keep Council abreast as status progresses.

2. Town-Based Transportation Update on Potential Resources. (Councilwoman Hawkins):

Councilwoman Hawkins asked with school safety pending, what is possibility of PATS bus or GREAT bus, and options for walking places. Mayor Hines noted we are raising rates on trash; how do we cover the cost of transportation. Councilwoman Hawkins said she did not want to vote on trash increase, lives on a street that has walking problems. Mayor Hines asked what a solution for transportation is. Councilwoman Hawkins said a route of GREAT bus not being used and contacted PATS and the rate is \$9 one-way and must make appointment. Councilwoman Hawkins asked Town Manager Parker about the GREAT bus. Town Manager Parker said it was the PATS bus and will reach out to other options if directed.

**Motion made by Councilwoman Hawkins and seconded by Councilman Moye for Town Manager Parker to explore and move forward with parameters , including PATS for transportation.**

Mayor Pro Tem Harrell asked do we need a motion for direction to move forward. Town Manager Parker said some items can be addressed without a motion. Councilwoman Hawkins asked is it just move forward. Mayor Hines said we will need to prioritize.

**Motion failed, 2-3. Mayor Pro Tem Harrell, Councilwoman Roberson, and Councilwoman Smith opposed.**

3. Water Drainage System-Site Visit by Council. (Councilwoman Hawkins):

Councilwoman Hawkins said older portions of the system not working. Would like to go to a site and visit a location with problems. Councilwoman Roberson asked has anyone shared the project with Councilwoman Hawkins. Town Manager Parker said Staff is happy to work with Councilwoman Hawkins and share what is in the works. Councilwoman Hawkins said she looks forward to setting up a time to look at a problem on her property. Public Works Director McGuffin explained drainage problems throughout the Town and additional issues. Councilwoman Smith noted that the Town has a mosquito control program. Assistant Town Manager Bowers explained the MS4 that requires cleaning out existing drainage and Stormwater AIA program to prioritize needed improvements. Councilwoman Hawkins asked about the mosquito program and notification. Assistant Town Manager Bowers said the Town has the equipment and is in the process of setting up the schedule. Councilwoman Moye noted he has been receiving the service.

4. Intersection Concerns-Update/Feedback from MPO. (Councilwoman Hawkins):

Town Manager Parker noted that Council approved the resolution to NCDOT. Councilwoman Hawkins asked what the timeframe is. Assistant Town Manager Bowers said that once it is approved, they will move forward.

5. Multipurpose Center-Collective Site Visit by Council/Staff. (Councilwoman Hawkins):

Councilwoman Hawkins asked what the next steps, the process, and timeframe. Town Manager Parker said Parks and Recreation Director White will address. Parks and Recreation Director White said an RFP for site and planning and masterplan will be out by end of April. Once ready, it will be sent out for proposers, then returned to Town. Site specific will entail public input, site specific details and master plan. Town Manager Parker said we will send out RFP's to get information to move forward. Parks and Recreation Director White said process will take up to 10 months, with PARTF application in May.

Mayor Hines asked does staff need direction. Councilwoman Hawkins noted timeframe is moving forward and in the right direction. Town Manager Parker said 1 year is a realistic time frame. Councilwoman Hawkins asked how we will be updated. Town Manager Parker said monthly and quarterly report as the process dictates.

**ITEMS FOR FUTURE AGENDA/FUTURE WORK SESSIONS:**

None

**REPORTS FROM DEPARTMENT HEADS:**

Mayor Hines asked, due to time, that the Staff reports be tabled to next month.

**ANNOUNCEMENTS:** Town Clerk Harvey gave the following announcements:

- April Newsletter Information Due: Monday, April 8, 2024.
- NCLM Town and State Dinner: From Jones Street to Main Street: Wednesday, April 10, 2024; 5:15 - 8:00 pm - The Firehouse, 109 E Ash Street, Goldsboro, NC 27530.
- Planning and Zoning Board Meeting: Monday, April 15, 2024 @ 7:00 pm - Town Hall Assembly Room.
- Board of Adjustment Meeting: Tuesday, April 16, 2024 @ 7:00 pm; - Town Hall Assembly Room.
- Coffee with a Cop: Friday, April 19, 2024; 9:00 am - 10:30 am; Community Room.
- NCLM 2024 CityVision: Tuesday, April 23 – Thursday, April 25, 2024 – Winston-Salem, NC.
- Recreation Advisory Board: Tuesday, April 23, 2024 @ 6:30 pm – Operation Center.
- Human Relations Board Meeting: Thursday, April 25, 2024 @ 7:00 – Executive Conference Room.
- Sheppard Memorial Library - Elected Officials Breakfast: Monday, April 29, 2024 @8:00 am. Sheppard Library, 530 Evans Street, Greenville, NC (RSVP Greg Needham: 252-329-4585.
- May Agenda Information and Abstracts Due: Wednesday, May 1, 2024.
- Budget Progress Meeting: Monday, May 6, 2024 @ 6:00 pm - Town Hall Executive Conference Room.
- June Newsletter Information Due: Wednesday, May 8, 2024.
- Agenda Review Meeting: Thursday, May 9, 2024 @4:00 pm – Town Hall Executive Conference Room.
- Regular Town Council Meeting: Monday, May 13, 2024 @ 6:00 pm - Town Hall Assembly Room.
- 2024 Second Primary Election: Tuesday, May 14, 2024 from 6:30 am – 7:30 pm; Community Room and Operation Center Training Room.
- Coffee with a Cop: Friday, May 17, 2024; 9:00 am - 10:30 am – Community Room.
- Town Council Budget Work Session #1: Tuesday, May 21, 2024 @ 6:00 pm - Town Hall Assembly Room.
- Town Council Budget Work Session #2: Thursday, May 23, 2024 @ 6:00 pm - Town Hall Assembly Room.

**REPORTS FROM THE TOWN ATTORNEY, MAYOR, AND TOWN COUNCIL, AND TOWN MANAGER:**

Town Attorney Lassiter: No report tonight, we do have a closed session.

Councilwoman Hawkins: We need to keep the business of the people and everyday situations in front of us.

Councilwoman Moye: Please place the Library breakfast on your calendar.

Mayor Pro Tem Harrell: Thanks to the Staff and Council. This is Autism Awareness Month.

Councilwoman Roberson: Noted the support from the Town at the church. The Mid-East Banquet is April 18<sup>th</sup> in Williamston.

Councilwoman Smith: Thanks for putting off reports and thanks to Staff.

Town Manager Parker: No report.

Mayor Hines: Kudos to Council and Staff; heading to CityVision, a great place to learn and network; and shout out to the North Pitt Lady Panthers.

**Motion made by Councilwoman Smith and seconded by Councilman Moye to go into Closed Session NCGS § 143-318.11. a (3):** To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded. (Attorney-Client Privilege).

**Motion carried unanimously, 5-0. Entered into Closed Session at 9:15 pm.**

**CLOSED SESSION:**

**Motion made by Mayor Pro Tem Harrell and seconded by Councilwoman Roberson to return to Open Session. Motion carried unanimously, 5-0.**

**RECESS:**

**Motion made by Councilwoman Smith and seconded by Councilwoman Roberson to recess the meeting until April 29, 2024 at 5:30 pm. Motion carried unanimously, 5-0. Meeting recessed at 11:03 pm.**

Adopted this the 13<sup>th</sup> day of May 2024.

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Richard E. Hines, Mayor

ATTEST:

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Donald Harvey, Town Clerk



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Consent Agenda

**Meeting Date:** May 13, 2024

**Presenter:** Jessica Manning, Finance Director

**Item to be Considered**

**Subject:** Budget Amendment 2023-2024-6

**Action Requested:** Approval of Budget Amendment.

**Attachment:** Budget Amendment 2023-2024-6.

**Prepared By:** Jessica Manning, Finance Director

**Date:** 5/1/2024

**ABSTRACT ROUTING:**

TC: 5/2/2024

TM: 5/2/2024

Final: tlp - 5/2/2024

**Supporting Documentation**

This is the sixth budget amendment for the 2023-2024 Fiscal Year.

The first item in this budget amendment addresses the need to record the Safe Routes to School Quick Build Grant in the amount of \$10,000 that will be used to improve pedestrian and traffic safety within the community.

The second item is needed to address concerns with the Town's fixed assets schedule. The Town has embarked on making sure that our fixed assets schedules are accurate and up to date. We are having to expedite this process due to findings from the LGC and the conversion to a new audit firm. We have learned that the new firm will not complete our audit until the studies we were engaged in are complete. We have this work in process for Electric and Stormwater. However, we needed to upgrade our assets in the field for Water and Sewer. Historically, we had assessed our infrastructure for Water and Sewer, but we need to update that to address growth that has occurred over the last few years. Rivers and Associates had the historical data and has agreed to work with us in order to update the asset listing. Their fee is \$14,000 for each fund totaling \$28,000 in total. This will allow us to keep the audit on schedule and not be delayed for next Fiscal Year.

**Budgetary Impact:** The total budget amendment will increase the budget in the amount of \$38,000.

**Recommendation:** Staff recommends Council approve the budget amendment.

**BUDGET ORDINANCE AMENDMENT 23-24-6**

BE IT ORDAINED by the Governing Board of the Town of Winterville, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2024:

**SECTION 1. Revenues are to be changed as follows:**

LINE ITEM DESCRIPTION	Fund	Account	Increase	Decrease
Misc Grant	General	10-0000-00 3420	\$10,000.00	
Fund Balance Appropriation	Water	61-0000-00 3831	\$14,000.00	
Fund Balance Appropriation	Sewer	62-0000-00 3831	\$14,000.00	
Total			\$38,000.00	\$0.00

**SECTION 2. Appropriations are to be changed as follows:**

LINE ITEM DESCRIPTION	Account	Department	Fund	Increase	Decrease	
Safe Routes to School Quick Build	10-4510-02	6106	Public Works	General	\$10,000.00	
Engineering	61-7210-00	4232		Water	\$14,000.00	
Engineering	62-7320-20	4232		Sewer	\$14,000.00	
Total					\$38,000.00	\$0.00

Adopted the 13th day of May 2024.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Town Clerk



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Consent Agenda

**Meeting Date:** May 13, 2024

**Presenter:** Stephen Penn, Planning and Economic Development Director

**Item to be Considered**

**Subject:** Eli's Ridge Phase 5 Annexation.

**Action Requested:** Schedule Public Hearing for Annexation Request for June 10, 2024 Meeting.

**Attachment:** Annexation Petition, Annexation Map, Legal Description, and Certificate of Sufficiency.

**Prepared By:** Stephen Penn, Planning and Economic Development Director

**Date:** 4/24/2024

**ABSTRACT ROUTING:**

TC: 5/2/2024

TM: 5/2/2024

Final: tlp - 5/2/2024

**Supporting Documentation**

**Applicant:** Landon Weaver of Bill Clark Homes of Greenville LLC.

**Location:** Phase 5 of Eli's Ridge located off of Worthington Road.

**Parcel Numbers:** 84754.

**Site Data:** 5.5089 Acres.

**Zoning District:** R-10.

**Staff Analysis:**

The applicant is constructing Eli's Ridge Phase 5 in order to build more Single-Family Residential Homes.

**Budgetary Impact:** TBD

**Recommendation:** Schedule Public Hearing for Annexation Request for June 10, 2024 Meeting

PETITION REQUESTING ANNEXATION

Date: 3/21/24

To the Mayor and Town Council of the Town of Winterville:

1. We the undersigned owners of real property respectfully requested that the area described in Paragraph 2 below be annexed to the Town of Winterville.

- All owners of the property must sign.

2 The area to be annexed is contiguous to the Town of Winterville and the boundaries of such territory are as follows:

Description

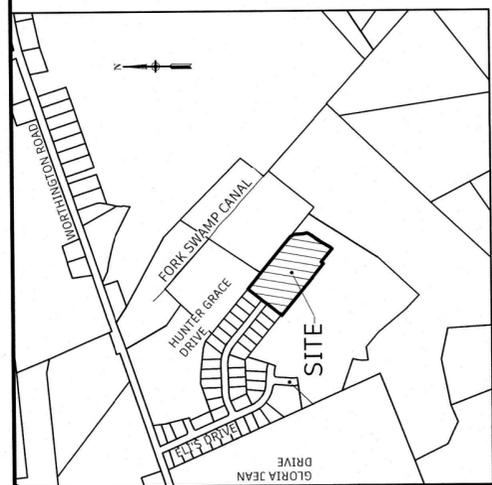
Name Landon Weaver for Bill Clark Homes of Greenville LLC Address 200 E. Arlington Blvd Greenville NC 27858  
 Signature [Signature] for Bill Clark Homes of Greenville LLC.

Name \_\_\_\_\_ Address \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_ Address \_\_\_\_\_

Signature \_\_\_\_\_



GRAPHIC SCALE  
1" = 1000'

PN 86614  
BILL CLARK HOMES OF GREENVILLE, LLC  
DB 3683, PG 559  
MB 82, PG 26

PN 87100  
ELI'S RIDGE HOMEOWNERS ASSOCIATION, INC.  
DB 4368, PG 655  
MB 86, PG 155

PN 36710  
ALVA WAYNE WORTHINGTON, JR.  
ESTATE FILE 22E, SLIDE 696  
DB 1558, PG 508

PN 36710

FORK SWAMP CANAL

THIS MAP IS EXEMPT FROM GS 47-30 REQUIREMENTS PER GS 47-30 (I) WHICH STATES:  
"THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO BOUNDARY PLATS OF STATE LINES, COUNTY LINES, AREAS ANNEXED BY MUNICIPALITIES, NOR TO PLATS OF MUNICIPAL BOUNDARIES, WHETHER OR NOT REQUIRED BY LAW TO BE RECORDED."

**CERTIFICATIONS**

I, Deborah T. Brette CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY OR FROM REFERENCES HEREIN; THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES AND ARE PLOTTED FROM INFORMATION FOUND IN DEEDS AND MAPS REFERENCED HEREIN.

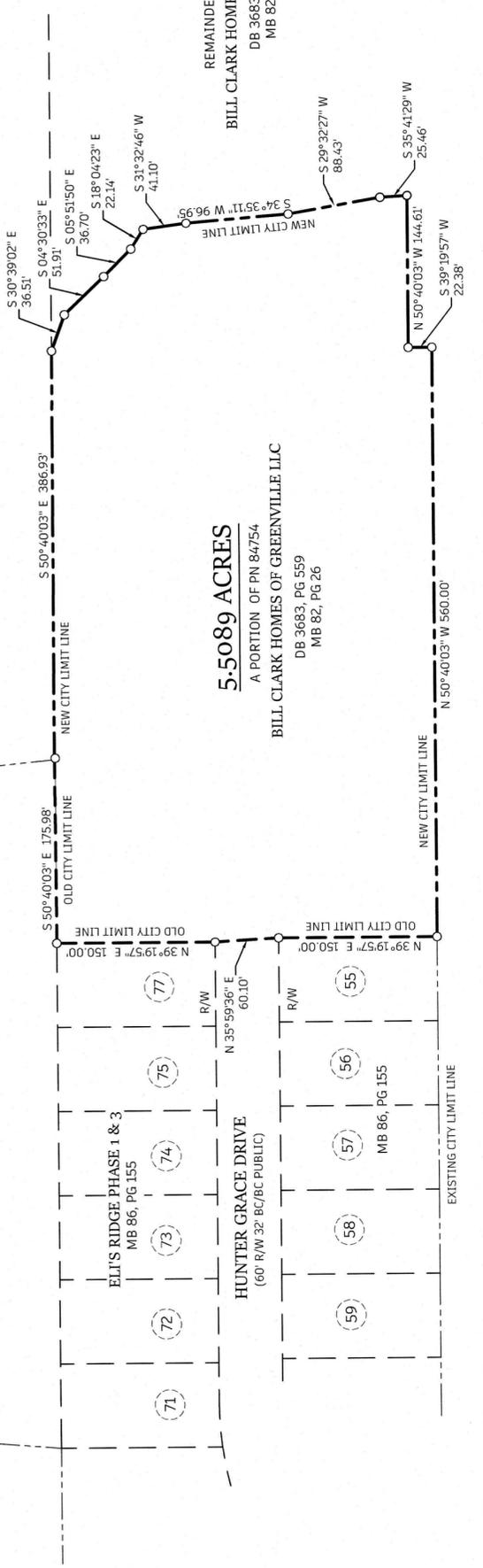
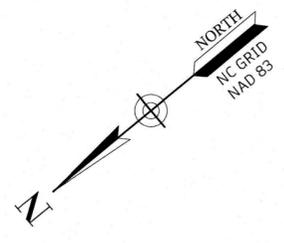
WITNESS MY HAND AND SEAL THIS THE  
21<sup>ST</sup> DAY OF MARCH, 20 24  
Deborah T. Brette  
PROFESSIONAL LAND SURVEYOR L-4446



NORTH CAROLINA, Pitt COUNTY  
I, Judy R. Stroud NOTARY PUBLIC OF THE COUNTY AND STATE AFORESAID, CERTIFY THAT Deborah T. Brette, A PROFESSIONAL LAND SURVEYOR, PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT. WITNESS MY HAND AND OFFICIAL STAMP OR SEAL THIS 21<sup>ST</sup> DAY OF MARCH, 20 24.  
NOTARY PUBLIC Judy R. Stroud  
MY COMMISSION EXPIRES 2/27/25



PROJECT NO. P1611-001 PHASE 5  
DRAWING NO. P1611-001 PHASE 5 ANNEX.DWG



**LEGEND**  
 - - - - - NEW CITY LIMIT LINE  
 - - - - - OLD CITY LIMIT LINE  
 - - - - - EXISTING CITY LIMIT LINE

**5-5089 ACRES**  
A PORTION OF PN 84754  
BILL CLARK HOMES OF GREENVILLE LLC  
DB 3683, PG 559  
MB 82, PG 26

REMAINDER OF PN 84754  
BILL CLARK HOMES OF GREENVILLE, LLC  
DB 3683, PG 559  
MB 82, PG 26

REMAINDER OF PN 84754  
BILL CLARK HOMES OF GREENVILLE, LLC  
DB 3683, PG 559  
MB 82, PG 26

A PORTION OF PARCEL NUMBER 84754

MAP SHOWING AREA TO BE ANNEXED BY

ELI'S RIDGE, PHASE 5

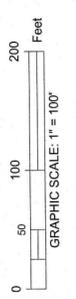
WINTERVILLE TOWNSHIP PITT COUNTY NORTH CAROLINA  
OWNER: BILL CLARK HOMES OF GREENVILLE, LLC  
200 E ARLINGTON BLVD  
GREENVILLE, NC 27858  
(252) 355-3805

WINTERVILLE TOWNSHIP PITT COUNTY NORTH CAROLINA  
OWNER: BILL CLARK HOMES OF GREENVILLE, LLC  
200 E ARLINGTON BLVD  
GREENVILLE, NC 27858  
(252) 355-3805

ORDINANCE NO. \_\_\_\_\_ AREA 5.5089 ACRES  
ACCEPTED BY THE TOWN OF WINTERVILLE, NC

STROUD ENGINEERING, P.A.  
107-B COMMERCE STREET  
GREENVILLE, NC 27858  
(252) 756-9352  
LICENSE NO. C-0667

SURVEYED: HOB APPROVED: DTB  
DRAWN: MLB DATE: 03/04/2024  
CHECKED: DTB SCALE: 1" = 100'



Legal Description for Annexation  
ELI'S RIDGE, PHASE 5

Lying and being in Winterville Township, Pitt County, North Carolina and lying north of NCSR 1713 Laurie Ellis Road, east of NCSR 1700 Old Tar Road, and being bounded on the north by Eli's Ridge, Phase 1 & 3 (Map Book 86, Page 155) and Eli's Homeowners Association, Inc. (Deed Book 4368, Page 655), on the west and south by Bill Clark Homes of Greenville, LLC (Deed Book 3683, Page 559), and on the southeast by Alva Wayne Worthington, Jr. (Estate File 22E, Slide 696 and Deed Book 1558, Page 508) and being more particularly described as follows:

Beginning at a point on the eastern right-of-way of Hunter Grace Drive, said point being the southernmost corner of Lot 77, Eli's Ridge, Phase 2 & 3 as recorded in Map Book 86, Page 155, the True Point of Beginning. Thence from the True Point of Beginning, leaving the eastern right-of-way of Hunter Grace Drive and following the southern line of Lot 77 N39-19-57E – 150.00' to the easternmost corner of Lot 77, a point in the western line of Eli's Ridge Homeowners Association, Inc. (Deed Book 4368, Page 655), thence leaving Lot 77 and following the line of Eli's Ridge Homeowners Association S50-40-03E – 175.98' to the westernmost corner of the Alva Wayne Worthington, Jr. property, thence with the Worthington line S50-40-03E – 386.93', thence leaving the Worthington line and following a line of annexation through the lands of Bill Clark Homes of Greenville, LLC (Deed Book 3683, Page 559), the following calls: S30-39-02E – 36.51', thence S04-30-33E – 51.91', thence S05-51-50E – 36.70', thence S18-04-23E – 22.14', thence S31-32-46W – 41.10', thence S34-35-11W – 96.95', thence S29-32-27W – 88.43', thence S35-41-29W – 25.46', thence N50-40-03W – 144.61', thence S39-19-57W – 22.38', thence N50-40-03W – 560.00' to the southernmost corner of Lot 55, Eli's Ridge, Phase 1 and 3 as recorded in Map Book 86, Page 155, thence along the line of Lot 55 N39-19-57E – 150.00' to a point on the western right-of-way of Hunter Grace Drive, thence crossing Hunter Grace Drive N35-59-36E – 60.10' to the True Point of Beginning, containing 5.5089 Acres and being a portion of Parcel Number 84754 as filed with the Pitt County Tax Assessor's Office.

Deborah T. Boyette  
Professional Land Surveyor  
L- 4146  
Date 3-21-24



**CERTIFICATE OF SUFFICIENCY**

**ELI'S RIDGE PHASE 5 - LOCATED OFF OF WORTHINGTON ROAD  
PARCEL NUMBERS: 84754**

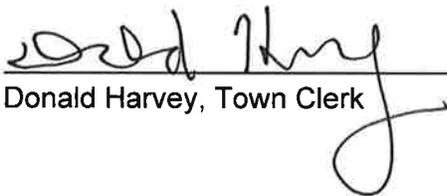
To the Town Council of the Town of Winterville, North Carolina:

I, Donald Harvey, Town Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described herein, in accordance with NCGS 160A-58.1.

In witness whereof, I have hereunto set my hand and affixed the seal of the Town of Winterville this the 9<sup>th</sup> day of April 2024.

ATTEST:



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



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Consent Agenda

**Meeting Date:** May 13, 2024

**Presenter:** Stephen Penn, Planning and Economic Development Director

**Item to be Considered**

**Subject:** Cornerstone Annexation (of Last Phase).

**Action Requested:** Direct Town Clerk to Investigate Sufficiency of Annexation.

**Attachment:** Annexation Petition, Annexation Map, Legal Description, Resoultion Directing Clerk to Investigate Sufficiency, and Draft Certificate of Sufficiency.

**Prepared By:** Stephen Penn, Planning and Economic Development Director

**Date:** 4/24/2024

**ABSTRACT ROUTING:**

TC: 5/2/2024

TM: 5/2/2024

Final: tlp - 5/2/2024

**Supporting Documentation**

**Applicant:** Reggie Spain Homes LLC.

**Location:** Last phase/section of Cornerstone Subdivision that is located off of Fire Tower Road.

**Parcel Numbers:** 38827.

**Site Data:** 3.315 Acres.

**Zoning District:** R-6.

**Staff Analysis:**

The applicant is constructing the last phase of Cornerstone to build more Single Family Residential Homes.

**Budgetary Impact:** TBD.

**Recommendation:** Direct Town Clerk to Investigate Sufficiency of Annexation.

**PETITION REQUESTING ANNEXATION**

Date: 3/28/2024

To the Mayor and Town Council of the Town of Winterville:

1. We the undersigned owners of real property respectfully requested that the area described in Paragraph 2 below be annexed to the Town of Winterville.

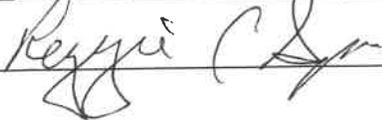
- All owners of the property must sign.

2. The area to be annexed is contiguous to the Town of Winterville and the boundaries of such territory are as follows:

Description

See Attached.

Name Reggie Spain Homes, LLC Address 609 D Country Club Drive

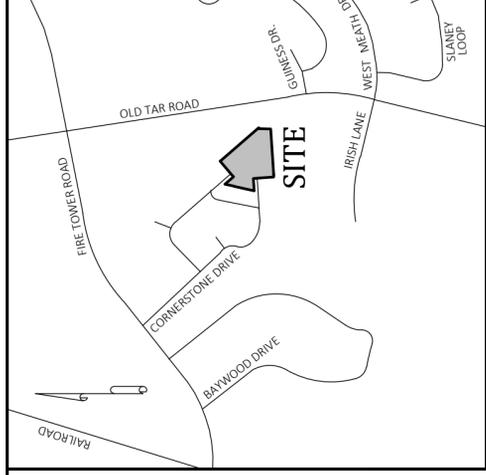
Signature 

Name \_\_\_\_\_ Address \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_ Address \_\_\_\_\_

Signature \_\_\_\_\_

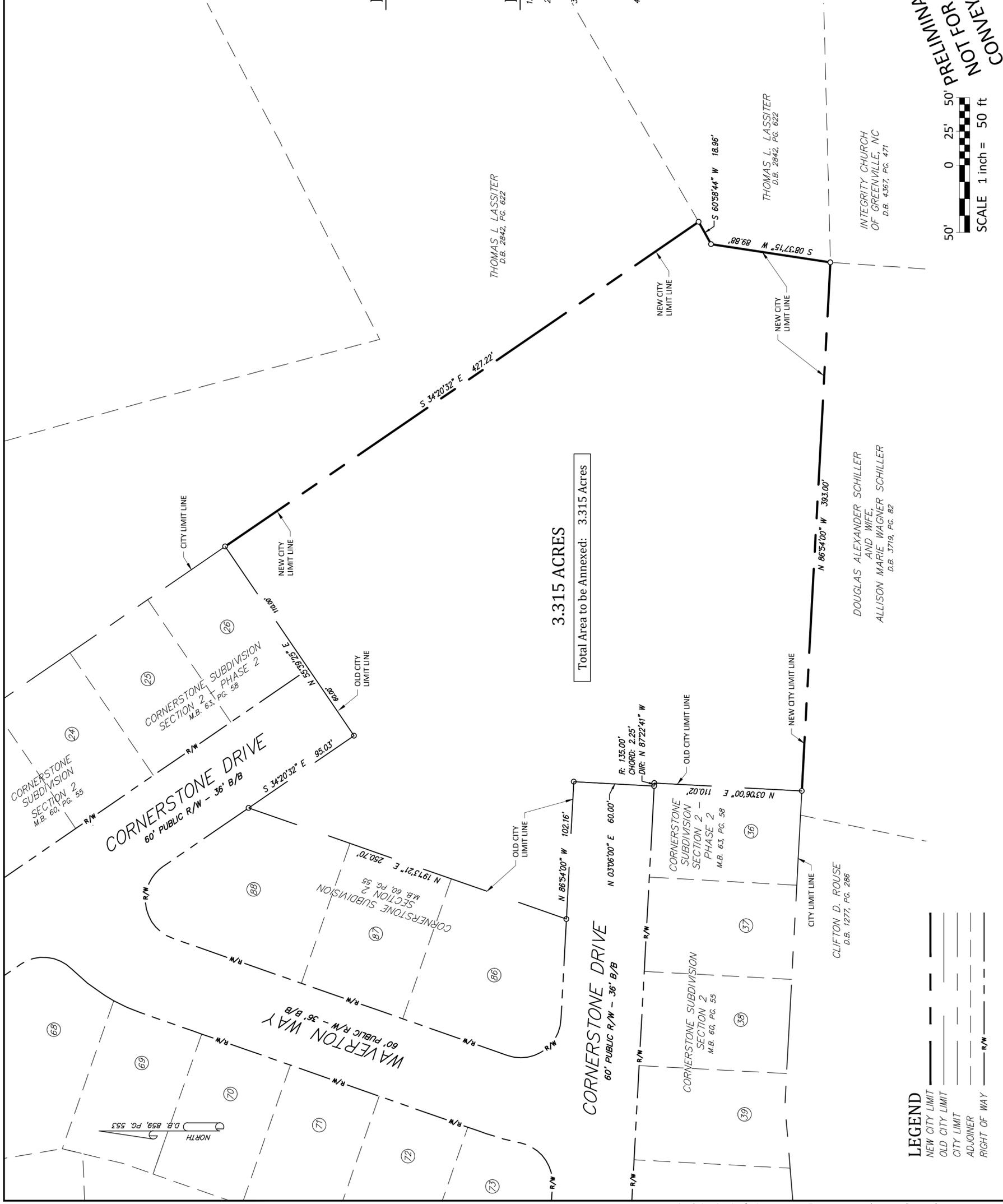


**Vicinity Map**  
SCALE: 1" = 1,000'

- Legend**
- O -- PROPERTY CORNER
  - B/B -- BACK TO BACK
  - R/W -- RIGHT OF WAY
  - D.B. -- DEED BOOK
  - M.B. -- MAP BOOK
  - P.G. -- PAGE

**Notes**

1. AREA DETERMINED BY COORDINATES.
2. THIS MAP WAS PREPARED FOR ANNEXATION PURPOSES ONLY AND IS NOT A BOUNDARY SURVEY OF THE PROPERTIES SHOWN HEREON.
3. BOUNDARY INFORMATION AND PROPERTY CORNER MONUMENTATION SHOWN HEREON WAS DRAWN FROM SURVEY PREPARED BY BALDWIN AND ASSOCIATES FOR CORNERSTONE OF GREENVILLE, INC. DATED FEBRUARY 28, 2005 RECORDED IN M.B. 63 PG. 58 AND INFORMATION PROVIDED BY THE PITT COUNTY OPIS WEBSITE AND DOES NOT REPRESENT AN ACTUAL FIELD SURVEY BY THIS FIRM.
4. THIS IS A ANNEXATION REQUEST COMPOSITE BOUNDARY MAP OF PITT COUNTY TAX PARCEL NUMBER 36827.

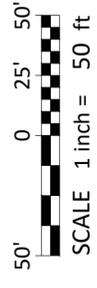


**3.315 ACRES**

Total Area to be Annexed: 3.315 Acres

- LEGEND**
- NEW CITY LIMIT
  - OLD CITY LIMIT
  - CITY LIMIT
  - ADJOINER
  - RIGHT OF WAY
  - R/W

**NOT FOR RECORDATION,  
CONVEYANCES, OR SALES  
PRELIMINARY PLAT**



**SURVEYOR'S CERTIFICATION**  
I, J. DANTZLER WITHERS, CERTIFY THAT THIS MAP WAS PREPARED FROM INFORMATION SHOWN IN MAP BOOK 63, PAGE 58 AND HAS NOT BEEN FIELD SURVEYED BY ARK CONSULTING GROUP, PLLC AND IS EXEMPT FROM G.S. 47-30 AS SET FORTH IN SECTION (D) THEREOF.  
WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS THE 28th DAY OF MARCH, 2024.  
SIGNED \_\_\_\_\_ PROFESSIONAL LAND SURVEYOR NO. L-5508

**MAP SHOWING AREA TO BE ANNEXED BY  
THE TOWN OF WINTERVILLE, N.C.**  
DATE: \_\_\_\_\_ ORDINANCE NO. \_\_\_\_\_ AREA: 3.315 AC  
WINTERVILLE TOWNSHIP, PITT COUNTY, N.C.

MAP NO.	PLATS RECORDED	BOOK	PAGE
	CORNERSTONE, SECTION 2, PHASE 2	63	58
	CORNERSTONE, SECTION 2	60	55

ANNEXATION MAP FOR CORNERSTONE SUBDIVISION TOWN OF WINTERVILLE, WINTERVILLE TOWNSHIP, PITT COUNTY, N.C. ARK DRAWING NO. C-1024			
SURVEYED:	APPROVED:	JDW	
DRAWN:	DATE:	3-28-2024	
CHECKED:	SCALE:	1"=50'	

**ARK CONSULTING GROUP, PLLC**  
ENGINEERS & SURVEYORS  
www.arkconsultinggroup.com  
Phone: 275-8-Charles Blvd.  
Greenville, NC 27858 (252) 558-0888

## Description

Beginning at a point on the southeastern terminus of Cornerstone Drive, said point being the southwestern corner of Lot 26, Cornerstone, Section 2, Phase 2 as recorded in Map Book 63, Page 58 of the Pitt County Register of Deeds Office. From the above described beginning, so located running thence as follows:

Leaving the southeastern terminus of Cornerstone Drive and with the southern line of reference Lot 26, Cornerstone, Section 2, Phase 2, N 55-39-28 E 110.00 feet to a point on the western line of the Thomas Lee Lassiter Property as described in Deed Book 2842, Page 622 of the Pitt County Register of Deeds Office, thence with the western line of said Thomas Lee Lassiter Property, S 34-20-32 E 427.22 feet to a point on the northern line of the Thomas Lee Lassiter Property as described in Deed Book 2842, Page 622 of the Pitt County Register of Deeds Office, thence with the northern and western lines of said Thomas Lee Lassiter Property, S 60-58-44 W 18.96 feet and S 08-37-15 W 89.88 feet to a point in the northeastern corner of the Douglas A. Schiller and wife Allison M. Schiller Property as described in Deed Book 3719, Page 82 of the Pitt County Register of Deeds Office, thence with the northern line of said Schiller Property, N 86-54-00 W 393.00 feet to a point at the southeastern corner of Lot 36, Cornerstone, Section 2, Phase 2 as referenced, thence with eastern line of Lot 36, Cornerstone, Section 2, Phase 2, N 03-06-00 E 110.02 feet to a point at the northeastern corner of Lot 36, Cornerstone, Section 2, Phase 2 as referenced, thence with the northern line of Lot 36, Cornerstone, Section 2, Phase 2, along a curve in a clockwise direction having a chord bearing of N 87-22-41W, a chord distance of 2.25 feet and a radius of 135.00 feet to a point on the southeastern terminus of Cornerstone Drive, thence crossing the eastern terminus of Cornerstone Drive, N 03-06-00 E 60.00 feet to a point on the northern right-of-way of Cornerstone Drive, thence with the northern right-of-way of Cornerstone Drive N 86-54-00 W 102.16 feet to a point at the southeastern corner of Lot 86, Cornerstone, Section 2, as recorded in Map Book 60, Page 55 of the Pitt County Register of Deeds Office thence with the eastern line of Lots 86,87 and 88, Cornerstone, Section 2, N 19-13-21 E 250.70 feet to a point in the southern right of way of Cornerstone Drive, thence with the southern right of way of Cornerstone Drive S 34-20-32 E 95.03 feet to a point at the southwestern terminus of Cornerstone Drive, thence crossing the southern terminus of Cornerstone Drive, N 55-39-28 E 60.00 feet to the point of beginning containing 3.315 acres and being a portion of the property described in Deed Book 774, Page 595 of the Pitt County Register of Deeds Office.

**RESOLUTION DIRECTING THE TOWN CLERK TO INVESTIGATE  
A PETITION RECEIVED UNDER NCGS 160A-31**

**CORNERSTONE SUBDIVISION THAT IS LOCATED OFF OF FIRE TOWER ROAD  
PARCEL NUMBERS: 38827**

**WHEREAS**, petitions requesting annexation of an area described in said petitions were received March 28, 2024 by the Town Council; and

**WHEREAS**, NCGS 160A-31 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and

**WHEREAS**, the Town Council of the Town of Winterville seems it advisable to proceed in response to this request for annexation.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Winterville that:

The Town Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the Town Council the result of the investigation.

Adopted this the 13<sup>th</sup> day of May 2024.

\_\_\_\_\_  
Richard E. Hines, Mayor

ATTEST:

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

**CERTIFICATE OF SUFFICIENCY**

**CORNERSTONE SUBDIVISION THAT IS LOCATED OFF OF FIRE TOWER ROAD  
PARCEL NUMBERS: 38827**

To the Town Council of the Town of Winterville, North Carolina:

I, Donald Harvey, Town Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described herein, in accordance with NCGS 160A-58.1.

In witness whereof, I have hereunto set my hand and affixed the seal of the Town of Winterville this the 14<sup>th</sup> day of May 2024.

ATTEST:

---

Donald Harvey, Town Clerk

DRAFT



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Consent Agenda

**Meeting Date:** May 13, 2024

**Presenter:** Stephen Penn, Planning and Economic Development Director

**Item to be Considered**

**Subject:** Internet Sweepstakes Ordinance Changes.

**Action Requested:** Schedule Public Hearing for Ordinance Amendments for June 10, 2024 Meeting.

**Attachment:** Proposed Internet Sweepstakes Ordinance Amendments.

**Prepared By:** Stephen Penn, Planning and Economic Development Director

**Date:** 4/24/2024

**ABSTRACT ROUTING:**

TC: 5/2/2024

TM: 5/2/2024

Final: tlp - 5/2/2024

**Supporting Documentation**

- Altering the “Internet Sweepstakes” use within the Zoning Ordinance:
  - As Internet Sweepstakes continue to be a popular topic throughout the Country and within North Carolina, Town of Winterville Planning Staff suggests altering the Table of Permitted and Special Uses, and the Special Requirements Separation Requirement. This is in attempt to stay ahead of the ever-changing regulations to ensure the proposed use meets all local, state, and federal requirements prior to opening.
  - Staff is also recommending changing the use from a “Permitted Use” to a “Special Use” that would require Board of Adjustment review. The proposed changes include changes to the Special Requirements (SR) #44, as well.

**Budgetary Impact:** TBD

**Recommendation:** Schedule Public Hearing for Amendments for June 10, 2024 Meeting.



## ZONING ORDINANCE AMENDMENTS – SUMMARY

- Altering the “Internet Sweepstakes” use within the Zoning Ordinance:
  - As Internet Sweepstakes continue to be a popular topic throughout the Country and within North Carolina, Town of Winterville Planning Staff suggests altering the Table of Permitted and Special Uses, and the Special Requirements Separation Requirement. This is in attempt to stay ahead of the ever-changing regulations to ensure the proposed use meets all local, state, and federal requirements prior to opening.
  - Staff is also recommending changing the use from a “Permitted Use” to a “Special Use” that would require Board of Adjustment review. This proposal changes the Special Requirements (SR) #44 as well.

### Overview of Proposed Changes:

#### Subdivision Ordinance Changes:

- **Current Title/Use Category Name:** “Internet Sweepstakes”
  - Currently Allowed General Business(G-B), and Industrial (I) Zoning District with Special Requirement (SR 44).
    - Location: Article VI. Tale of Permitted and Special Uses; Section 6.4 Table of Permitted and Special Uses. (See Table)
    - Current Table:

Use Type	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
Internet Sweepstakes	3												X			X	44

- **Proposed Title/Use Category Name Change:** “Internet Sweepstakes”
  - Proposed District Changes: Remove General Business (G-B) and Industrial (I) as a “Permitted Use”. Allow the use as a “Special Use” within General Business (GB) and Industrial (I) district.
    - Location: Article VI. Tale of Permitted and Special Uses; Section 6.4 Table of Permitted and Special Uses. (See Table)

▪ Proposed Table (to replace the table above):

Use Type	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
Internet Sweepstakes	3												S			S	44

**Special Requirement # 44 Currently states:**

“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 closest 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-O-223, adopted 05/10/2010)”

**Proposed Changes to the “Internet Sweepstakes” Use: Changing the Special Requirements.**

**\* Changing Special Requirement (SR) # 44 from what is shown above to the following:**

“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. No such establishment shall be permitted within a one-half mile radius (2,640 foot) of any existing “Internet Sweepstakes”.
- b. No establishment shall be permitted within one-thousand feet (1,000’) from the property line of any existing or proposed public or private school, childcare or daycare center, public park, library, church, residential zoning district, or any existing multi-family dwelling, or single-family, attached or detached, dwelling.

- c. 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.
- d. 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.
- e. No establishment, store, or restaurant may have or install any Internet Sweepstake devices or machines, or allow such activity, without obtaining approval from the Board of Adjustment and obtaining a Zoning Compliance Certificate that clearly states the use.

\* Location: Article VI. Tale of Permitted and Special Uses; Section 6.5 Special Requirements to the Table of Permitted and Special Uses.

**Proposed Changes to the Winterville Zoning Ordinance:**

**Section Article VI. Tale of Permitted and Special Uses; Section 6.4 Table Of Permitted and Special Uses:**

**Current Table:**

Use Type	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
Internet Sweepstakes	3												X			X	44

• **Proposed Table (to replace the table above):**

Use Type	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
Internet Sweepstakes	3												S			S	44

**Section Article VI. Tale of Permitted and Special Uses; Section 6.5 Special Requirements to the Table of Permitted and Special Uses.**

• **Proposed Special Requirement (SR) 44:**

“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. No such establishment shall be permitted within a one-half mile radius (2,640 foot) of any

existing “Internet Sweepstakes”.

- b. No establishment shall be permitted within one-thousand feet (1,000’) from the property line of any existing or proposed public or private school, childcare or daycare center, public park, library, church, residential zoning district, or any existing multi-family dwelling, or single-family, attached or detached, dwelling.
- c. 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.
- d. 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.
- e. No establishment, store, or restaurant may have or install any Internet Sweepstake devices or machines, or allow such activity, without obtaining approval from the Board of Adjustment and obtaining a Zoning Compliance Certificate that clearly states the use.



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Consent Agenda

**Meeting Date:** May 13, 2024

**Presenter:** Stephen Penn, Planning and Economic Development Director

**Item to be Considered**

**Subject:** Tobacco Stores and Smoke Shop Ordinance Changes.

**Action Requested:** Schedule Public Hearing for Ordinance Amendments for June 10, 2024 Meeting.

**Attachment:** Proposed Tobacco Stores and Smoke Shop Ordinance Amendments.

**Prepared By:** Stephen Penn, Planning and Economic Development Director

**Date:** 4/24/2024

**ABSTRACT ROUTING:**

TC: 5/2/2024

TM: 5/2/2024

Final: tlp - 5/2/2024

**Supporting Documentation**

- Altering the “Tobacco Stores” use within the Zoning Ordinance to reflect a more modern use:
  - As tobacco usage has changed over time, “tobacco stores” have significantly changed as well. Products traditionally sold within a “Tobacco Store,” are more commonly found in stores that are now referred to as “Vape Stores” or “Smoke Shops”. These stores generally sell a combination of smokable and/or chemically enhanced products that were not established or common when the Zoning Ordinance was originally written. Many of the products that one may see in these stores include a wide variety of tobacco related products, vaporizer products, and smoking devices as well as naturally or non-naturally enhanced products sold for medical or recreational uses.
  - As these stores have become increasingly popular, Winterville town staff is recommending a modernized use category that combines and describes such stores more accurately.
  - “Special Requirement(s)” (SR(s)) are recommended along with separation requirements to ensure a continued diverse economy and to limit product advertisement near schools, parks, daycares, churches, etc.
  - Winterville staff is recommending changing the use from a “Permitted Use” to a “Special Use” that requires Board of Adjustment review.
  - Winterville staff is also recommending the addition of a definition of such stores to provide clarity to applicants and staff.

**Budgetary Impact:** TBD

**Recommendation:** Schedule Public Hearing for Amendments for June 10, 2024 Meeting.



## ZONING ORDINANCE AMENDMENTS – SUMMARY

- Altering the “Tobacco Stores” use within the Zoning Ordinance to reflect a more modern use:
  - As tobacco usage has changed over time, “tobacco stores” have significantly changed as well. Products traditionally sold within a “Tobacco Store”, are more commonly found in stores that are now referred to as “Vape Stores” or “Smoke Shops”. These stores generally sell a combination of smokable and/or chemically enhanced products that were not established or common when the Zoning Ordinance was originally written. Many of the products that one may see in these stores include a wide variety of tobacco related products, vaporizer products, and smoking devices as well as naturally or non-naturally enhanced products sold for medical or recreational uses.
  - As these stores have become increasingly popular, Winterville town staff is recommending a modernized use category that combines and describes such stores more accurately.
  - “Special Requirement(s)” (SR(s)) are recommended along with separation requirements to ensure a continued diverse economy and to limit product advertisement near schools, parks, and churches.
  - Winterville staff is recommending changing the use from a “Permitted Use” to a “Special Use” that requires Board of Adjustment review.
  - Winterville staff is also recommending the addition of a definition of such stores to provide clarity to applicants and staff.

## Overview of Proposed Changes:

### Subdivision Ordinance Changes:

- **Current Title/Use Category Name:** “Tobacco Stores”
  - Currently Allowed in Central Business (C-B), General Business(G-B), Intermediate Commercial (I-C), Commercial Neighborhood (C-N), and Industrial (I).
    - Location: Article VI. Tale of Permitted and Special Uses; Section 6.4 Table of Permitted and Special Uses. (See Table)
    - Current Table:

Use Type	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
Tobacco Stores	3	5993										X	X	X	X	X	

- **Proposed Title/Use Category Name Change:** “Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products”
  - Proposed District Changes: Remove Central Business (C-B), Commercial (I-C), and Commercial Neighborhood (C-N). Allow the use as a “Special Use” within General Business (GB) and Industrial (I) district.
    - Location: Article VI. Tale of Permitted and Special Uses; Section 6.4 Table of Permitted and Special Uses. (See Table)
    - Proposed Table (to replace the table above):

Use Type	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
“Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products”-	3	0000											S			S	46

**Proposed Definition Addition:**

- **Proposed Definition of Use:**
  - “Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products”-- A retail outlet, service business, or establishment that sells vape products, e-cigarettes, components, products, or related products. This shall include all establishments, stores, or convenience stores that sell tobacco products, smoking products, smokables, e-cigarettes, smoke shops, smoke lounges, cigar stores, head shops, pipe and smoking apparatuses. This shall also include any products that are naturally or non-naturally enhanced food, beverages, tablets, lozenges or capsules with chemicals intended for recreational or medical use. This shall not include “Drug Store & Pharmacies” that employ licensed pharmacist, or “Service Stations, Gasoline”, that sells gasoline and sell the products above as a non-primary source of revenue. This shall not include “Grocery Stores” or “Department & Variety Stores” as described by the Standard Industrial Classification (SIC) Code assigned by the U.S. Government to identify the primary business of an establishment.
    - Location: Article XV. General Legal Provisions; Definitions; Section 15.4B Definitions.

**Proposed “Special Requirement” (SR) Addition:**

Adding Special Requirement (SR) 46:

**SR 46. Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products**

- a. No such establishment shall be permitted within a one-half mile radius (2,640 foot) of any existing “Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products”.
- b. No establishment shall be permitted within one-thousand feet (1,000’) from the property line of any existing or proposed public or private school, childcare or daycare center, public park, library, church, residential zoning district, or any existing multi-family dwelling, or single-family, attached or detached, dwelling.
- c. No establishment may sell any items described within the definition of “Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products” without obtaining approval from the Board of Adjustment for each item and obtaining an approved Zoning Compliance Certificate that clearly states the sale of each item within the establishment.
- d. Measure of distance separation shall be in a straight line from the closest point of the building or unit at which the “Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products” use is located.
- e. For approval, of a “Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products” use, the applicant shall provide a straight-line drawing prepared by a registered land surveyor 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.

\* Location: Article VI. Tale of Permitted and Special Uses; Section 6.5 Special Requirements to the Table of Permitted and Special Uses.

**Proposed Changes to the Winterville Zoning Ordinance:**

**Section Article VI. Tale of Permitted and Special Uses; Section 6.4 Table Of Permitted and Special Uses:**

- **Current Table:**

Use Type	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
Tobacco Stores	3	5993										×	×	×	×	×	

- **Proposed Table (to replace the table above):**

Use Type	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
“Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products”-	3	0000											S			S	46

**Section Article VI. Tale of Permitted and Special Uses; Section 6.5 Special Requirements to the Table of Permitted and Special Uses.**

- **Add Special Requirements #46 and the following language:**
  - **Note: This is a new “Special Requirement” (SR) and does not currently exist.**

**SR 46. Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products**

- a. No such establishment shall be permitted within a one-half mile radius (2,640 foot) of any existing “Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products”.
- b. No establishment shall be permitted within one-thousand feet (1,000’) from the property line of any existing or proposed public or private school, childcare or daycare center, public park, library, church, residential zoning district, or any existing multi-family dwelling, or single-family, attached or detached, dwelling.
- c. No establishment may sell any items described within the definition of “Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products” without obtaining approval from the Board of Adjustment for each item and obtaining an approved Zoning Compliance Certificate that clearly states the sale of each item within the establishment.
- d. Measure of distance separation shall be in a straight line from the closest point of the building or unit at which the “Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products” use is located.
- e. For approval, of a “Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products” use, the applicant shall provide a straight-line drawing prepared by a registered land surveyor 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.

**Article XV. General Legal Provisions; Definitions; Section 15.4B Definitions:**

Adding the following Definition: “Tobacco, Vape, Smoke Shop, or Other Chemically Enhanced Products”-- A retail outlet, service business, or establishment that sells vape products, e-cigarettes, components, or related products. This shall include all establishments, stores, or convenience stores that provide or fall into one or more of the following categories: tobacco products, smoking products, smokables, e-cigarettes, smoke shops, smoke lounges, cigar stores, head shops, pipe and smoking apparatuses. This shall also include establishments that provide any products that contain natural or non-natural chemicals intended for recreational or medical use. This shall not include “Drug Store & Pharmacies” that employ licensed pharmacist, or “Service Stations, Gasoline”, that sells gasoline and sell the products above as a non-primary source of revenue. This shall not include “Grocery Stores” or “Department & Variety Stores” as described by the Standard Industrial Classification (SIC) Code assigned by the U.S. Government to identify the primary business of an establishment.



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Consent Agenda

**Meeting Date:** May 13, 2024

**Presenter:** Stephen Penn, Planning and Economic Development Director

**Item to be Considered**

**Subject:** Agricultural Residential (AR) Ordinance Amendment related to MR & Two Family.

**Action Requested:** Schedule Public Hearing for Ordinance Amendments for June 10, 2024 Meeting.

**Attachment:** Proposed Two Family & Multi-Family Ordinance Changes.

**Prepared By:** Stephen Penn, Planning and Economic Development Director

**Date:** 4/24/2024

**ABSTRACT ROUTING:**

TC: 5/2/2024

TM: 5/2/2024

Final: tlp - 5/2/2024

**Supporting Documentation**

**Staff Analysis:**

Two-Family Residential (generally termed duplexes) and Multi-family Residential (including single family attached of more than 2 attached units) represent fairly dense developments that are allowed in limited locations within the Zoning Ordinance’s Table of Permitted Uses. One of the Zoning Districts in which they are allowed is within the Agricultural-Residential Zoning District as a Special Use. As defined by the Town of Winterville, Zoning Ordinance, the Agricultural Residential District “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 ensure 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”

The Agricultural-Residential Zoning District is generally found outside of the core and dense development of the Town of Winterville and thus would likely create two-family and multi-family communities in areas that are not suitable for such development and are not in harmony with the surrounding areas. Most Agricultural-Residentially Zoned Land is located within areas that are designated as “Rural Residential” or “Suburban Residential” Future Land Use Character Areas and thus are in direct conflict with the recommendations of the Comprehensive Land Use Plan.

This Ordinance change would require developers to rezone the property with the Town of Winterville Town Council for review and approval rather than through the Board of Adjustment via a Special Use Permit. This ordinance amendment is providing better control and direction for two-family and multi-family developments to ensure that they are constructed in the proper location and meet the intent and recommendations of the Comprehensive Land Use Plan and Future Land Use Plan.

**Budgetary Impact:** TBD

**Recommendation:** Schedule Public Hearing for Amendments for June 10, 2024 Meeting.



## ZONING ORDINANCE AMENDMENTS – SUMMARY

- Altering the “two-family” use table within the Zoning Ordinance to remove the use (two-family) from the Agricultural Residential (AR) Zoning District.
  - **“Dwelling, conventional or modular: Multi-family (including single family attached of no more than 2 attached units)”**
    - **Removing the “S” for Agricultural Residential (AR) District and remove the “AR” reference within Special Requirement #2.**
- Two-Family Residential (generally termed duplexes) and Multi-family Residential (including single family attached of more than 2 attached units) represent fairly dense developments that are allowed in limited locations within the Zoning Ordinance’s Table of Permitted Uses. One of the Zoning Districts in which they are allowed is within the Agricultural-Residential Zoning District as a Special Use. As defined by the Town of Winterville, Zoning Ordinance, the Agricultural Residential District “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-sitewater and/or sewer systems”

The Agricultural-Residential Zoning District is generally found outside of the core and dense development of the Town of Winterville and thus would likely create two-family and multi-family communities in areas that are not suitable for such development and are not in harmony with the surrounding areas. Most Agricultural-Residentially Zoned Land is located within areas that are designated as “Rural Residential” or “Suburban Residential” Future Land Use Character Areas and thus are in direct conflict with the recommendations of the Comprehensive Land Use Plan.

This Ordinance change would require developers to rezone the property with the Town of Winterville Town Council for review and approval rather than through the Board of Adjustment via a Special Use Permit. This ordinance amendment is provide better control and direction for two-family and multi-family developments to ensure that they are constructed in the proper location and meet the intent and recommendations of the Comprehensive Land Use Plan and Future Land Use Plan.

### Overview of Proposed Changes:

#### Subdivision Ordinance Changes:

- **Current Title/Use Category Name:** “Dwelling, conventional or modular: Multi-family

- (including single family attached of no more than 2 attached units)”
- Currently Allowed as Permitted Uses within: R-6 and Multi-Family Residential (MR) Zoning Districts;
- Currently allowed as Special Uses within Agricultural Residential (AR), R-8, and Office and Institutional (O&I) zoning districts with Special Requirements #2.
  - Location: Article VI. Tale of Permitted and Special Uses; Section 6.4 Table of Permitted and Special Uses. (See Table)
  - Current Table:

Use Type	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
Two-family (Including single family attached of no more than 2 attached units)	1	0000	S					S	X	X	S						2

- **Proposed Title/Use Category Name Change:** “Dwelling, conventional or modular: Multi-family (including single family attached of no more than 2 attached units)”
- Proposed District Changes: Remove use from the Agricultural-Residential zoning district. Allow the use to remain as a “Special Use” within Multi-Family Residential (MR), Office and Institutional (O&I) and Central Business (CB) Zoning Districts.
  - Location: Article VI. Tale of Permitted and Special Uses; Section 6.4 Table of Permitted and Special Uses. (See Table)

- Proposed Table (to replace the table above):

Use Type	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
Two-family (Including single family attached of no more than 2 attached units)	1	0000						S	X	X	S						2

**Special Requirement # 2 Currently states:**

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.

**Proposed Changes to SR 2. Two Family, Single Family Attached and Multifamily Dwellings:  
Changing the Special Requirements.**

**\*Removing the AR Reference within the Special Requirements.**

**\* Changing Special Requirement (SR) # 2 from what is shown above to the following**

- 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.
  4. 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.
  5. 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.
  6. 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).

8. 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.

9. 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.

10. Sidewalks. Sidewalks shall be installed in the same manner and under the same criteria as that established in the Subdivision Regulations.

11. 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.

12. 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.

\* Location: Article VI. Tale of Permitted and Special Uses; Section 6.5 Special Requirements to the Table of Permitted and Special Uses.

**Proposed Changes to the Winterville Zoning Ordinance:**

**Section Article VI. Tale of Permitted and Special Uses; Section 6.4 Table Of Permitted and Special Uses:**

Remove the “S” from the A-R Zoning District:

Use Type	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
Two-family (Including single family attached of no more than 2 attached units)	1	0000	S					S	X	X	S						2

• **Proposed Table (to replace the table above):**

Use Type	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
Two-family (Including single family attached of no more than 2 attached units)	1	0000						S	X	X	S						2

**Section Article VI. Tale of Permitted and Special Uses; Section 6.5 Special Requirements to the Table of Permitted and Special Uses.**

• **Proposed Special Requirement (SR) 2:**

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.

7. 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.

8. 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.

9. 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 R-8 zoning district, 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 construction of 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).

13. 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.

14. 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.

15. Sidewalks. Sidewalks shall be installed in the same manner and under the same criteria as that established in the Subdivision Regulations.
16. 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.
17. 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.

\* Location: Article VI. Tale of Permitted and Special Uses; Section 6.5 Special Requirements to the Table of Permitted and Special Uses.



## ZONING ORDINANCE AMENDMENTS – SUMMARY

- Altering the “Multi-family” use table within the Zoning Ordinance to remove the use (Multi-family) from the Agricultural Residential Zoning District.
  - **“Dwelling, conventional or modular: Multi-family (including single family attached of no more than 2 attached units)”**
    - **Removing the “S” for Agricultural Residential (AR) District and remove the “AR” reference within Special Requirement #2.**
- Two-Family Residential (generally termed duplexes) and Multi-family Residential (including single family attached of more than 2 attached units) represent fairly dense developments that are allowed in limited locations within the Zoning Ordinance’s Table of Permitted Uses. One of the Zoning Districts in which they are allowed is within the Agricultural-Residential Zoning District as a Special Use. As defined by the Town of Winterville, Zoning Ordinance, the Agricultural Residential District “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-sitewater and/or sewer systems”

The Agricultural-Residential Zoning District is generally found outside of the core and dense development of the Town of Winterville and thus would likely create two-family and multi-family communities in areas that are not suitable for such development and are not in harmony with the surrounding areas. Most Agricultural-Residentially Zoned Land is located within areas that are designated as “Rural Residential” or “Suburban Residential” Future Land Use Character Areas and thus are in direct conflict with the recommendations of the Comprehensive Land Use Plan.

This Ordinance change would require developers to rezone the property with the Town of Winterville Town Council for review and approval rather than through the Board of Adjustment via a Special Use Permit. This ordinance amendment is provide better control and direction for two-family and multi-family developments to ensure that they are constructed in the proper location and meet the intent and recommendations of the Comprehensive Land Use Plan and Future Land Use Plan.

### Overview of Proposed Changes:

#### Subdivision Ordinance Changes:

- **Current Title/Use Category Name:** “Dwelling, conventional or modular: Multi-family (including single family attached of no more than 2 attached units)”
- Currently Allowed as a Special Use within: Agricultural Residential (AR), Multi-Family Residential (MR), Office and Institutional (O&I), and Central Business (CB) zoning districts with Special Requirements #2 and #42.
  - Location: Article VI. Tale of Permitted and Special Uses; Section 6.4 Table of Permitted and Special Uses. (See Table)
  - Current Table:

Use Type	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
Dwelling, conventional or modular: Multi-family (including single family attached of more than 2 attached units)	2	0000	S							S	S	S					2/42

- **Proposed Title/Use Category Name Change:** “Dwelling, conventional or modular: Multi-family (including single family attached of no more than 2 attached units)”
- Proposed District Changes: Remove use from the Agricultural-Residential zoning district. Allow the use to remain as a “Special Use” within Multi-Family Residential (MR), Office and Institutional (O&I) and Central Business (CB) Zoning Districts.
  - Location: Article VI. Tale of Permitted and Special Uses; Section 6.4 Table of Permitted and Special Uses. (See Table)
  - Proposed Table (to replace the table above):

Use Type	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
Dwelling, conventional or modular: Multi-family (including single family attached of more than 2 attached units)	2	0000								S	S	S					2/42

**Special Requirement # 2 Currently states:**

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.

**Proposed Changes to SR 2. Two Family, Single Family Attached and Multifamily Dwellings:  
Changing the Special Requirements.**

**\*Removing the AR Reference within the Special Requirements.**

**\* Changing Special Requirement (SR) # 2 from what is shown above to the following**

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.

4. 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.
5. 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.
6. 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).

8. Yard Requirements. The following yard requirements are hereby established:

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(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.

9. 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.

10. Sidewalks. Sidewalks shall be installed in the same manner and under the same criteria as that established in the Subdivision Regulations.

11. 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.

12. 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.

\* Location: Article VI. Tale of Permitted and Special Uses; Section 6.5 Special Requirements to the Table of Permitted and Special Uses.

**Proposed Changes to the Winterville Zoning Ordinance:**

**Section Article VI. Tale of Permitted and Special Uses; Section 6.4 Table Of Permitted and Special Uses:**

**Remove the “S” from the A-R Zoning District:**

Use Type	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
Dwelling, conventional or modular: Multi-family (including single family attached of more than 2 attached units)	2	0000	<del>S</del>							S	S	S					2/42

• **Proposed Table (to replace the table above):**

Use Type	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
Dwelling, conventional or modular: Multi-family (including single family attached of more than 2 attached units)	2	0000								S	S	S					2/42

**Section Article VI. Tale of Permitted and Special Uses; Section 6.5 Special Requirements to the Table of Permitted and Special Uses.**

• **Proposed Special Requirement (SR) 2:**

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.

7. 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.
8. 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.
9. 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 R-8 zoning district, 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 construction of 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).

13. 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.

14. 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.
15. Sidewalks. Sidewalks shall be installed in the same manner and under the same criteria as that established in the Subdivision Regulations.
16. 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.
17. 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.

\* Location: Article VI. Tale of Permitted and Special Uses; Section 6.5 Special Requirements to the Table of Permitted and Special Uses.



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Consent Agenda

**Meeting Date:** May 13, 2024

**Presenter:** Stephen Penn, Planning and Economic Development Director

**Item to be Considered**

**Subject:** Variance Language Ordinance Amendment.

**Action Requested:** Schedule Public Hearing for Ordinance Amendments for June 10, 2024 Meeting.

**Attachment:** Proposed Variance Text Changes.

**Prepared By:** Stephen Penn, Planning and Economic Development Director

**Date:** 4/24/2024

**ABSTRACT ROUTING:**

TC: 5/2/2024

TM: 5/2/2024

Final: tlp - 5/2/2024

**Supporting Documentation**

**Staff Analysis:**

The State has made changes to the 'findings of facts' criteria for Variances. The Town is updating our Zoning Ordinance to reflect the State's most current requirements.

New criteria to determine a Variance:

3. Variances. When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:
  1. An unnecessary hardship results from the strict application of the ordinance.
  2. The hardship results from conditions that are peculiar to the property.
  3. The hardship is not a self-created hardship.
  4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

**Budgetary Impact:** TBD

**Recommendation:** Schedule Public Hearing for Amendments for June 10, 2024 Meeting.



## ZONING ORDINANCE AMENDMENTS – SUMMARY

North Carolina General Statutes have changed the requirements and of obtaining a variance. The Town of Winterville's Variance criteria is out of date and needs to reflect the current standards of the State.

General Statute section 160D-705(d) sets forth the standards for granting a zoning variance (The standards also may be applied to subdivision and other development regulation). These mandatory standards apply to zoning variances for all counties and municipalities in the state, and the new standards override any contrary ordinance provisions that may have been in place prior.

### Overview of Proposed Changes:

#### Subdivision Ordinance Changes:

#### Current Language:

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.

## Proposed Language:

3. Variances. When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

1. An unnecessary hardship results from the strict application of the ordinance.
2. The hardship results from conditions that are peculiar to the property.
3. The hardship is not a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

\*\* **Important:** The applicant bears the burden of presenting sufficient factual evidence to support findings of fact that allow the Board to reasonably reach each of the required conclusions, in accordance with NC General Statute 160D-705. If the applicant fails to meet that burden, the Board has no choice but to deny the application.

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## Proposed Changes to the Winterville Zoning Ordinance:

### **Section Article XII. BOARD OF ADJUSTMENT; Section 12.5 Powers and Duties of the Board of Adjustment; Item 3. Variances.**

3. Variances. When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

1. An unnecessary hardship results from the strict application of the ordinance.
2. The hardship results from conditions that are peculiar to the property.
3. The hardship is not a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

\*\* **Important:** The applicant bears the burden of presenting sufficient factual evidence to support findings of fact that allow the Board to reasonably reach each of the required conclusions, in accordance with NC General Statute 160D-705. If the applicant fails to meet that burden, the Board has no choice but to deny the application.



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Consent Agenda

**Meeting Date:** May 13, 2024

**Presenter:** Stephen Penn, Planning and Economic Development Director

**Item to be Considered**

**Subject:** Flood Damage Prevention Ordinance Amendment.

**Action Requested:** Schedule Public Hearing for Ordinance Amendments for June 10, 2024 Meeting.

**Attachment:** Flood Ordinance Changes and Amendments Document.

**Prepared By:** Stephen Penn, Planning and Economic Development Director

**Date:** 4/24/2024

**ABSTRACT ROUTING:**

TC: 5/2/2024

TM: 5/2/2024

Final: tlp - 5/2/2024

**Supporting Documentation**

**Staff Analysis:**

The Town of Winterville had a Community Assistance Visit (CAV) audit by the North Carolina Department of Public Safety. The program ensures that we are meeting all FEMA and state requirements for regulation and development within or around floodplains. The proposed text changes are requirements in order to keep our Flood Damage Prevention Ordinance up to current regulation.

**Budgetary Impact:** TBD

**Recommendation:** Schedule Public Hearing for Amendments for June 10, 2024 Meeting.



**TOWN OF WINTERVILLE, NORTH CAROLINA  
FLOOD DAMAGE PREVENTION ORDINANCE**

Originally adopted: March 9, 2015 - Ordinance No. 15-O-332.

Incorporates amendments adopted up to date of printing.

Previous Amendment adopted: September 14, 2020 - Ordinance No. 20-O-091.

Latest Amendment Adopted: August 5, 2024- Ordinance No. **TBD.**

Printed **TBD.**

## FLOOD DAMAGE PREVENTION ORDINANCE

### **ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.**

#### **SECTION A. STATUTORY AUTHORIZATION.**

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Town Council of the Town of Winterville, North Carolina, does ordain as follows:

#### **SECTION B. FINDINGS OF FACT.**

- (1) The flood prone areas within the jurisdiction of the Town of Winterville are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

#### **SECTION C. STATEMENT OF PURPOSE.**

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (1) restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) prevent or regulate the construction of flood barriers that will unnaturally divert flood waters, or which may increase flood hazards to other lands.

#### **SECTION D. OBJECTIVES.**

The objectives of this ordinance are to:

- (1) protect human life, safety, and health;
- (2) minimize expenditure of public money for costly flood control projects;
- (3) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) minimize prolonged business losses and interruptions;
- (5) minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) minimize damage to private and public property due to flooding;
- (7) make flood insurance available to the community through the National Flood Insurance Program;
- (8) maintain the natural and beneficial functions of floodplains;
- (9) help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (10) ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

### **ARTICLE 2. DEFINITIONS.**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

“Accessory Structure (Appurtenant Structure)” means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms and may or may not be located on the same parcel as the farm dwelling or shop building.

“Addition (to an existing building)” means an extension or increase in the floor area or height of a building or structure.

“Alteration of a watercourse” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

“Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

“Area of Shallow Flooding” means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

“Area of Future-Conditions Flood Hazard” means the land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Building” see “Structure”.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Design Flood”: See “Regulatory Flood Protection Elevation.”

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before the initial Flood Insurance Rate Map (FIRM) for the community, dated February 24, 1978.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the community, dated October 12, 1987.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters; and/or
- (2) the unusual and rapid accumulation of runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood resistant. Please refer to Technical Bulletin 2,

Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

“Freeboard” means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program”.

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood

Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

“Light Duty Truck” means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

“Lowest Adjacent Grade (LAG)” means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building’s lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Market Value” means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

“New Construction” means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations, dated October 12, 1987, and includes any subsequent improvements to such structures.

“Non-Conversion Agreement” means a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk’s or recorder’s stamps and/or notations that the filing has been completed.

“Non-Encroachment Area” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after February 24, 1987, the effective date of the initial Flood Insurance Rate Map.

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before February 24, 1987, the effective date of the initial Flood Insurance Rate Map.

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

“Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational Vehicle (RV)” means a vehicle, which is:

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by a light duty truck; and
- (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the

lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

“Remedy a Violation” means to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 4, Section E of this ordinance.

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the

building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

“Variance” is a grant of relief from the requirements of this ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**ARTICLE 3. GENERAL PROVISIONS.**

**SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.**

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdiction, of the Town of Winterville.

**SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.**

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS), for Pitt County dated June 19, 2020, and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared to be a part of this ordinance, and all revisions thereto. Future revisions to the FIS and FIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Winterville are also adopted by reference and declared a part of this ordinance.

The initial Flood Insurance Rate Maps for the Town of Winterville jurisdiction is dated February 24, 1978.

**SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

**SECTION D. COMPLIANCE.**

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

**SECTION E. ABROGATION AND GREATER RESTRICTIONS.**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**SECTION F. INTERPRETATION.**

In the interpretation and application of this ordinance, all provisions shall be:

- (a) considered as minimum requirements;
- (b) liberally construed in favor of the governing body; and
- (c) deemed neither to limit nor repeal any other powers granted under State statutes.

**SECTION G. WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Winterville or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

**SECTION H. PENALTIES FOR VIOLATION.**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Winterville from taking such other lawful action as is necessary to prevent or remedy any violation.

**ARTICLE 4. ADMINISTRATION.**

**SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The Planning Director, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

**SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.**

- (1) Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
    - (i) the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
    - (ii) the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
    - (iii) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
    - (iv) the boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
    - (v) the Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;
    - (vi) the old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
    - (vii) the certification of the plot plan by a registered land surveyor or professional engineer.
  - (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
    - (i) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
    - (ii) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will

- be floodproofed; and
  - (iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
  - (c) If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
  - (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
    - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
    - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(c) when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.
  - (e) Usage details of any enclosed areas below the lowest floor.
  - (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
  - (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
  - (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.
  - (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- (2) Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:
- (a) A description of the development to be permitted under the floodplain development permit.
  - (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.
  - (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
  - (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
  - (e) All certification submittal requirements with timelines.
  - (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
  - (g) The flood openings requirements, if in Zones A, AO, AE or A1-30.
- (3) Certification Requirements.
- (a) Elevation Certificates
    - (i) An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
    - (ii) A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of

the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Floodproofing Certificate

- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

(c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).

(d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(e) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

- (i) Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);
- (ii) Temporary Structures meeting requirements of Article 5, Section B(7); and
- (iii) Accessory Structures less than 150 square feet meeting requirements of Article 5, Section B(8).

(4) Determinations for existing buildings and structures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

**SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.
- (3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
- (6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).
- (7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B(3).
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Article 4, Section B(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B(3) and Article 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Article 5, Section D(2)(b), in order to administer the provisions of this ordinance.
- (12) When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as

amended.

- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of Article 4, Section D.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

**SECTION D. CORRECTIVE PROCEDURES.**

- (1) **Violations to be Corrected:** When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) **Actions in Event of Failure to Take Corrective Action:** If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
  - (a) that the building or property is in violation of the floodplain management regulations;
  - (b) that a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
  - (c) that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) **Order to Take Corrective Action:** If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred twenty (120) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

**SECTION E. VARIANCE PROCEDURES.**

- (1) The Board of Adjustment as established by the Town of Winterville, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
  - (a) the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
  - (b) functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
  - (c) any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
  - (a) the danger that materials may be swept onto other lands to the injury of others;
  - (b) the danger to life and property due to flooding or erosion damage;
  - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) the importance of the services provided by the proposed facility to the community;
  - (e) the necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;
  - (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (g) the compatibility of the proposed use with existing and anticipated development;
  - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between

the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (9) Conditions for Variances:
  - (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
  - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
  - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (d) Variances shall only be issued prior to development permit approval.
  - (e) Variances shall only be issued upon:
    - (i) a showing of good and sufficient cause;
    - (ii) a determination that failure to grant the variance would result in exceptional hardship; and
    - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
  - (a) The use serves a critical need in the community.
  - (b) No feasible location exists for the use outside the Special Flood Hazard Area.
  - (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
  - (d) The use complies with all other applicable Federal, State and local laws.
  - (e) The Town of Winterville has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

**ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.**

**SECTION A. GENERAL STANDARDS.**

In all Special Flood Hazard Areas, the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes,

utility/cable boxes, hot water heaters, and electric outlets/switches.

- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B(3).
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

#### SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in A, AE, AO, and A1-30 Zones may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section G(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational plan and the inspection and maintenance plan.

(3) Manufactured Homes.

- (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4).
- (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

- (a) shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- (b) shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
- (c) shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
  - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
  - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
  - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
  - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
  - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
  - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Additions/Improvements.

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - (i) not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
  - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

- (b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
  - (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
    - (i) not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
    - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (6) Recreational Vehicles. Recreational vehicles shall either:
- (a) be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
  - (b) meet all the requirements for new construction.
- (7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
- (a) a specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
  - (b) the name, address, and phone number of the individual responsible for the removal of the temporary structure;
  - (c) the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
  - (d) a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
  - (e) designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
  - (b) Accessory structures shall not be temperature-controlled;
  - (c) Accessory structures shall be designed to have low flood damage potential;
  - (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
  - (e) Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A(1);
  - (f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A(4); and
  - (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(c).
- An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).
- (9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the

design flood, including the effects of buoyancy assuming the tank is empty;

- (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
  - (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Article 5, Section B (2) of this Article shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
  - (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
    - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
    - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- (10) Other Development.
- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.
  - (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
  - (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

SECTION C. RESERVED.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
  - (a) When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.
  - (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.
  - (c) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in

accordance with Article 3, Section B and utilized in implementing this ordinance.

- (d) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

**SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.**

Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

**SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.**

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
  - (a) it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
  - (b) a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.
- (2) If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
  - (a) the anchoring and the elevation standards of Article 5, Section B(3); and
  - (b) the no encroachment standard of Article 5, Section F(1).

**SECTION G. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).**

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section G(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components

having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article 4, Section B(3) and Article 5, Section B(2).

- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

**ARTICLE 6. LEGAL STATUS PROVISIONS.**

**SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.**

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted October 12, 1987.as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the Town of Winterville enacted on October 12, 1987, as amended, which are not reenacted herein are repealed.

Municipal: The date of the initial Flood Damage Prevention Ordinance for the Town of Winterville is October 12, 1987.

**SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.**

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

**SECTION C. SEVERABILITY.**

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

**SECTION D. EFFECTIVE DATE.**

This ordinance shall become effective September 14, 2020.

**SECTION E. ADOPTION CERTIFICATION.**

Adopted this 14<sup>th</sup> day of September 2020.

\_\_\_\_\_  
Veronica W. Roberson, Mayor Pro Tem

ATTEST:

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

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Town Council of Winterville, North Carolina, on the 14<sup>th</sup> day of September 2020.

WITNESS my hand and the official seal of Winterville, North Carolina, this the 14th day of September 2020.

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Donald Harvey, Town Clerk

Flood Damage Prevention Ordinance Required Amendments as reviewed and requested by the NC Department of Public Safety.

**1. Review Ordinance (ADDITIONS, REVISIONS, DELETIONS)**

a. Required Revisions:

- i. Article 1, Section A. Statutory Authorization. **REPLACE WITH BELOW LANGUAGE IN ITS ENTIRETY.**

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Town Council of the Town of Winterville, North Carolina, does ordain as follows:

b. Article 2. Definitions. **ADDITIONS**

- i. “Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before [the initial Flood Insurance Rate Map \(FIRM\) for the community, dated February 24, 1978.](#)
- ii. “Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the community, [dated October 12, 1987.](#)
- iii. “Lowest Adjacent Grade (LAG)” means the [lowest](#) elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.
- iv. “New Construction” means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations, [dated October 12, 1987,](#) and includes any subsequent improvements to such structures.
- v. “Post-FIRM” means construction or other development for which the “start of construction” occurred on or after [February 24, 1987,](#) the effective date of the initial Flood Insurance Rate Map.

- vi. “Pre-FIRM” means construction or other development for which the “start of construction” occurred before [February 24, 1987](#), the effective date of the initial Flood Insurance Rate Map.
  - vii. “Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:
    - (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
    - (b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure [and the alteration is approved by variance issued pursuant to Article 4, Section E of this ordinance](#).
- c. Article 3, Section B. Basis for Establishing the Special Flood Hazard Areas.  
**REVISE AND DELETE**

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) ~~and its Flood Insurance Rate Maps (FIRM)~~, for Pitt County dated June 19, 2020, [and associated DFIRM panels, including any digital data developed as part of the FIS](#), which are adopted by reference and declared to be a part of this ordinance, [and all revisions thereto](#). Future revisions to the FIS and FIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Winterville are also adopted by reference and declared a part of this ordinance.

- d. Article 6, Section A. Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance. **REVISE AND DELETE**

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted October 12, 1987, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance

of the Town of Winterville enacted on ~~November 11, 2013~~ [October 12, 1987](#), as amended, which are not reenacted herein are repealed.



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Old Business

**Meeting Date:** May 13, 2024

**Presenter:** Terri L. Parker, Town Manager

**Item to be Considered**

**Subject:** Human Relations Board Discussion.

**Action Requested:** None.

**Attachment:** None.

**Prepared By:** Terri L. Parker, Town Manager

**Date:** 2/28/2024

**ABSTRACT ROUTING:**

TC: 4/1/2024

TM: 5/6/2024

Final: tjp - 5/6/2024

**Supporting Documentation**

**Human Relations Board**

The Human Relations Board consists of six (6) Members. At the present time, the Board has met irregularly due to attendance.

An information meeting will be held on Thursday, May 16, 2024 at 6:00 pm in the Town Hall Executive Conference Room to explain the commitments, purpose, and by-laws to applicants as potential new members. A presentation and question and answer time will help applicant understand the Human Relations Board and its goals and objectives.

**Budgetary Impact:** TBD.

**Recommendation:** NA.



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** New Business

**Meeting Date:** May 13, 2024

**Presenter:** Cliff McGuffin, Public Works Director

**Item to be Considered**

**Subject:** 2024 Disaster Relief Contract.

**Action Requested:** Award 2024 Disaster Relief Contract to CTC Inc.

**Attachment:** 2024 Disaster Relief RFP Cover, Notice, and Bid Tab.

**Prepared By:** Cliff McGuffin, Public Works Director

**Date:** 5/1/2024

**ABSTRACT ROUTING:**

TC: 5/2/2024

TM: 5/2/2024

Final: tlp - 4/2/2024

**Supporting Documentation**

Staff advertised RFP's for our 2024 Disaster Relief Contract and on April 1, 2024 received 3 bids; CTC Inc., DRC Emergency Services, and Ceres Environmental. CTC Inc. came in as the lowest responsible proposal and staff recommends the contract be awarded to them for a period of 3 years effective July 1, 2024. The Disaster Relief Contract covers disaster debris clearance and removal services in the event of a natural disasters such as hurricanes, tornadoes, floods etc.

**Budgetary Impact:** None, unless we have a natural disaster that is declared eligible for Federal Assistance.

**Recommendation:** Award 2024 Disaster Relief Contract to CTC Inc.

**Request for Proposal  
For  
Disaster Debris Clearance and Removal Services**

**Proposal Deadline  
Monday, April 1, 2024  
No later than 2:00 pm**

**Town of Winterville  
Pitt County, North Carolina**

**Town of Winterville**  
**RFP Disaster Debris Clearance and Removal Services**

The Town of Winterville will be receiving proposals for Disaster Debris Clearance and Removal Services. The contract will provide services for disaster debris removal, reduction, disposal, and other emergency clean-up activities associated with a hurricane or other natural disaster. Bids will be received until April 1, 2024 no later than 2:00 pm. No proposal will be accepted after the official time and date. To obtain a detailed copy of the RFP you can contact Anthony Bowers, Assistant Town Manager at [anthony.bowers@wintervillenc.com](mailto:anthony.bowers@wintervillenc.com). Or you can go to <https://www.wintervillenc.com/rfps> to download. All proposals need to be submitted electronically to Anthony Bowers at [anthony.bowers@wintervillenc.com](mailto:anthony.bowers@wintervillenc.com) .

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**Notes to Publisher:**

Legal Advertisements  
[legals@apgenc.com](mailto:legals@apgenc.com)  
(252) 329-9521

Subject: RFP Disaster Debris Clearance and Removal Services.

Please place the above legal advertisement in the Daily Reflector on Saturday March 16, 2024 and Wednesday March 20, 2024. Should you have any questions please contact me.

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

Thanks,

Donald Harvey, NCCMC  
Town Clerk  
Town of Winterville  
2571 Railroad Street/PO Box 1459  
Winterville, NC 28590  
(252) 756-2221 ext. 2344– Phone  
[don.harvey@wintervillenc.com](mailto:don.harvey@wintervillenc.com)

## 2024 Disaster Relief Bids

Company Name	Location	Price
CTC Inc.	Topeka, Kansas	\$6,796.90
Ceres Environmental	Sarasota, Florida	\$11,572.98
DRC Emergency Services	Holly Ridge, North Carolina	\$13,170.56

Prices are a total of all per unit quotes and are not the price for work to be completed should the need occur.



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** New Business

**Meeting Date:** May 13, 2024

**Presenter:** Christopher Williams, Interim Chief of Police

**Item to be Considered**

**Subject:** Approval of Axon Contract for Body Worn Cameras and Tasers.

**Action Requested:** Request Approval for five (5) year contract with Axon Enterprise Inc.

**Attachment:** Copy of Axon Contract.

**Prepared By:** Christopher Williams, Interim Chief of Police

**Date:** 5/1/2024

**ABSTRACT ROUTING:**

TC: 5/6/2024

TM: 5/6/2024

Final: tlp - 5/6/2024

**Supporting Documentation**

The Town of Winterville has had the foresight to equip the Police Department with body cameras for over 18 years, well before the recent social outcry and incidents involving police and citizens. The current contract with Taser International will expire as of 7/14/2024. The continuation of this contract with Axon is crucial to the Police Department as well as the citizens of Winterville. The proposed five (5) year contract is structured much like the current on with the exception of price.

The total cost of the proposed Contract over a five (5) year period is **\$292,895**.

Prices have increased due to the rise in companies providing body cameras, driving a healthy competition amongst competitors. Additionally, after years 2.5 and 5, new cameras will be issued as technology is changing faster than the equipment's life span as well as similar offers from other vendors.

The payment schedule of the proposed Contract is as follows:

- Year 1 - \$54,153**
- Year 2 - \$56,221**
- Year 3 - \$58,470**
- Year 4 - \$60.809**
- Year 5 - \$63,242**

**Budgetary Impact:** The annual amount will be budgeted in the respective fiscal year budget.

**Recommendation:** Staff recommends approval of the contract.

This Master Services and Purchasing Agreement ("**Agreement**") is between Axon Enterprise, Inc. ("**Axon**"), and the customer listed below or, if no customer is listed below, the customer on the Quote attached hereto ("**Customer**"). This Agreement is effective as of the later of the (a) last signature date on this Agreement or (b) date of acceptance of the Quote ("**Effective Date**"). Axon and Customer are each a "**Party**" and collectively "**Parties**". This Agreement governs Customer's purchase and use of the Axon Devices and Services detailed in the Quote Appendix ("**Quote**"). It is the intent of the Parties that this Agreement will govern all subsequent purchases by Customer for the same Axon Devices and Services in the Quote, and all such subsequent quotes accepted by Customer shall be also incorporated into this Agreement by reference as a Quote. The Parties agree as follows:

1. **Definitions.**

- 1.1. "**Axon Cloud Services**" means Axon's web services, including but not limited to, Axon Evidence, Axon Records, Axon Dispatch, FUSUS services and interactions between Axon Evidence and Axon Devices or Axon client software. Axon Cloud Service excludes third-party applications, hardware warranties, and my.evidence.com.
- 1.2. "**Axon Device**" means all hardware provided by Axon under this Agreement. Axon-manufactured Devices are a subset of Axon Devices.
- 1.3. "**Quote**" means an offer to sell and is only valid for devices and services on the offer at the specified prices. Any inconsistent or supplemental terms within Customer's purchase order in response to a Quote will be void. Orders are subject to prior credit approval. Changes in the deployment estimated ship date may change charges in the Quote. Shipping dates are estimates only. Axon is not responsible for typographical errors in any Quote by Axon, and Axon reserves the right to cancel any orders resulting from such errors.
- 1.4. "**Services**" means all services provided by Axon under this Agreement, including software, Axon Cloud Services, and professional services.

2. **Term.** This Agreement begins on July 15, 2024 and continues until all subscriptions hereunder have expired or have been terminated ("**Term**"). Payment schedule is as follows: July 2024, June 2025, June 2026, June 2027, & June 2028

- 2.1. All subscriptions including Axon Evidence, Axon Fleet, Officer Safety Plans, Technology Assurance Plans, and TASER 7 or TASER 10 plans begin on the start date. Each subscription term ends upon completion of the subscription stated in the Quote ("**5 years**").
- 2.2. Upon completion of the Subscription Term, the Subscription Term will automatically renew for an additional 5 years ("**Renewal Term**"). For purchase of TASER 7 or TASER 10 as a standalone, Axon may increase pricing to its then-current list pricing for any Renewal Term. For all other purchases, Axon may increase pricing on all line items in the Quote by up to 3% at the beginning of each year of the Renewal Term. New devices and services may require additional terms. Axon will not authorize services until Axon receives a signed Quote or accepts a purchase order, whichever is first.

3. **Payment.** Axon invoices for Axon Devices upon shipment, or on the date specified within the invoicing plan in the Quote. Payment is due net 30 days from the invoice date. Axon invoices for Axon Cloud Services on an upfront yearly basis prior to the beginning of the Subscription Term and upon the anniversary of the Subscription Term. Payment obligations are non-cancelable. Unless otherwise prohibited by law, Customer will pay interest on all past-due sums at the lower of one-and-a-half percent (1.5%) per month or the highest rate allowed by law. Customer will pay invoices without setoff, deduction, or withholding. If Axon sends a past due account to collections, Customer is responsible for collection and attorneys' fees.

4. **Taxes.** Customer is responsible for sales and other taxes associated with the order unless Customer provides Axon a valid tax exemption certificate.

5. **Shipping.** Axon may make partial shipments and ship Axon Devices from multiple locations. All shipments are EXW (Incoterms 2020) via common carrier. Title and risk of loss pass to Customer upon Axon's delivery to the common carrier. Customer is responsible for any shipping charges in the Quote.

6. **Returns.** All sales are final. Axon does not allow refunds or exchanges, except warranty returns or as provided by state or federal law.

7. **Warranty.**

- 7.1. **Limited Warranty.** Axon warrants that Axon-manufactured Devices are free from defects in workmanship and materials for one (1) year from the date of Customer's receipt, except Signal Sidearm and Axon-manufactured accessories, which Axon warrants for thirty (30) months and ninety (90) days, respectively, from the date of

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Customer's receipt. Used conducted energy weapon ("CEW") cartridges are deemed to have operated properly. Extended warranties run from the expiration of the one (1) year hardware warranty through the extended warranty term purchased.

- 7.2. **Disclaimer.** All software and Axon Cloud Services are provided "AS IS," without any warranty of any kind, either express or implied, including without limitation the implied warranties of merchantability, fitness for a particular purpose and non-infringement. Axon Devices and Services that are not manufactured, published or performed by Axon ("Third-Party Products") are not covered by Axon's warranty and are only subject to the warranties of the third-party provider or manufacturer.
- 7.3. **Claims.** If Axon receives a valid warranty claim for an Axon-manufactured Device during the warranty term, Axon's sole responsibility is to repair or replace the Axon-manufactured Device with the same or like Axon-manufactured Device, at Axon's option. A replacement Axon-manufactured Device will be new or like new. Axon will warrant the replacement Axon-manufactured Device for the longer of (a) the remaining warranty of the original Axon-manufactured Device or (b) ninety (90) days from the date of repair or replacement.
- 7.3.1. If Customer exchanges an Axon Device or part, the replacement item becomes Customer's property, and the replaced item becomes Axon's property. Before delivering an Axon-manufactured Device for service, Customer must upload Axon-manufactured Device data to Axon Evidence or download it and retain a copy. Axon is not responsible for any loss of software, data, or other information contained in storage media or any part of the Axon-manufactured Device sent to Axon for service.
- 7.4. **Spare Axon Devices.** At Axon's reasonable discretion, Axon may provide Customer a predetermined number of spare Axon Devices as detailed in the Quote ("**Spare Axon Devices**"). Spare Axon Devices are intended to replace broken or non-functioning units while Customer submits the broken or non-functioning units, through Axon's warranty return process. Axon will repair or replace the unit with a replacement Axon Device. Title and risk of loss for all Spare Axon Devices shall pass to Customer in accordance with shipping terms under Section 5. Axon assumes no liability or obligation in the event Customer does not utilize Spare Axon Devices for the intended purpose.
- 7.5. **Limitations.** Axon's warranty excludes damage related to: (a) failure to follow Axon Device use instructions; (b) Axon Devices used with equipment not manufactured or recommended by Axon; (c) abuse, misuse, or intentional damage to Axon Device; (d) force majeure; (e) Axon Devices repaired or modified by persons other than Axon without Axon's written permission; or (f) Axon Devices with a defaced or removed serial number. Axon's warranty will be void if Customer resells Axon Devices.
- 7.5.1. **To the extent permitted by law, the above warranties and remedies are exclusive. Axon disclaims all other warranties, remedies, and conditions, whether oral, written, statutory, or implied. If statutory or implied warranties cannot be lawfully disclaimed, then such warranties are limited to the duration of the warranty described above and by the provisions in this Agreement. Customer confirms and agrees that, in deciding whether to sign this Agreement, it has not relied on any statement or representation by Axon or anyone acting on behalf of Axon related to the subject matter of this Agreement that is not in this Agreement.**
- 7.5.2. **Axon's cumulative liability to any party for any loss or damage resulting from any claim, demand, or action arising out of or relating to this Agreement will not exceed the purchase price paid to Axon for the Axon Device, or if for Services, the amount paid for such Services over the twelve (12) months preceding the claim. Neither Party will be liable for special, indirect, incidental, punitive or consequential damages, however caused, whether for breach of warranty or contract, negligence, strict liability, tort or any other legal theory.**
- 7.6. **Online Support Platforms.** Use of Axon's online support platforms (e.g., Axon Academy and MyAxon) is governed by the Axon Online Support Platforms Terms of Use Appendix available at [www.axon.com/sales-terms-and-conditions](http://www.axon.com/sales-terms-and-conditions).
- 7.7. **Third-Party Software and Services.** Use of software or services other than those provided by Axon is governed by the terms, if any, entered into between Customer and the respective third-party provider, including, without limitation, the terms applicable to such software or services located at [www.axon.com/sales-terms-and-conditions](http://www.axon.com/sales-terms-and-conditions), if any.
- 7.8. **Axon Aid.** Upon mutual agreement between Axon and Customer, Axon may provide certain products and services to Customer, as a charitable donation under the Axon Aid program. In such event, Customer expressly waives and releases any and all claims, now known or hereafter known, against Axon and its officers, directors, employees, agents, contractors, affiliates, successors, and assigns (collectively, "**Releasees**"), including but not limited to, on account of injury, death, property damage, or loss of data, arising out of or attributable to the Axon Aid program whether arising out of the negligence of any Releasees or otherwise. Customer agrees not

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to make or bring any such claim against any Releasee, and forever release and discharge all Releasees from liability under such claims. Customer expressly allows Axon to publicly announce its participation in Axon Aid and use its name in marketing materials. Axon may terminate the Axon Aid program without cause immediately upon notice to the Customer.

8. **Statement of Work.** Certain Axon Devices and Services, including Axon Interview Room, Axon Channel Services, and Axon Fleet, may require a Statement of Work that details Axon's Service deliverables ("**SOW**"). In the event Axon provides an SOW to Customer, Axon is only responsible for the performance of Services described in the SOW. Additional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in fees or schedule. The SOW is incorporated into this Agreement by reference.
9. **Axon Device Warnings.** See [www.axon.com/legal](http://www.axon.com/legal) for the most current Axon Device warnings.
10. **Design Changes.** Axon may make design changes to any Axon Device or Service without notifying Customer or making the same change to Axon Devices and Services previously purchased by Customer.
11. **Bundled Offerings.** Some offerings in bundled offerings may not be generally available at the time of Customer's purchase. Axon will not provide a refund, credit, or additional discount beyond what is in the Quote due to a delay of availability or Customer's election not to utilize any portion of an Axon bundle.
12. **Insurance.** Axon will maintain General Liability, Workers' Compensation, and Automobile Liability insurance. Upon request, Axon will supply certificates of insurance.
13. **IP Rights.** Axon owns and reserves all right, title, and interest in Axon-manufactured Devices and Services and suggestions to Axon, including all related intellectual property rights. Customer will not cause any Axon proprietary rights to be violated.
14. **IP Indemnification.** Axon will indemnify Customer against all claims, losses, and reasonable expenses from any third-party claim alleging that the use of Axon-manufactured Devices or Services infringes or misappropriates the third-party's intellectual property rights. Customer must promptly provide Axon with written notice of such claim, tender to Axon the defense or settlement of such claim at Axon's expense and cooperate fully with Axon in the defense or settlement of such claim. Axon's IP indemnification obligations do not apply to claims based on (a) modification of Axon-manufactured Devices or Services by Customer or a third-party not approved by Axon; (b) use of Axon-manufactured Devices and Services in combination with hardware or services not approved by Axon; (c) use of Axon Devices and Services other than as permitted in this Agreement; or (d) use of Axon software that is not the most current release provided by Axon.
15. **Customer Responsibilities.** Customer is responsible for (a) Customer's use of Axon Devices; (b) breach of this Agreement or violation of applicable law by Customer or an Customer end user; (c) disputes between Customer and a third-party over Customer's use of Axon Devices; (d) ensuring Axon Devices are destroyed and disposed of securely and sustainably at Customer's cost; and (e) any regulatory violations or fines, as a result of improper destruction or disposal of Axon Devices.
16. **Termination.**
  - 16.1. **For Breach.** A Party may terminate this Agreement for cause if it provides thirty (30) days written notice of the breach to the other Party, and the breach remains uncured at the end of thirty (30) days. If Customer terminates this Agreement due to Axon's uncured breach, Axon will refund prepaid amounts on a prorated basis based on the effective date of termination.
  - 16.2. **By Customer.** If sufficient funds are not appropriated or otherwise legally available to pay the fees, Customer may terminate this Agreement. Customer will deliver notice of termination under this section as soon as reasonably practicable.
  - 16.3. **Effect of Termination.** Upon termination of this Agreement, Customer rights immediately terminate. Customer remains responsible for all fees incurred before the effective date of termination. If Customer purchases Axon Devices for less than the manufacturer's suggested retail price ("**MSRP**") and this Agreement terminates before the end of the Term, Axon will invoice Customer the difference between the MSRP for Axon Devices received, including any Spare Axon Devices, and amounts paid towards those Axon Devices. Only if terminating for non-appropriation, Customer may return Axon Devices to Axon within thirty (30) days of termination. MSRP is the standalone price of the individual Axon Device at the time of sale. For bundled Axon Devices, MSRP is the standalone price of all individual components.
17. **Confidentiality.** "**Confidential Information**" means nonpublic information designated as confidential or, given the nature of the information or circumstances surrounding disclosure, should reasonably be understood to be confidential. Each Party will take reasonable measures to avoid disclosure, dissemination, or unauthorized use of the

other Party's Confidential Information. Unless required by law, neither Party will disclose the other Party's Confidential Information during the Term and for five (5) years thereafter. To the extent permissible by law, Axon pricing is Confidential Information and competition sensitive. If Customer receives a public records request to disclose Axon Confidential Information, to the extent allowed by law, Customer will provide notice to Axon before disclosure. Axon may publicly announce information related to this Agreement.

**18. General.**

- 18.1. **Force Majeure.** Neither Party will be liable for any delay or failure to perform due to a cause beyond a Party's reasonable control.
- 18.2. **Independent Contractors.** The Parties are independent contractors. Neither Party has the authority to bind the other. This Agreement does not create a partnership, franchise, joint venture, Customer, fiduciary, or employment relationship between the Parties.
- 18.3. **Third-Party Beneficiaries.** There are no third-party beneficiaries under this Agreement.
- 18.4. **Non-Discrimination.** Neither Party nor its employees will discriminate against any person based on race; religion; creed; color; sex; gender identity and expression; pregnancy; childbirth; breastfeeding; medical conditions related to pregnancy, childbirth, or breastfeeding; sexual orientation; marital status; age; national origin; ancestry; genetic information; disability; veteran status; or any class protected by local, state, or federal law.
- 18.5. **Export Compliance.** Each Party will comply with all import and export control laws and regulations.
- 18.6. **Assignment.** Neither Party may assign this Agreement without the other Party's prior written consent. Axon may assign this Agreement, its rights, or obligations without consent: (a) to an affiliate or subsidiary; or (b) for purposes of financing, merger, acquisition, corporate reorganization, or sale of all or substantially all its assets. This Agreement is binding upon the Parties respective successors and assigns.
- 18.7. **Waiver.** No waiver or delay by either Party in exercising any right under this Agreement constitutes a waiver of that right.
- 18.8. **Severability.** If a court of competent jurisdiction holds any portion of this Agreement invalid or unenforceable, the remaining portions of this Agreement will remain in effect.
- 18.9. **Survival.** The following sections will survive termination: Payment, Warranty, Axon Device Warnings, Indemnification, IP Rights, Customer Responsibilities and any other Sections detailed in the survival sections of the Appendices.
- 18.10. **Governing Law.** The laws of the country, state, province, or municipality where Customer is physically located, without reference to conflict of law rules, govern this Agreement and any dispute arising from it. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.
- 18.11. **Notices.** All notices must be in English. Notices posted on Customer's Axon Evidence site are effective upon posting. Notices by email are effective on the sent date of the email. Notices by personal delivery are effective immediately. Notices to Customer shall be provided to the address on file with Axon. Notices to Axon shall be provided to Axon Enterprise, Inc., Attn: Legal, 17800 North 85th Street, Scottsdale, Arizona 85255 with a copy to [legal@axon.com](mailto:legal@axon.com).
- 18.12. **Entire Agreement.** This Agreement, the Appendices, including any applicable Appendices not attached herein for the products and services purchased, which are incorporated by reference and located in the Master Purchasing and Services Agreement located at <https://www.axon.com/sales-terms-and-conditions>, Quote and any SOW(s), represents the entire agreement between the Parties. This Agreement supersedes all prior agreements or understandings, whether written or verbal, regarding the subject matter of this Agreement. This Agreement may only be modified or amended in a writing signed by the Parties.



Each Party, by and through its respective representative authorized to execute this Agreement, has duly executed and delivered this Agreement as of the date of signature.

**AXON:**

Axon Enterprise, Inc.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CUSTOMER:**

\_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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## Axon Cloud Services Terms of Use Appendix

### 1. Definitions.

- a. "**Customer Content**" is data uploaded into, ingested by, or created in Axon Cloud Services within Customer's tenant, including media or multimedia uploaded into Axon Cloud Services by Customer. Customer Content includes Evidence but excludes Non-Content Data.
  - b. "**Evidence**" is media or multimedia uploaded into Axon Evidence as 'evidence' by an Customer. Evidence is a subset of Customer Content.
  - c. "**Non-Content Data**" is data, configuration, and usage information about Customer's Axon Cloud Services tenant, Axon Devices and client software, and users that is transmitted or generated when using Axon Devices. Non-Content Data includes data about users captured during account management and customer support activities. Non-Content Data does not include Customer Content.
  - d. "**Personal Data**" means any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
  - e. "**Provided Data**" means de-identified, de-personalized, data derived from Customer's TASER energy weapon deployment reports, related TASER energy weapon logs, body-worn camera footage, and incident reports.
  - f. "**Transformed Data**" means the Provided Data used for the purpose of quantitative evaluation of the performance and effectiveness of TASER energy weapons in the field across a variety of circumstances.
2. **Access.** Upon Axon granting Customer a subscription to Axon Cloud Services, Customer may access and use Axon Cloud Services to store and manage Customer Content. Customer may not exceed more end users than the Quote specifies. Axon Air requires an Axon Evidence subscription for each drone operator. For Axon Evidence Lite, Customer may access and use Axon Evidence only to store and manage TASER CEW and TASER CAM data ("**TASER Data**"). Customer may not upload non-TASER Data to Axon Evidence Lite.
  3. **Customer Owns Customer Content.** Customer controls and owns all right, title, and interest in Customer Content. Except as outlined herein, Axon obtains no interest in Customer Content, and Customer Content is not Axon's business records. Customer is solely responsible for uploading, sharing, managing, and deleting Customer Content. Axon will only have access to Customer Content for the limited purposes set forth herein. Customer agrees to allow Axon access to Customer Content to (a) perform troubleshooting, maintenance, or diagnostic screenings; and (b) enforce this Agreement or policies governing use of the Axon products.
  4. **Security.** Axon will implement commercially reasonable and appropriate measures to secure Customer Content against accidental or unlawful loss, access or disclosure. Axon will maintain a comprehensive information security program to protect Axon Cloud Services and Customer Content including logical, physical access, vulnerability, risk, and configuration management; incident monitoring and response; encryption of uploaded digital evidence; security education; and data protection. Axon agrees to the Federal Bureau of Investigation Criminal Justice Information Services Security Addendum for its digital evidence or records management systems.
  5. **Customer Responsibilities.** Customer is responsible for (a) ensuring Customer owns Customer Content; (b) ensuring no Customer Content or Customer end user's use of Customer Content or Axon Cloud Services violates this Agreement or applicable laws; and (c) maintaining necessary computer equipment and Internet connections for use of Axon Cloud Services. If Customer becomes aware of any violation of this Agreement by an end user, Customer will immediately terminate that end user's access to Axon Cloud Services.
    - a. Customer will also maintain the security of end usernames and passwords and security and access by end users to Customer Content. Customer is responsible for ensuring the configuration and utilization of Axon Cloud Services meet applicable Customer regulation and standards. Customer may not sell, transfer, or sublicense access to any other entity or person. Customer shall contact Axon immediately if an unauthorized party may be using Customer's account or Customer Content, or if account information is lost or stolen.

6. **Privacy.** Customer's use of Axon Cloud Services is subject to the Axon Cloud Services Privacy Policy, a current version of which is available at <https://www.axon.com/legal/cloud-services-privacy-policy>. Customer agrees to allow Axon access to Non-Content Data from Customer to (a) perform troubleshooting, maintenance, or diagnostic screenings; (b) provide, develop, improve, and support current and future Axon products and related services; and (c) enforce this Agreement or policies governing the use of Axon products.
7. **Axon Body Wi-Fi Positioning.** Axon Body cameras may offer a feature to enhance location services where GPS/GNSS signals may not be available, for instance, within buildings or underground. Customer administrators can manage their choice to use this service within the administrative features of Axon Cloud Services. If Customer chooses to use this service, Axon must also enable the usage of the feature for Customer's Axon Cloud Services tenant. Customer will not see this option with Axon Cloud Services unless Axon has enabled Wi-Fi Positioning for Customer's Axon Cloud Services tenant. When Wi-Fi Positioning is enabled by both Axon and Customer, Non-Content and Personal Data will be sent to Skyhook Holdings, Inc. ("**Skyhook**") to facilitate the Wi-Fi Positioning functionality. Data controlled by Skyhook is outside the scope of the Axon Cloud Services Privacy Policy and is subject to the Skyhook Services Privacy Policy.
8. **Storage.** For Axon Unlimited Device Storage subscriptions, Customer may store unlimited data in Customer's Axon Evidence account only if data originates from Axon Capture or the applicable Axon Device. Axon may charge Customer additional fees for exceeding purchased storage amounts. Axon may place Customer Content that Customer has not viewed or accessed for six (6) months into archival storage. Customer Content in archival storage will not have immediate availability and may take up to twenty-four (24) hours to access.

For Third-Party Unlimited Storage the following restrictions apply: (i) it may only be used in conjunction with a valid Axon's Evidence.com user license; (ii) is limited to data of the law enforcement Customer that purchased the Third-Party Unlimited Storage and the Axon's Evidence.com end user or Customer is prohibited from storing data for other law enforcement agencies; and (iii) Customer may only upload and store data that is directly related to: (1) the investigation of, or the prosecution of a crime; (2) common law enforcement activities; or (3) any Customer Content created by Axon Devices or Evidence.com.

9. **Location of Storage.** Axon may transfer Customer Content to third-party subcontractors for storage. Axon will determine the locations of data centers for storage of Customer Content. For United States agencies, Axon will ensure all Agency Content stored in Axon Cloud Services remains within the United States. Ownership of Customer Content remains with Customer.
10. **Suspension.** Axon may temporarily suspend Customer's or any end user's right to access or use any portion or all of Axon Cloud Services immediately upon notice, if Customer or end user's use of or registration for Axon Cloud Services may (a) pose a security risk to Axon Cloud Services or any third-party; (b) adversely impact Axon Cloud Services, the systems, or content of any other customer; (c) subject Axon, Axon's affiliates, or any third-party to liability; or (d) be fraudulent. Customer remains responsible for all fees incurred through suspension. Axon will not delete Customer Content because of suspension, except as specified in this Agreement.
11. **Axon Cloud Services Warranty.** Axon disclaims any warranties or responsibility for data corruption or errors before Customer uploads data to Axon Cloud Services.
12. **TASER Data Science Program.** Axon will provide a quantitative evaluation on the performance and effectiveness of TASER energy weapons in the field across a variety of circumstances.

If Customer purchases the TASER Data Science Program, Customer grants Axon, its affiliates, and assignees an irrevocable, perpetual, fully paid, royalty-free, and worldwide right and license to use Provided Data solely for the purposes of this Agreement and to create Transformed Data. Customer shall own all rights and title to Provided Data. Axon shall own all rights and title to Transformed Data and any derivatives of Transformed Data.

Axon grants to Customer an irrevocable, perpetual, fully paid, royalty-free, license to use to TASER Data Science report provided to Customer for its own internal purposes. **The Data Science report is provided "as is" and without any warranty of any kind.**

In the event Customer seeks Axon's deletion of Provided Data, it may submit a request to [privacy@axon.com](mailto:privacy@axon.com). Where reasonably capable of doing so, Axon will implement the request but at a minimum will not continue to collect Provided Data from Customer.

13. **Axon Records.** Axon Records is the software-as-a-service product that is generally available at the time Customer purchases an OSP 7 or OSP 10 bundle. During Customer's Axon Records Subscription Term, if any, Customer will be entitled to receive Axon's Update and Upgrade releases on an if-and-when available basis.

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- a. The Axon Records Subscription Term will end upon the completion of the Axon Records Subscription as documented in the Quote, or if purchased as part of an OSP 7 or OSP 10 bundle, upon completion of the OSP 7 or OSP 10 Term ("**Axon Records Subscription**")
  - b. An "**Update**" is a generally available release of Axon Records that Axon makes available from time to time. An "**Upgrade**" includes (i) new versions of Axon Records that enhance features and functionality, as solely determined by Axon; and/or (ii) new versions of Axon Records that provide additional features or perform additional functions. Upgrades exclude new products that Axon introduces and markets as distinct products or applications.
  - c. New or additional Axon products and applications, as well as any Axon professional services needed to configure Axon Records, are not included. If Customer purchases Axon Records as part of a bundled offering, the Axon Record subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Records to Customer.
  - d. Users of Axon Records at the Customer may upload files to entities (incidents, reports, cases, etc) in Axon Records with no limit to the number of files and amount of storage. Notwithstanding the foregoing, Axon may limit usage should the Customer exceed an average rate of one-hundred (100) GB per user per year of uploaded files. Axon will not bill for overages.
14. **Axon Cloud Services Restrictions**. Customer and Customer end users (including employees, contractors, agents, officers, volunteers, and directors), may not, or may not attempt to:
- a. reverse engineer, disassemble, or decompile Axon Cloud Services or apply any process to derive any source code included in Axon Cloud Services, or allow others to do the same;
  - b. copy, modify, tamper with, repair, or create derivative works of any part of Axon Cloud Services;
  - c. access or use Axon Cloud Services with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas;
  - d. use Axon Cloud Services as a service bureau, or as part of an Customer infrastructure as a service;
  - e. use trade secret information contained in Axon Cloud Services, except as expressly permitted in this Agreement;
  - f. access Axon Cloud Services to build a competitive device or service or copy any features, functions, or graphics of Axon Cloud Services;
  - g. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon's or Axon's licensors on or within Axon Cloud Services; or
  - h. use Axon Cloud Services to store or transmit infringing, libelous, or other unlawful or tortious material; material in violation of third-party privacy rights; or malicious code.
15. **Axon Narrative**. AI-Assisted Report Writing feature. Axon may impose usage restrictions if a single user generates more than one hundred (100) reports per month for two or more consecutive months.
16. **After Termination**. Axon will not delete Customer Content for ninety (90) days following termination. There will be no functionality of Axon Cloud Services during these ninety (90) days other than the ability to retrieve Customer Content. Customer will not incur additional fees if Customer downloads Customer Content from Axon Cloud Services during this time. Axon has no obligation to maintain or provide Customer Content after these ninety (90) days and will thereafter, unless legally prohibited, delete all Customer Content. Upon request, Axon will provide written proof that Axon successfully deleted and fully removed all Customer Content from Axon Cloud Services.
17. **Post-Termination Assistance**. Axon will provide Customer with the same post-termination data retrieval assistance that Axon generally makes available to all customers. Requests for Axon to provide additional assistance in downloading or transferring Customer Content, including requests for Axon's data egress service, will result in additional fees and Axon will not warrant or guarantee data integrity or readability in the external system.
18. **U.S. Government Rights**. If Customer is a U.S. Federal department or using Axon Cloud Services on behalf of a U.S. Federal department, Axon Cloud Services is provided as a "commercial item," "commercial computer software," "commercial computer software documentation," and "technical data", as defined in the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement. If Customer is using Axon Cloud

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Services on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, Customer will immediately discontinue use of Axon Cloud Services.

19. **Survival.** Upon any termination of this Agreement, the following sections in this Appendix will survive: Customer Owns Customer Content, Privacy, Storage, Axon Cloud Services Warranty, Customer Responsibilities and Axon Cloud Services Restrictions.

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## Axon Customer Experience Improvement Program Appendix

1. **Axon Customer Experience Improvement Program (ACEIP).** The ACEIP is designed to accelerate Axon's development of technology, such as building and supporting automated features, to ultimately increase safety within communities and drive efficiency in public safety. To this end, subject to the limitations on Axon as described below, Axon, where allowed by law, may make limited use of Customer Content from all of its customers to provide, develop, improve, and support current and future Axon products (collectively, "ACEIP Purposes"). However, at all times, Axon will comply with its obligations pursuant to the Axon Cloud Services Terms of Use Appendix to maintain a comprehensive data security program (including compliance with the CJIS Security Policy for Criminal Justice Information), privacy program, and data governance policy, including high industry standards of de-identifying Personal Data, to enforce its security and privacy obligations for the ACEIP. ACEIP has 2 tiers of participation, Tier 1 and Tier 2. By default, Customer will be a participant in ACEIP Tier 1. If Customer does not want to participate in ACEIP Tier 1, Customer can revoke its consent at any time. If Customer wants to participate in Tier 2, as detailed below, Customer can check the ACEIP Tier 2 box below. If Customer does not want to participate in ACEIP Tier 2, Customer should leave box unchecked. At any time, Customer may revoke its consent to ACEIP Tier 1, Tier 2, or both Tiers.
2. **ACEIP Tier 1.**
  - 2.1. When Axon uses Customer Content for the ACEIP Purposes, Axon will extract from Customer Content and may store separately copies of certain segments or elements of the Customer Content (collectively, "**ACEIP Content**"). When extracting ACEIP Content, Axon will use commercially reasonable efforts to aggregate, transform or de-identify Customer Content so that the extracted ACEIP Content is no longer reasonably capable of being associated with, or could reasonably be linked directly or indirectly to a particular individual ("**Privacy Preserving Technique(s)**"). For illustrative purposes, some examples are described in footnote 1<sup>1</sup>. For clarity, ACEIP Content will still be linked indirectly, with an attribution, to the Customer from which it was extracted. This attribution will be stored separately from the data itself, but is necessary for and will be solely used to enable Axon to identify and delete all ACEIP Content upon Customer request. Once de-identified, ACEIP Content may then be further modified, analyzed, and used to create derivative works. At any time, Customer may revoke the consent granted herein to Axon to access and use Customer Content for ACEIP Purposes. Within 30 days of receiving the Customer's request, Axon will no longer access or use Customer Content for ACEIP Purposes and will delete any and all ACEIP Content. Axon will also delete any derivative works which may reasonably be capable of being associated with, or could reasonably be linked directly or indirectly to Customer. In addition, if Axon uses Customer Content for the ACEIP Purposes, upon request, Axon will make available to Customer a list of the specific type of Customer Content being used to generate ACEIP Content, the purpose of such use, and the retention, privacy preserving extraction technique, and relevant data protection practices applicable to the Customer Content or ACEIP Content ("**Use Case**"). From time to time, Axon may develop and deploy new Use Cases. At least 30 days prior to authorizing the deployment of any new Use Case, Axon will provide Customer notice (by updating the list of Use Case at <https://www.axon.com/aceip> and providing Customer with a mechanism to obtain notice of that update or another commercially reasonable method to Customer designated contact) ("**New Use Case**").
  - 2.2. **Expiration of ACEIP Tier 1.** Customer consent granted herein will expire upon termination of the Agreement. In accordance with section 1.1.1, within 30 days of receiving the Customer's request, Axon will no longer access or use Customer Content for ACEIP Purposes and will delete ACEIP Content. Axon will also delete any derivative works which may reasonably be capable of being associated with, or could reasonably be linked directly or indirectly to, Customer.
3. **ACEIP Tier 2.** In addition to ACEIP Tier 1, if Customer wants to help further improve Axon's services, Customer may choose to participate in Tier 2 of the ACEIP. ACEIP Tier 2 grants Axon certain additional rights to use Customer

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<sup>1</sup> For example; (a) when extracting specific text to improve automated transcription capabilities, text that could be used to directly identify a particular individual would not be extracted, and extracted text would be disassociated from identifying metadata of any speakers, and the extracted text would be split into individual words and aggregated with other data sources (including publicly available data) to remove any reasonable ability to link any specific text directly or indirectly back to a particular individual; (b) when extracting license plate data to improve Automated License Plate Recognition (ALPR) capabilities, individual license plate characters would be extracted and disassociated from each other so a complete plate could not be reconstituted, and all association to other elements of the source video, such as the vehicle, location, time, and the surrounding environment would also be removed; (c) when extracting audio of potential acoustic events (such as glass breaking or gun shots), very short segments (<1 second) of audio that only contains the likely acoustic events would be extracted and all human utterances would be removed.



## Master Services and Purchasing Agreement for Customer

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Content, in addition to those set forth in Tier 1 above, without the guaranteed deployment of a Privacy Preserving Technique to enable product development, improvement, and support that cannot be accomplished with aggregated, transformed, or de-identified data.

Check this box if Customer wants to help further improve Axon's services by participating in ACEIP Tier 2 in addition to Tier 1. Axon will not enroll Customer into ACEIP Tier 2 until Axon and Customer agree to terms in writing providing for such participation in ACEIP Tier 2.

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Technology Assurance Plan Appendix

If Technology Assurance Plan ("TAP") or a bundle including TAP is on the Quote, this appendix applies.

1. **TAP Warranty.** The TAP warranty is an extended warranty that starts at the end of the one- (1-) year hardware limited warranty.
2. **Officer Safety Plan.** If Customer purchases an Officer Safety Plan ("OSP"), Customer will receive the deliverables detailed in the Quote. Customer must accept delivery of the TASER CEW and accessories as soon as available from Axon.
3. **OSP 7 or OSP 10 Term.** OSP 7 or OSP 10 begins on the date specified in the Quote ("OSP Term").
4. **TAP BWC Upgrade.** If Customer has no outstanding payment obligations and purchased TAP, Axon will provide Customer a new Axon body-worn camera ("**BWC Upgrade**") as scheduled in the Quote. If Customer purchased TAP, Axon will provide a BWC Upgrade that is the same or like Axon Device, at Axon's option. Axon makes no guarantee the BWC Upgrade will utilize the same accessories or Axon dock.
5. **TAP Dock Upgrade.** If Customer has no outstanding payment obligations and purchased TAP, Axon will provide Customer a new Axon Dock as scheduled in the Quote ("**Dock Upgrade**"). Accessories associated with any Dock Upgrades are subject to change at Axon discretion. Dock Upgrades will only include a new Axon dock bay configuration unless a new Axon dock core is required for BWC compatibility. If Customer originally purchased a single-bay Axon dock, the Dock Upgrade will be a single-bay Axon dock model that is the same or like Axon Device, at Axon's option. If Customer originally purchased a multi-bay Axon dock, the Dock Upgrade will be a multi-bay Axon dock that is the same or like Axon Device, at Axon's option.
6. **Upgrade Delay.** Axon may ship the BWC and Dock Upgrades as scheduled in the Quote without prior confirmation from Customer unless the Parties agree in writing otherwise at least ninety (90) days in advance. Axon may ship the final BWC and Dock Upgrade as scheduled in the Quote sixty (60) days before the end of the Subscription Term without prior confirmation from Customer.
7. **Upgrade Change.** If Customer wants to upgrade Axon Device models from the current Axon Device to an upgraded Axon Device, Customer must pay the price difference between the MSRP for the current Axon Device and the MSRP for the upgraded Axon Device. If the model Customer desires has an MSRP less than the MSRP of the offered BWC Upgrade or Dock Upgrade, Axon will not provide a refund. The MSRP is the MSRP in effect at the time of the upgrade.
8. **Return of Original Axon Device.** Within thirty (30) days of receiving a BWC or Dock Upgrade, Customer must return the original Axon Devices to Axon or destroy the Axon Devices and provide a certificate of destruction to Axon including serial numbers for the destroyed Axon Devices. If Customer does not return or destroy the Axon Devices, Axon will deactivate the serial numbers for the Axon Devices received by Customer.
9. **Termination.** If Customer's payment for TAP, OSP, or Axon Evidence is more than thirty (30) days past due, Axon may terminate TAP or OSP. Once TAP or OSP terminates for any reason:
  - 9.1. TAP and OSP coverage terminate as of the date of termination and no refunds will be given.
  - 9.2. Axon will not and has no obligation to provide the Upgrade Models.
  - 9.3. Customer must make any missed payments due to the termination before Customer may purchase any future TAP or OSP.

**TASER Device Appendix**

This TASER Device Appendix applies to Customer's TASER 7/10, OSP 7/10, OSP Plus, or OSP 7/10 Plus Premium purchase from Axon, if applicable.

1. **Duty Cartridge Replenishment Plan.** If the Quote includes "Duty Cartridge Replenishment Plan", Customer must purchase the plan for each CEW user. A CEW user includes officers that use a CEW in the line of duty and those that only use a CEW for training. Customer may not resell cartridges received. Axon will only replace cartridges used in the line of duty.
2. **Training.** If the Quote includes a TASER On Demand Certification subscription, Customer will have on-demand access to TASER Instructor and TASER Master Instructor courses only for the duration of the TASER Subscription Term. Axon will issue a maximum of ten (10) TASER Instructor vouchers and ten (10) TASER Master Instructor vouchers for every thousand TASER Subscriptions purchased. Customer shall utilize vouchers to register for TASER courses at their discretion however Customer may incur a fee for cancellations less than 10 business days prior to a course date or failure to appear to a registered course. The voucher has no cash value. Customer cannot exchange voucher for any other device or service. Any unused vouchers at the end of the Term will be forfeited. A voucher does not include any travel or other expenses that might be incurred related to attending a course.
3. **Extended Warranty.** If the Quote includes an extended warranty, the extended warranty coverage period warranty will be for a five- (5-) year term, which includes the hardware manufacturer's warranty plus the four- (4-) year extended term.
4. **Trade-in.** If the Quote contains a discount on CEW-related line items and that discount is contingent upon the trade-in of hardware, Customer must return used hardware and accessories associated with the discount ("**Trade-In Units**") to Axon within the below prescribed timeline. Customer must ship batteries via ground shipping. Axon will pay shipping costs of the return. If Axon does not receive Trade-In Units within the timeframe below, Axon will invoice Customer the value of the trade-in credit. Customer may not destroy Trade-In Units and receive a trade-in credit.

<b>Customer Size</b>	<b>Days to Return from Start Date of TASER 10 Subscription</b>
Less than 100 officers	60 days
100 to 499 officers	90 days
500+ officers	180 days

5. **TASER Device Subscription Term.** The TASER Device Subscription Term for a standalone TASER Device purchase begins on shipment of the TASER Device. The TASER Device Subscription Term for OSP 7/10 begins on the OSP 7/10 start date.
6. **Access Rights.** Upon Axon granting Customer a TASER Device Axon Evidence subscription, Customer may access and use Axon Evidence for the storage and management of data from TASER Devices devices during the TASER Device Subscription Term. Customer may not exceed the number of end users the Quote specifies.
7. **Customer Warranty.** If Customer is located in the US, Customer warrants and acknowledges that TASER 10 is classified as a firearm and is being acquired for official Customer use pursuant to a law enforcement Customer transfer under the Gun Control Act of 1968.
8. **Purchase Order.** To comply with applicable laws and regulations, Customer must provide a purchase order to Axon prior to shipment of TASER 10.
9. **Apollo Grant (US only).** If Customer has received an Apollo Grant from Axon, Customer must pay all fees in the Quote prior to upgrading to any new TASER Device offered by Axon.
10. **Termination.** If payment for TASER Device is more than thirty (30) days past due, Axon may terminate Customer's TASER Device plan by notifying Customer. Upon termination for any reason, then as of the date of termination:
  - 10.1. TASER Device extended warranties and access to Training Content will terminate. No refunds will be given.
  - 10.2. Axon will invoice Customer the remaining MSRP for TASER Devices received before termination. If terminating for non-appropriations, Axon will not invoice Customer if Customer returns the TASER Device, rechargeable battery, holster, dock, core, training suits, and unused cartridges to Axon within thirty (30) days of the date of

termination.

10.3. Customer will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future TASER Device plan.

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**Axon Respond Appendix**

This Axon Respond Appendix applies to both Axon Respond and Axon Respond Plus, if either is included on the Quote.

1. **Axon Respond Subscription Term.** If Customer purchases Axon Respond as part of a bundled offering, the Axon Respond subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Respond to Customer. If Customer purchases Axon Respond as a standalone, the Axon Respond subscription begins the later of the (1) date Axon provisions Axon Respond to Customer, or (2) first day of the month following the Effective Date. The Axon Respond subscription term will end upon the completion of the Axon Evidence Subscription associated with Axon Respond.
2. **Scope of Axon Respond.** The scope of Axon Respond is to assist Customer with real-time situational awareness during critical incidents to improve officer safety, effectiveness, and awareness. In the event Customer uses Axon Respond outside this scope, Axon may initiate good-faith discussions with Customer on upgrading Customer's Axon Respond to better meet Customer's needs.
3. **Axon Body LTE Requirements.** Axon Respond is only available and usable with an LTE enabled body-worn camera. Axon is not liable if Customer utilizes the LTE device outside of the coverage area or if the LTE carrier is unavailable. LTE coverage is only available in the United States, including any U.S. territories. Axon may utilize a carrier of Axon's choice to provide LTE service. Axon may change LTE carriers during the Term without Customer's consent.
4. **Axon Fleet LTE Requirements.** Axon Respond is only available and usable with a Fleet system configured with LTE modem and service. Customer is responsible for providing LTE service for the modem. Coverage and availability of LTE service is subject to Customer's LTE carrier.
5. **Axon Respond Service Limitations.** Customer acknowledges that LTE service is made available only within the operating range of the networks. Service may be temporarily refused, interrupted, or limited because of: (a) facilities limitations; (b) transmission limitations caused by atmospheric, terrain, other natural or artificial conditions adversely affecting transmission, weak batteries, system overcapacity, movement outside a service area or gaps in coverage in a service area, and other causes reasonably outside of the carrier's control such as intentional or negligent acts of third parties that damage or impair the network or disrupt service; or (c) equipment modifications, upgrades, relocations, repairs, and other similar activities necessary for the proper or improved operation of service.
  - 5.1. **With regard to Axon Body, Partner networks are made available as-is and the carrier makes no warranties or representations as to the availability or quality of roaming service provided by carrier partners, and the carrier will not be liable in any capacity for any errors, outages, or failures of carrier partner networks. Customer expressly understands and agrees that it has no contractual relationship whatsoever with the underlying wireless service provider or its affiliates or contractors and Customer is not a third-party beneficiary of any agreement between Axon and the underlying carrier.**
6. **Termination.** Upon termination of this Agreement, or if Customer stops paying for Axon Respond or bundles that include Axon Respond, Axon will end Axon Respond services, including any Axon-provided LTE service.

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## Axon Application Programming Interface Appendix

This Appendix applies if Axon's API Services or a subscription to Axon Cloud Services is included on the Quote.

### 1. **Definitions.**

- 1.1. "API Client" means the software that acts as the interface between Customer's computer and the server, which is already developed or to be developed by Customer.
- 1.2. "API Interface" means software implemented by Customer to configure Customer's independent API Client Software to operate in conjunction with the API Service for Customer's authorized Use.
- 1.3. "Axon Evidence Partner API, API or Axon API" (collectively "API Service") means Axon's API which provides a programmatic means to access data in Customer's Axon Evidence account or integrate Customer's Axon Evidence account with other systems.
- 1.4. "Use" means any operation on Customer's data enabled by the supported API functionality.

### 2. **Purpose and License.**

- 2.1. Customer may use API Service and data made available through API Service, in connection with an API Client developed by Customer. Axon may monitor Customer's use of API Service to ensure quality, improve Axon devices and services, and verify compliance with this Agreement. Customer agrees to not interfere with such monitoring or obscure from Axon Customer's use of API Service. Customer will not use API Service for commercial use.
- 2.2. Axon grants Customer a non-exclusive, non-transferable, non-sublicensable, worldwide, revocable right and license during the Term to use API Service, solely for Customer's Use in connection with Customer's API Client.
- 2.3. Axon reserves the right to set limitations on Customer's use of the API Service, such as a quota on operations, to ensure stability and availability of Axon's API. Axon will use reasonable efforts to accommodate use beyond the designated limits.

### 3. **Configuration.** Customer will work independently to configure Customer's API Client with API Service for Customer's applicable Use. Customer will be required to provide certain information (such as identification or contact details) as part of the registration. Registration information provided to Axon must be accurate. Customer will inform Axon promptly of any updates. Upon Customer's registration, Axon will provide documentation outlining API Service information.

### 4. **Customer Responsibilities.** When using API Service, Customer and its end users may not:

- 4.1. use API Service in any way other than as expressly permitted under this Agreement;
- 4.2. use in any way that results in, or could result in, any security breach to Axon;
- 4.3. perform an action with the intent of introducing any viruses, worms, defect, Trojan horses, malware, or any items of a destructive nature to Axon Devices and Services;
- 4.4. interfere with, modify, disrupt or disable features or functionality of API Service or the servers or networks providing API Service;
- 4.5. reverse engineer, decompile, disassemble, or translate or attempt to extract the source code from API Service or any related software;
- 4.6. create an API Interface that functions substantially the same as API Service and offer it for use by third parties;
- 4.7. provide use of API Service on a service bureau, rental or managed services basis or permit other individuals or entities to create links to API Service;
- 4.8. frame or mirror API Service on any other server, or wireless or Internet-based device;
- 4.9. make available to a third-party, any token, key, password or other login credentials to API Service;
- 4.10. take any action or inaction resulting in illegal, unauthorized or improper purposes; or
- 4.11. disclose Axon's API manual.

### 5. **API Content.** All content related to API Service, other than Customer Content or Customer's API Client content, is considered Axon's API Content, including:

- 5.1. the design, structure and naming of API Service fields in all responses and requests;
  - 5.2. the resources available within API Service for which Customer takes actions on, such as evidence, cases, users, or reports;
  - 5.3. the structure of and relationship of API Service resources; and
  - 5.4. the design of API Service, in any part or as a whole.
6. **Prohibitions on API Content**. Neither Customer nor its end users will use API content returned from the API Interface to:
- 6.1. scrape, build databases, or otherwise create permanent copies of such content, or keep cached copies longer than permitted by the cache header;
  - 6.2. copy, translate, modify, create a derivative work of, sell, lease, lend, convey, distribute, publicly display, or sublicense to any third-party;
  - 6.3. misrepresent the source or ownership; or
  - 6.4. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices).
7. **API Updates**. Axon may update or modify the API Service from time to time ("**API Update**"). Customer is required to implement and use the most current version of API Service and to make any applicable changes to Customer's API Client required as a result of such API Update. API Updates may adversely affect how Customer's API Client access or communicate with API Service or the API Interface. Each API Client must contain means for Customer to update API Client to the most current version of API Service. Axon will provide support for one (1) year following the release of an API Update for all depreciated API Service versions.

**Axon Investigate Appendix**

If the Quote includes Axon's On Prem Video Suite known as Axon Investigate or Third Party Video Support License, the following appendix shall apply.

1. **License Grant.** Subject to the terms and conditions specified below and upon payment of the applicable fees set forth in the Quote, Axon grants to Customer a nonexclusive, nontransferable license to install, use, and display the Axon Investigate software ("**Software**") solely for its own internal use only and for no other purpose, for the duration of subscription term set forth in the Quote. This Agreement does not grant Customer any right to enhancements or updates, but if such are made available to Customer and obtained by Customer they shall become part of the Software and governed by the terms of this Agreement.
2. **Third-Party Licenses.** Axon licenses several third-party codecs and applications that are integrated into the Software. Users with an active support contract with Axon are granted access to these additional features. By accepting this agreement, Customer agrees to and understands that an active support contract is required for all of the following features: DNxHD output formats, decoding files via the "fast indexing" method, proprietary file metadata, telephone and email support, and all future updates to the software. If Customer terminates the annual support contract with Axon, the features listed above will be disabled within the Software. It is recommended that users remain on an active support contract to maintain the full functionality of the Software.
3. **Restrictions on Use.** Customer may not permit any other person to use the Software unless such use is in accordance with the terms of this Agreement. Customer may not modify, translate, reverse engineer, reverse compile, decompile, disassemble or create derivative works with respect to the Software, except to the extent applicable laws specifically prohibit such restrictions. Customer may not rent, lease, sublicense, grant a security interest in or otherwise transfer Customer's rights to or to use the Software. Any rights not granted are reserved to Axon.
4. **Term.** For purchased perpetual Licenses only—excluding Licenses leased for a pre-determined period, evaluation licenses, companion licenses, as well as temporary licenses—the license shall be perpetual unless Customer fails to observe any of its terms, in which case it shall terminate immediately, and without additional prior notice. The terms of Paragraphs 1, 2, 3, 5, 6, 8 and 9 shall survive termination of this Agreement. For licenses leased for a pre-determined period, for evaluation licenses, companion licenses, as well as temporary licenses, the license is granted for a period beginning at the installation date and for the duration of the evaluation period or temporary period as agreed between Axon and Customer.
5. **Title.** Axon and its licensors shall have sole and exclusive ownership of all right, title, and interest in and to the Software and all changes, modifications, and enhancements thereof (including ownership of all trade secrets and copyrights pertaining thereto), regardless of the form or media in which the original or copies may exist, subject only to the rights and privileges expressly granted by Axon. This Agreement does not provide Customer with title or ownership of the Software, but only a right of limited use.
6. **Copies.** The Software is copyrighted under the laws of the United States and international treaty provisions. Customer may not copy the Software except for backup or archival purposes, and all such copies shall contain all Axon's notices regarding proprietary rights as contained in the Software as originally provided to Customer. If Customer receives one copy electronically and another copy on media, the copy on media may be used only for archival purposes and this license does not authorize Customer to use the copy of media on an additional server.
7. **Actions Required Upon Termination.** Upon termination of the license associated with this Agreement, Customer agrees to destroy all copies of the Software and other text and/or graphical documentation, whether in electronic or printed format, that describe the features, functions and operation of the Software that are provided by Axon to Customer ("**Software Documentation**") or return such copies to Axon. Regarding any copies of media containing regular backups of Customer's computer or computer system, Customer agrees not to access such media for the purpose of recovering the Software or online Software Documentation.
8. **Export Controls.** None of the Software, Software Documentation or underlying information may be downloaded or otherwise exported, directly or indirectly, without the prior written consent, if required, of the office of Export Administration of the United States, Department of Commerce, nor to any country to which the U.S. has embargoed goods, to any person on the U.S. Treasury Department's list of Specially Designated Nations, or the U.S. Department of Commerce's Table of Denials.
9. **U.S. Government Restricted Rights.** The Software and Software Documentation are Commercial Computer Software provided with Restricted Rights under Federal Acquisition Regulations and Customer supplements to them. Use, duplication or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFAR 255 227-7013 et. Seq. or 252.211-7015, or

Title: Master Services and Purchasing Agreement between Axon and Customer

Department: Legal

Version: 21

Release Date: 4/1/2024



## Master Services and Purchasing Agreement for Customer

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subparagraphs (a) through (d) of the Commercial Computer Software Restricted Rights at FAR 52.227-19, as applicable, or similar clauses in the NASA FAR Supplement. Contractor/manufacturer is Axon Enterprise, Inc., 17800 North 85th Street, Scottsdale, Arizona 85255.

### Axon Event Offer Appendix

If the Agreement includes the provision of, or Axon otherwise offers, ticket(s), travel and/or accommodation for select events hosted by Axon ("Axon Event"), the following shall apply:

1. **General.** Subject to the terms and conditions specified below and those in the Agreement, Axon may provide Customer with one or more offers to fund Axon Event ticket(s), travel and/or accommodation for Customer-selected employee(s) to attend one or more Axon Events. By entering into the Agreement, Customer warrants that it is appropriate and permissible for Customer to receive the referenced Axon Event offer(s) based on Customer's understanding of the terms and conditions outlined in this Axon Event Offer Appendix.
2. **Attendee/Employee Selection.** Customer shall have sole and absolute discretion to select the Customer employee(s) eligible to receive the ticket(s), travel and/or accommodation that is the subject of any Axon Event offer(s).
3. **Compliance.** It is the intent of Axon that any and all Axon Event offers comply with all applicable laws, regulations and ethics rules regarding contributions, including gifts and donations. Axon's provision of ticket(s), travel and/or accommodation for the applicable Axon Event to Customer is intended for the use and benefit of Customer in furtherance of its goals, and not the personal use or benefit of any official or employee of Customer. Axon makes this offer without seeking promises or favoritism for Axon in any bidding arrangements. Further, no exclusivity will be expected by either party in consideration for the offer. Axon makes the offer with the understanding that it will not, as a result of such offer, be prohibited from any procurement opportunities or be subject to any reporting requirements. If Customer's local jurisdiction requires Customer to report or disclose the fair market value of the benefits provided by Axon, Customer shall promptly contact Axon to obtain such information, and Axon shall provide the information necessary to facilitate Customer's compliance with such reporting requirements.
4. **Assignability.** Customer may not sell, transfer, or assign Axon Event ticket(s), travel and/or accommodation provided under the Agreement.
5. **Availability.** The provision of all offers of Axon Event ticket(s), travel and/or accommodation is subject to availability of funds and resources. Axon has no obligation to provide Axon Event ticket(s), travel and/or accommodation.
6. **Revocation of Offer.** Axon reserves the right at any time to rescind the offer of Axon Event ticket(s), travel and/or accommodation to Customer if Customer or its selected employees fail to meet the prescribed conditions or if changes in circumstances render the provision of such benefits impractical, inadvisable, or in violation of any applicable laws, regulations, and ethics rules regarding contributions, including gifts and donations



**Axon Enterprise, Inc.**  
 17800 N 85th St.  
 Scottsdale, Arizona 85255  
 United States  
 VAT: 86-0741227  
 Domestic: (800) 978-2737  
 International: +1.800.978.2737

Q-552454-45399.687WR

Issued: 04/17/2024

Quote Expiration: 05/14/2024

Estimated Contract Start Date: 07/15/2024

Account Number: 121067

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO	SALES REPRESENTATIVE	PRIMARY CONTACT
Winterville Police Dept. - NC 2593 Railroad St Winterville, NC 28590-8880 USA	Winterville Police Dept. - NC PO Box 1459 Winterville NC 28590-1459 USA Email: scott.raby@wintervillenc.com	Wilson Riendeau Phone: 7049953704 Email: wriendeau@axon.com Fax:	Scott Raby Phone: (252) 756-1105 Email: scottr@wintervillenc.com Fax:

### Quote Summary

Program Length	60 Months	Average Savings Per Year	\$13,201.40
<b>TOTAL COST</b>	<b>\$282,150.80</b>	<b>TOTAL SAVINGS</b>	<b>\$66,007.00</b>
<b>ESTIMATED TOTAL W/ TAX</b>	<b>\$292,895.03</b>		

### Discount Summary

Average Savings Per Year	\$13,201.40
<b>TOTAL SAVINGS</b>	<b>\$66,007.00</b>

**Payment Summary**

Date	Subtotal	Tax	Total
Jun 2024	\$52,164.28	\$1,988.65	\$54,152.93
Jul 2025	\$54,159.54	\$2,061.76	\$56,221.30
Jul 2026	\$56,325.92	\$2,144.24	\$58,470.16
Jul 2027	\$58,578.95	\$2,230.05	\$60,809.00
Jul 2028	\$60,922.11	\$2,319.53	\$63,241.64
<b>Total</b>	<b>\$282,150.80</b>	<b>\$10,744.23</b>	<b>\$292,895.03</b>

Quote Unbundled Price: \$348,157.80  
 Quote List Price: \$304,993.80  
 Quote Subtotal: \$282,150.80

**Pricing**

*All deliverables are detailed in Delivery Schedules section lower in proposal*

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
<b>Program</b>									
M00004	BUNDLE - OFFICER SAFETY PLAN 7	20	60	\$247.21	\$211.24	\$209.03	\$250,836.00	\$9,462.11	\$260,298.11
<b>A la Carte Hardware</b>									
H00001	AB4 Camera Bundle	18			\$849.00	\$0.00	\$0.00	\$0.00	\$0.00
H00002	AB4 Multi Bay Dock Bundle	1			\$1,638.90	\$43.90	\$43.90	\$3.08	\$46.98
H00001	AB4 Camera Bundle	2			\$849.00	\$0.00	\$0.00	\$0.00	\$0.00
H00002	AB4 Multi Bay Dock Bundle	1			\$1,638.90	\$43.90	\$43.90	\$3.08	\$46.98
<b>A la Carte Software</b>									
ProLicense	Pro License Bundle	5	60		\$43.40	\$43.33	\$12,999.00	\$0.00	\$12,999.00
<b>A la Carte Services</b>									
11642	AXON INVESTIGATE - THIRD PARTY VIDEO SUPPORT	28	60		\$10.85	\$10.85	\$18,228.00	\$1,275.96	\$19,503.96
<b>Total</b>							<b>\$282,150.80</b>	<b>\$10,744.23</b>	<b>\$292,895.03</b>

# Delivery Schedule

## Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
AB4 Camera Bundle	100147	AXON BODY 4 - CAMERA - NA US FIRST RESPONDER BLK RAPIDLOCK	18	1	06/15/2024
AB4 Camera Bundle	100147	AXON BODY 4 - CAMERA - NA US FIRST RESPONDER BLK RAPIDLOCK	2	1	06/15/2024
AB4 Camera Bundle	100466	AXON BODY 4 - CABLE - USB-C TO USB-C	20	1	06/15/2024
AB4 Camera Bundle	100466	AXON BODY 4 - CABLE - USB-C TO USB-C	3	1	06/15/2024
AB4 Camera Bundle	11507	MOLLE MOUNT, SINGLE, AXON RAPIDLOCK	20	1	06/15/2024
AB4 Camera Bundle	11507	MOLLE MOUNT, SINGLE, AXON RAPIDLOCK	3	1	06/15/2024
AB4 Multi Bay Dock Bundle	100206	AXON BODY 4 - DOCK - EIGHT BAY	1	1	06/15/2024
AB4 Multi Bay Dock Bundle	100206	AXON BODY 4 - DOCK - EIGHT BAY	1	1	06/15/2024
AB4 Multi Bay Dock Bundle	70033	AXON - DOCK WALL MOUNT - BRACKET ASSY	1	1	06/15/2024
AB4 Multi Bay Dock Bundle	70033	AXON - DOCK WALL MOUNT - BRACKET ASSY	1	1	06/15/2024
AB4 Multi Bay Dock Bundle	71019	AXON BODY - DOCK POWERCORD - NORTH AMERICA	1	1	06/15/2024
AB4 Multi Bay Dock Bundle	71019	AXON BODY - DOCK POWERCORD - NORTH AMERICA	1	1	06/15/2024
AB4 Multi Bay Dock Bundle	100681	AXON SIGNAL - SIDEARM SENSOR ONLY	1	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	20008	AXON TASER 7 - HANDLE - HIGH VIS GRN LASER CLASS 3R YLW	20	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	20018	AXON TASER - BATTERY PACK - TACTICAL	24	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	20050	AXON TASER - HOOK-AND-LOOP TRAINING (HALT) SUIT	1	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	20160	AXON TASER 7 - HOLSTER - SAFARILAND RH+CARD CARRIER	14	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	20161	AXON TASER 7 - HOLSTER - SAFARILAND LH+CARD CARRIER	6	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	60	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	40	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	60	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	40	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	22177	AXON TASER 7 - CARTRIDGE - HALT STANDOFF NS	40	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	22178	AXON TASER 7 - CARTRIDGE - HALT CLOSE QUART NS	40	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	22179	AXON TASER 7 - CARTRIDGE - INERT STANDOFF (3.5-DEGREE) NS	20	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	22181	AXON TASER 7 - CARTRIDGE - INERT CLOSE QUART (12-DEGREE) NS	20	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	70033	AXON - DOCK WALL MOUNT - BRACKET ASSY	1	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	71019	AXON BODY - DOCK POWERCORD - NORTH AMERICA	1	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	71044	AXON SIGNAL - BATTERY - CR2430 SINGLE PACK	40	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	74200	AXON TASER - DOCK - SIX BAY PLUS CORE	1	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	80087	AXON TASER - TARGET - CONDUCTIVE PROFESSIONAL RUGGEDIZED	1	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	80090	AXON TASER - TARGET FRAME - PROFESSIONAL 27.5 IN X 75 IN	1	1	06/15/2024
BUNDLE - OFFICER SAFETY PLAN 7	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	40	1	06/15/2025
BUNDLE - OFFICER SAFETY PLAN 7	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	40	1	06/15/2025
BUNDLE - OFFICER SAFETY PLAN 7	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	40	1	06/15/2026
BUNDLE - OFFICER SAFETY PLAN 7	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	40	1	06/15/2026
BUNDLE - OFFICER SAFETY PLAN 7	22177	AXON TASER 7 - CARTRIDGE - HALT STANDOFF NS	40	1	06/15/2026
BUNDLE - OFFICER SAFETY PLAN 7	22178	AXON TASER 7 - CARTRIDGE - HALT CLOSE QUART NS	40	1	06/15/2026
BUNDLE - OFFICER SAFETY PLAN 7	73309	AXON BODY - TAP REFRESH 1 - CAMERA	20	1	12/15/2026
BUNDLE - OFFICER SAFETY PLAN 7	73689	AXON BODY - TAP REFRESH 1 - DOCK MULTI BAY	3	1	12/15/2026
BUNDLE - OFFICER SAFETY PLAN 7	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	40	1	06/15/2027
BUNDLE - OFFICER SAFETY PLAN 7	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	40	1	06/15/2027
BUNDLE - OFFICER SAFETY PLAN 7	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	40	1	06/15/2028
BUNDLE - OFFICER SAFETY PLAN 7	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	40	1	06/15/2028
BUNDLE - OFFICER SAFETY PLAN 7	73310	AXON BODY - TAP REFRESH 2 - CAMERA	20	1	06/15/2029
BUNDLE - OFFICER SAFETY PLAN 7	73688	AXON BODY - TAP REFRESH 2 - DOCK MULTI BAY	3	1	06/15/2029

### Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
BUNDLE - OFFICER SAFETY PLAN 7	20248	AXON TASER - EVIDENCE.COM LICENSE	20	07/15/2024	07/14/2029
BUNDLE - OFFICER SAFETY PLAN 7	20248	AXON TASER - EVIDENCE.COM LICENSE	1	07/15/2024	07/14/2029
BUNDLE - OFFICER SAFETY PLAN 7	73638	AXON STANDARDS - LICENSE	20	07/15/2024	07/14/2029
BUNDLE - OFFICER SAFETY PLAN 7	73680	AXON RESPOND PLUS - LICENSE	20	07/15/2024	07/14/2029
BUNDLE - OFFICER SAFETY PLAN 7	73683	AXON EVIDENCE - STORAGE - 10GB A LA CARTE	200	07/15/2024	07/14/2029
BUNDLE - OFFICER SAFETY PLAN 7	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	20	07/15/2024	07/14/2029
BUNDLE - OFFICER SAFETY PLAN 7	73746	AXON EVIDENCE - ECOM LICENSE - PRO	20	07/15/2024	07/14/2029
Pro License Bundle	73683	AXON EVIDENCE - STORAGE - 10GB A LA CARTE	15	07/15/2024	07/14/2029
Pro License Bundle	73746	AXON EVIDENCE - ECOM LICENSE - PRO	5	07/15/2024	07/14/2029

### Services

Bundle	Item	Description	QTY
BUNDLE - OFFICER SAFETY PLAN 7	101193	AXON TASER - ON DEMAND CERTIFICATION	1
BUNDLE - OFFICER SAFETY PLAN 7	20246	AXON TASER 7 - REPLACEMENT ACCESS PROGRAM - DUTY CARTRIDGE	20
A la Carte	11642	AXON INVESTIGATE - THIRD PARTY VIDEO SUPPORT	28

### Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
BUNDLE - OFFICER SAFETY PLAN 7	80374	AXON TASER 7 - EXT WARRANTY - BATTERY PACK	24	06/15/2025	07/14/2029
BUNDLE - OFFICER SAFETY PLAN 7	80395	AXON TASER 7 - EXT WARRANTY - HANDLE	20	06/15/2025	07/14/2029
BUNDLE - OFFICER SAFETY PLAN 7	80396	AXON TASER 7 - EXT WARRANTY - DOCK SIX BAY	1	06/15/2025	07/14/2029
BUNDLE - OFFICER SAFETY PLAN 7	80464	AXON BODY - TAP WARRANTY - CAMERA	20	06/15/2025	07/14/2029
BUNDLE - OFFICER SAFETY PLAN 7	80465	AXON BODY - TAP WARRANTY - MULTI BAY DOCK	3	06/15/2025	07/14/2029

## Shipping Locations

Location Number	Street	City	State	Zip	Country
1	2593 Railroad St	Winterville	NC	28590-8880	USA

## Payment Details

### Jun 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Uprfront Hardware	H00001	AB4 Camera Bundle	18	\$0.00	\$0.00	\$0.00
Uprfront Hardware	H00001	AB4 Camera Bundle	2	\$0.00	\$0.00	\$0.00
Uprfront Hardware	H00002	AB4 Multi Bay Dock Bundle	1	\$43.50	\$3.08	\$46.98
Uprfront Hardware	H00002	AB4 Multi Bay Dock Bundle	1	\$43.50	\$3.08	\$46.98
Year 1	11642	AXON INVESTIGATE - THIRD PARTY VIDEO SUPPORT	28	\$3,365.38	\$235.58	\$3,600.96
Year 1	M00004	BUNDLE - OFFICER SAFETY PLAN 7	20	\$46,311.13	\$1,746.91	\$48,058.04
Year 1	ProLicense	Pro License Bundle	5	\$2,399.57	\$0.00	\$2,399.97
<b>Total</b>				<b>\$52,164.28</b>	<b>\$1,988.65</b>	<b>\$54,152.93</b>

### Jul 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Invoice Upon Fulfillment	M00004	BUNDLE - OFFICER SAFETY PLAN 7	20	\$0.00	\$0.00	\$0.00
<b>Total</b>				<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

### Jul 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	11642	AXON INVESTIGATE - THIRD PARTY VIDEO SUPPORT	28	\$3,500.00	\$245.00	\$3,745.00
Year 2	M00004	BUNDLE - OFFICER SAFETY PLAN 7	20	\$48,163.57	\$1,816.76	\$49,980.33
Year 2	ProLicense	Pro License Bundle	5	\$2,495.57	\$0.00	\$2,495.97
<b>Total</b>				<b>\$54,159.54</b>	<b>\$2,061.76</b>	<b>\$56,221.30</b>

### Jul 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	11642	AXON INVESTIGATE - THIRD PARTY VIDEO SUPPORT	28	\$3,640.00	\$254.80	\$3,894.80
Year 3	M00004	BUNDLE - OFFICER SAFETY PLAN 7	20	\$50,090.11	\$1,889.44	\$51,979.55
Year 3	ProLicense	Pro License Bundle	5	\$2,595.81	\$0.00	\$2,595.81
<b>Total</b>				<b>\$56,325.92</b>	<b>\$2,144.24</b>	<b>\$58,470.16</b>

### Jul 2027

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	11642	AXON INVESTIGATE - THIRD PARTY VIDEO SUPPORT	28	\$3,785.60	\$264.99	\$4,050.59
Year 4	M00004	BUNDLE - OFFICER SAFETY PLAN 7	20	\$52,093.71	\$1,965.06	\$54,058.77
Year 4	ProLicense	Pro License Bundle	5	\$2,699.64	\$0.00	\$2,699.64
<b>Total</b>				<b>\$58,578.95</b>	<b>\$2,230.05</b>	<b>\$60,809.00</b>

**Jul 2028**

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 5	11642	AXON INVESTIGATE - THIRD PARTY VIDEO SUPPORT	28	\$3,937.02	\$275.59	\$4,212.61
Year 5	M00004	BUNDLE - OFFICER SAFETY PLAN 7	20	\$54,177.47	\$2,043.94	\$56,221.41
Year 5	ProLicense	Pro License Bundle	5	\$2,807.62	\$0.00	\$2,807.62
<b>Total</b>				<b>\$60,922.11</b>	<b>\$2,319.53</b>	<b>\$63,241.64</b>

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

## Standard Terms and Conditions

Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at <https://www.axon.com/sales-terms-and-conditions>), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at [www.axon.com/legal/sales-terms-and-conditions](http://www.axon.com/legal/sales-terms-and-conditions)), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

## Exceptions to Standard Terms and Conditions

Renewing TAP refresh, (18) BWC and 1 multi-bay doc, from previous contract 00064498.

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Signature

Date Signed

4/17/2024





**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** New Business

**Meeting Date:** May 30, 2023

**Presenter:** David Moore, Fire Chief

**Item to be Considered**

**Subject:** Janitorial Services Contract.

**Action Requested:** Approval of Janitorial Services Contract.

**Attachment:** Bid Tabulation, Contract, Specifications, and Advertisement

**Prepared By:** David Moore, Fire Chief

**Date:** 5/2/2024

**ABSTRACT ROUTING:**

TC: 5/3/2024

TM: 5/3/2024

Final: tlp - 5/3/2024

**Supporting Documentation**

This item includes the information for the approval of the upcoming contract for janitorial services for Town properties. The solicitation for proposal was advertised in the newspaper on January 10, 2024 and January 13, 2024. A walk-through was held on January 24, 2024. (10) vendors expressed interest and five vendors attended the walk-through. Staff received and opened sealed proposals from four vendors on February 14, 2024. The bid tabulation is attached for review. A & B Cleaning Service, Inc. was the lowest bid received.

Staff recommends that Town Council approve the attached contract. If approved, the contract will be executed, purchase order will be issued, and notice to proceed will be issued.

**Budgetary Impact:** \$62,400.12 (Annually).

**Recommendation:** Staff recommends that Council approve the Janitorial Services Contract.

Town of Winterville  
 Janitorial Services  
 Bid Tabulation

TOWN OF WINTERVILLE  
 WINTERVILLE, NORTH CAROLINA  
 BID PROPOSALS FOR Janitorial Services  
 BID TABULATION -  
 BID OPENING: 02/14/2024 TIME: 2:00PM

DESCRIPTION	VENDOR NAME AND ADDRESS		
	American Facility Services	Blink Facility Solutions	Service Master Clean
E-Verify Documented			
<b>RATE - PER MONTH:</b>			
Town Hall Building	1,650	3,600	2,381
Winterville Recreation Park	850	796	780
Hillcrest	825	478	780
Library	1,100	1,762	650
Police/Fire/Rescue Station	1,330	2,107	1,862
Public Works Facilities	600	832	1,660
Electric Department Facilities	700	845	896
Operation Center	1,100	1,774	1,494
<b>Total Amount per Month:</b>	8,155	12,758	16,503
<b>Total Amount per Year:</b>	97,860	153,096	198,036

SCHEDULED IF REQUESTED PER MAN-HOUR	AJB Cleaning Service INC
Town Hall Building	1516
Winterville Recreation Park	275
Hillcrest	359
Library	700
Police/Fire/Rescue Station	800
Public Works Facilities	450
Electric Department Facilities	500
Operation Center	600
<b>Total Amount per Month:</b>	5,200.01
<b>Total Amount per Year:</b>	62,400.12

**SPECIFICATIONS**  
**JANITORIAL SERVICES**

**1. TERM OF CONTRACT**

Contract shall exist for (12) months beginning on \_\_\_\_\_. The Town reserves the right to extend this Agreement on an annual basis if it is determined to be in its best interest. The life of this Agreement including all extensions shall not extend beyond a period of three (3) years. The Town reserves the right to terminate this Agreement at any time with thirty (30) days written notice, with or without cause.

**2. BIDDER QUALIFICATIONS**

Only bids from companies established in performing this type service and qualified to handle accounts of this size may be considered. Prior to award, Town of Winterville reserves the right to investigate a bidder's ability to fulfill the requirements of the contract.

All bidders shall include an affidavit attesting to their compliance with E-Verify (or, if the contractor employs less than 25 employees in this state, attesting to that fact), and attesting to the bidder's subcontractors' compliance with E-Verify (or, if any subcontractors employ less than 25 employees in this state, attesting to that fact).

**3. INSURANCE**

Minimum Limits of insurance:

General Liability – No less than \$1,000,000, limit per occurrence for bodily injury, personal injury and property damage.

Auto Liability – No less than \$1,000,000, limit per occurrence combined single limit per accident per bodily injury and property damage.

The successful Contractor shall provide acceptable Insurance Certificate(s) and Endorsement(s) to the Town no later than at the execution of the contract. The Town reserves the right to require any additional documentation or information verifying insurance coverage, as the Town deems necessary. The town may contract the successful Contractor's insurance agent(s) or carrier(s) directly concerning any insurance issues.

**4. INDEPENDENT CONTRACTOR**

The Contractor is an independent contractor and shall not be deemed an agent or employee of the Town of Winterville for any purpose whatsoever.

The Town prefers a single, qualified company or entity to be responsible for providing services described herein. Therefore, the contractor shall not subcontract any work related to the janitorial service to another individual or janitorial service unless approved by the Town of Winterville.

## **5. CONTRACTOR'S USE OF SITE PREMISES**

Successful contractor shall cooperate with and accommodate related work performed by the Town on site during the contract period. It shall be the successful Contractor's responsibility to coordinate its work on site.

## **6. PERSONNEL**

Prior to beginning work, Contractor shall conduct and make available to the Town upon request a background check on all employees they intend to assign to each building. Fingerprints of all employees shall be obtained and kept on file. The Town of Winterville reserves the right to request of the Contractor, dismissal or replacement of an employee for the Contractor if a conflict or problem with that employee should arise. The Contractor will be responsible for supervision, hiring, and firing of their own employees and shall be solely responsible for the pay, worker's compensation insurance and benefits. ***The Contractor's designated representative is required to perform weekly inspections of buildings and shall submit inspection reports to the Contract Administrator.***

The Contract Administrator, which will be the Electric Utility Director for the purpose of this Agreement, will be assigned as the contact person for cleaning personnel. Communication between the Contract Administrator and the cleaning personnel is very important. Therefore, the Contractor must assure that at least one cleaning personnel per building can communicate well with the Contract Administrator. Any employee hired by the Contractor will be the Contractor's employee and in no way has any association with the Town of Winterville. The Contractor shall insure that his employees are trained in all appropriate safety regulations including but not limited to, OSHA regulations and all other local, State, and Federal regulations.

The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term.

## **7. UNIFORMS**

All custodial personnel are required to wear a uniform and a photo identification card, which shall clearly identify personnel as employees of the contractor. This requirement shall apply upon entering Town property and at all times while on duty.

## **8. FACILITY SECURITY**

Arrangements as to accessing the facilities will be coordinated through the Manager's office. Issuance of necessary keys and other procedures will be arranged after awarding the Contract. The Contractor shall be responsible for which employees shall be assigned keys and the return of all keys immediately upon termination of contract. Contractor shall report immediately any loss or misuse. In the event duplication of keys are required because of contractors and/or their employee's having lost or misuse of, Contractor shall promptly reimburse the Town for cost of such duplication. Contractor will not be allowed to duplicate keys. Turn off lights except those designated to be left on and lock all doors as directed.

All doors found locked should be left locked. Security of the building shall be the responsibility of the Contractor during the designated cleaning service. Absolutely no one other than the authorized personnel can be in the facility after regular work hours. This includes relatives, friends, etc.

## **9. SCOPE OF SERVICES**

### a. Scope of Work

The contractor shall furnish cleaning services (5) days per week (unless otherwise noted), Monday through Friday inclusive and shall do all such work on those days as shall be required to keep the windows, floors, walls, and all other portions of said buildings clean and presentable and no less than specified on the attached "Scope of Services List." All work should be done between the hours of 8:00 am and 5:00 pm unless other arrangements are made. The contractor shall furnish all supervised labor, materials, and equipment necessary to provide complete and efficient cleaning services. The contractor shall arrange cleaning operations as necessary to avoid interfering with Town operations. ***Cleaning service shall be in accordance with the attached "Scope of Services List" which lists each facility to be cleaned and specific duties to be performed and the frequency at which these duties should be performed.*** In case of inclement weather, the Contractor shall contact the Contract Administrator to determine the level of service required during that period.

### b. Materials & Equipment to be supplied by Bidder

The contractor shall furnish supplies and equipment necessary to perform the services required by this contract. These include but are not limited to restroom supplies, chemicals, brooms, vacuums, vacuum bags, buffers, dusting equipment (no feather dusters), mops, mop buckets, steam vacuums, safety, and other equipment.

### c. Other Items to be Supplied by the Contractor

The Contractor will furnish from its stock but not limited to paper towels, hand soap for dispensers, toilet tissue, trash can liners, deodorant blocks, disinfectant cleaners, furniture polish, glass cleaner, toilet cleaner, stainless steel cleaner, and cleaning towels. These items are to be stocked by the contractor during regular cleaning service for each building. The Town will provide storage room for all supplies and equipment.

## **10. RESPONSIBILITY FOR DAMAGE CLAIMS**

The Contractor shall indemnify and save harmless the Town of Winterville and its officers, agents, and employees from all suits, actions or claims of any character brought for any injury or damages received or sustained by any person, persons, or property by reason of any act of the Contractor, its agents, or employees, in the performance of the contract.

## **11. NOTICE TO PROCEED**

A notice to proceed will be issued after the Contractor has executed the Agreement and their Insurance Certificate(s) or Endorsements have been received and accepted by the Town. The Contractor shall not deliver any equipment to the work site or commence work until they have received a written Notice to Proceed.

## **12. PAYMENT**

Town of Winterville shall make payments based on Contractor's invoice, which is to be submitted on the last day of each month for the previous month's work. Town shall, within 30 days after receipt of each invoice, issue payment to Contractor. Any and all monies expended by Town to remedy Contractor's failure to fulfill all contract obligations shall be deducted from invoiced amount.

## SCOPE OF SERVICES LIST

### Town Hall Building

#### Daily (Monday – Friday)

1. All carpets, carpet runners, and entrance mats in hallways, offices, conference rooms and Town Chambers shall be vacuumed, and spot cleaned with carpet cleaner as necessary.
2. All trash receptacles emptied, and trash removed from the building. When liners are dirty or torn, a clean liner is to be placed in trash receptacles. Regardless of condition, liners shall be replaced a minimum of once every week.
3. Water fountains cleaned and disinfected.
4. Restrooms cleaned and disinfected including sinks, toilets, fixtures, switches, door handles, mirrors, baby changing stations, and partitions. All dispensers should be filled. Floors are to be damp mopped using a disinfectant.
5. Clean glass entrance doors and windows.
6. Break room cleaned: Tables and counters damp wiped with disinfectant; sink, appliance exteriors, and vending machines damp wiped.
7. Custodial service storage room maintained in a clean and organized manner.
8. The hard surface floors should be dust mopped with treated dust mop. Wet mop any stains or spills.
9. Clean reception counters, damp wipe with disinfectant.
10. Empty marked recycling materials into proper containers.
11. Office furniture, fixtures, equipment, accessories, windowsills and flat surfaces dusted, spot clean desktops and thoroughly clean if desk is cleared.
12. Spot clean walls, light switches, and doors.

#### Three Times per Week:

1. Mop entire building with wet mop.

#### Monthly:

1. Vacuum all fabric office furniture including chairs and couches.
2. Dust all blinds.
3. Dust all air vents, returns, and light fixtures.

#### Bi-annually:

1. Dust mop with treated dust mop upstairs storage area and sweep stair well.

## **Winterville Recreation Park**

Daily

(Monday – Friday, November through March);

(7 days a week, April through October):

1. All trash receptacles emptied, and trash removed. Trash shall be placed in dumpster adjacent to parking lot. When liners are dirty or torn, a clean liner is to be placed in trash receptacles. Regardless of condition, liners shall be replaced a minimum of once every week.
2. Restrooms cleaned and disinfected including sinks, toilets, fixtures, switches, door handles, mirrors, baby changing stations, and partitions. All dispensers should be filled. Floors are to be damp mopped using a disinfectant. No excess water or puddling shall remain on floors after mopping.
3. Clean and disinfect all water fountains.

Twice Weekly

1. All carpets, carpet runners, and entrance mats shall be vacuumed, and spot cleaned with carpet cleaner as necessary.
2. Clean glass entrance doors.
3. Hard surface floors should be dust mopped with treated dust mop. Wet mop any stains or spills.
4. Office furniture, fixtures, equipment, accessories, windowsills, and flat surfaces dusted. Spot clean desktops and thoroughly clean if desk is cleared.
5. Spot clean walls, light switches, and doors as necessary.

## **Hillcrest Park**

Daily

(Monday – Friday, November through March);

(7 days a week, April through October):

1. All trash receptacles emptied, and trash removed. Trash shall be placed into dumpster at Winterville Recreation Park. When liners are dirty or torn, a clean liner is to be placed in trash receptacles. Regardless of condition, liners shall be replaced a minimum of once every week.
2. Restrooms cleaned and disinfected including sinks, toilets, fixtures, switches, door handles, mirrors, baby changing stations, and partitions. All dispensers should be filled. Floors are to be damp mopped using a disinfectant. No excess water or puddling shall remain on floors after mopping.
3. Clean and disinfect all water fountains.

## **Library**

### Daily (Monday – Friday):

1. All carpets, carpet runners, and entrance mats in hallways, offices, and main rooms shall be vacuumed and spot cleaned with carpet cleaner as necessary.
2. All trash receptacles (including the trash receptacle outside by the front entrance) emptied and trash removed from the building and placed in the dumpster behind Town Hall on Church Street. When liners are dirty or torn, a clean liner is to be placed in trash receptacles. Regardless of condition, liners shall be replaced a minimum of once every week.
3. Water fountains cleaned and disinfected.
4. Restrooms cleaned and disinfected including sinks, toilets, fixtures, switches, door handles, mirrors, baby changing stations, and partitions. All dispensers should be filled. Floors are to be damp mopped using a disinfectant.
5. Clean glass entrance doors and windows.
6. Custodial service storage room maintained in a clean and organized manner.
7. The hard surface floors should be dust mopped with treated dust mop. Wet mop any stains or spills.
8. Clean reception counters with disinfectant.
9. Empty marked recycling materials into proper containers.
10. Office furniture, fixtures, equipment, accessories, windowsills and flat surfaces dusted; spot clean desktops and thoroughly clean if desk is cleared.
11. Spot clean walls, light switches, and doors.

### Monthly:

1. Vacuum all fabric office furniture including chairs and couches.
2. Dust all blinds.
3. Dust all air vents, returns, and light fixtures.

## **Police/Fire/Rescue Station**

### Daily (Monday – Friday):

1. All trash receptacles emptied, and trash removed from the building and placed in the dumpster behind Town Hall on Church Street. When liners are dirty or torn, a clean liner is to be placed in trash receptacles. Regardless of condition, liners shall be replaced a minimum of once every week.
2. Water fountains cleaned and disinfected.
3. Restrooms cleaned and disinfected including sinks, toilets, fixtures, switches, door handles, mirrors, and partitions. All dispensers should be filled. Floors are to be damp mopped using a disinfectant.
4. Clean glass office and entrance doors and windows.
5. Custodial service storage room maintained in a clean and organized manner.

### Weekly:

1. All carpets, carpet runners and entrance mats in hallways, offices, conference rooms, and living quarters (including bedrooms) shall be vacuumed and spot cleaned with carpet cleaner as necessary.

Twice Weekly:

1. Office furniture, fixtures, equipment, accessories, windowsills and flat surfaces dusted; spot clean desktops and thoroughly clean if desk is cleared.
2. Spot clean walls, light switches, and doors.
3. The hard surface floors should be dust mopped with treated dust mop. Wet mop any stains or spills.

Monthly:

1. Vacuum all fabric office furniture including chairs and couches.
2. Dust all blinds.
3. Dust all air vents, returns, and light fixtures.

## **Operations Center**

Daily (Monday – Friday):

1. All carpets, carpet runners, and entrance mats in hallways, offices, and conference rooms shall be vacuumed and spot cleaned with carpet cleaner as necessary.
2. All trash receptacles emptied, and trash removed from the building. Trash shall be placed in dumpster behind Operations Center. When liners are dirty or torn, a clean liner is to be placed in trash receptacles. Regardless of condition, liners shall be replaced a minimum of once every week.
3. Water fountains cleaned and disinfected.
4. Restrooms cleaned and disinfected including sinks, toilets, fixtures, switches, door handles, mirrors, and partitions. All dispensers should be filled. Floors are to be damp mopped using a disinfectant.
5. Clean glass entrance doors and windows in front, rear, and south side of building.
6. Break room cleaned: Tables and counters damp wiped with disinfectant; sink, appliance exteriors, and vending machines damp wiped.
7. Custodial service storage room maintained in a clean and organized manner.
8. The hard surface floors should be dust mopped with treated dust mop. Wet mop any stains or spills.
9. Clean reception counters with disinfectant.
10. Empty marked recycling materials into proper containers.
11. Office furniture, fixtures, equipment, accessories, windowsills and flat surfaces dusted; spot clean desktops and thoroughly clean if desk is cleared.
12. Spot clean walls, light switches, and doors.

Three Times per Week:

1. Mop entire building with wet mop.

Monthly:

1. Vacuum all fabric office furniture including chairs and couches.
2. Dust all blinds.
3. Dust all air vents, returns, and light fixtures.

### **Public Works Building**

#### Daily (Monday – Friday):

1. All trash receptacles emptied, and trash removed from the building and placed in dumpster. When liners are dirty or torn, a clean liner is to be placed in trash receptacles. Regardless of condition, liners shall be replaced a minimum of once every week.
2. Restrooms cleaned and disinfected including sinks, toilets, fixtures, switches, door handles, mirrors, and partitions. All dispensers should be filled. Bathroom floors are to be damp mopped using a disinfectant.
3. All office, break room, and hallway concrete floors shall be swept. Any stains or spills shall be spot cleaned with a wet mop.

#### Twice Weekly:

1. Office furniture, fixtures, equipment, accessories, windowsills and flat surfaces dusted; spot clean desktops and thoroughly clean if desk is cleared.
2. Spot clean walls, light switches, and doors.
3. Clean glass entrance doors and windows.

#### Weekly:

1. All office, break room, bathroom, and hallway floors shall be wet mopped.

### **Electric Department Building**

#### Daily (Monday – Friday):

1. All trash receptacles emptied, and trash removed from the building and placed in dumpster. When liners are dirty or torn, a clean liner is to be placed in trash receptacles. Regardless of condition, liners shall be replaced a minimum of once every week.
2. Restrooms cleaned and disinfected including sinks, toilets, fixtures, switches, door handles, mirrors, and partitions. All dispensers should be filled. Bathroom floors are to be damp mopped using a disinfectant.
3. All office, break room, and hallway concrete floors shall be swept. Any stains or spills shall be spot cleaned with a wet mop.

#### Twice Weekly:

1. Office furniture, fixtures, equipment, accessories, windowsills and flat surfaces dusted, Spot clean desktops and thoroughly clean if desk is cleared.
2. Spot clean walls, light switches, and doors.
3. Clean glass entrance doors and windows.

#### Weekly:

1. All office, break room, bathroom, and hallway floors shall be wet mopped.

The square footage relating to each of the buildings in the Request for Proposals is listed below.

<u>BUILDINGS</u>	<u>SQUARE FOOTAGE</u>
Winterville Town Hall	14,233
Winterville Police/Fire/Rescue Station	9,692
Library	5,833
Public Works Facility	1,217
Electric Department Facility	1,681
Operations Center	6,250
Parks and Recreation Areas	3,000

Below, please provide a list of all equipment that you currently own.

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**FORM OF PROPOSAL**  
**JANITORIAL SERVICES**

The undersigned, as Bidder, proposes and agrees that if this proposal is accepted to contract with the Town of Winterville in the form of contract specified to furnish all necessary implements, equipment, tools, supplies, labor and supervision to complete Janitorial Services, in full and complete accordance with the Specification and Contract Documents, to the entire satisfaction of the Town of Winterville.

The undersigned bidder hereby declares that the only person or persons interested in this proposal as principal or principals is or are named herein and that no other person than herein mentioned has any interest in the proposal or in the contract to be entered into; that this proposal is made without connection with any person, company, or parties making a bid or proposal; that it is in all respect fair and in good faith without collusion or fraud; and that Bidder will not sub-contract to another party.

The Bidder further declares that they have examined the site of work, specifications, attachments, contract documents, and read all provisions furnished prior to opening of bids; and that they are satisfied their self-relative to the services to be performed.

Each bidder shall affirm that no official or employee of the Town is directly or indirectly interested in this proposal for any personal reason or gain.

The Town of Winterville reserves the right to reject any and all bids.

The Bidder proposes and agrees if this proposal is accepted to contract with the Town of Winterville for the following prices listed on the attached form.

Contracted Dates: 1 year from date of \_\_\_\_\_ with the Town  
possessing the option to extend for two (2) additional years.

**JANITORIAL SERVICES BID SCHEDULE**

#	Description	Location Per Month	Non-Scheduled Services per man-hour
1	Town Hall Building	\$	\$
2	Winterville Recreation Park	\$	\$
3	Hillcrest	\$	\$
4	Library	\$	\$
5	Police/Fire/Rescue Station	\$	\$
6	Public Works Facilities	\$	\$
7	Electric Department Facilities	\$	\$
8	Operation Center	\$	\$
	Total Per Month	\$	
	Total Per Year	\$	

Vendor Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Cell Number: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

The bidder further proposes and agrees hereby to commence work under his contract after receiving a written Notice to Proceed.

The undersigned acknowledges receipt of the following Addenda to the Drawings and/or Specifications.

Addendum No.

Dated

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The undersigned further agrees that in the case of failure on their part to execute the said contract and the bond within ten (10) consecutive calendar days after written notice being given of the award of the contract, the check, cash, or bid bond accompanying this bid shall be paid into the funds of Town of Winterville's account as liquidated damages for such failure; otherwise the check, cash, or bid bond accompanying this proposal shall be returned to the undersigned.

Submitted this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Name of Bidder/Corporation/Firm/Individual

\_\_\_\_\_  
Signature of Officer/Individual -Title

\_\_\_\_\_  
Business Address of Corp./Firm/Individual

**CONTRACT**  
**TOWN OF WINTERVILLE**  
**JANITORIAL SERVICES**

This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_ 2024 , by and between \_\_\_\_\_ hereinafter called the Party of the First Part, and Town of Winterville, North Carolina hereinafter called the Party of the Second Part.

Witnessed:

That the Party of the First Part and the Party of the Second Part for the consideration herein named agree as follows:

1. The Party of the First Part shall furnish and deliver all of the materials, and perform all of the work in the manner and form as provided by the following enumerated plans, specifications and documents, which are attached hereto and made a part thereof as if fully contained herein: Request for Proposals, Instructions to Bidders, Accepted Proposal, and Specifications.
2. The Party of the First Part shall commence work to be performed under this agreement once they have received a Notice to Proceed. The Party of the First Part shall perform the work in accordance with the scope of services.
3. The Party of the Second Part hereby agrees to pay the Party of the First Part for the faithful performance of this agreement, subject to the prices attached hereto as provided in the specifications or proposal, in lawful money of the United States, the total of \_\_\_\_\_ dollars (\$ \_\_\_\_\_). Monthly payments will be made for 1/12 of the total annual price.

In Witness Whereof, the Parties hereto executed this Agreement on the day and date first above written in four counterparts, each of which shall, without proof or accounting for other counterparts, be deemed an original contract.

WITNESS:

\_\_\_\_\_  
Corporation/Firm/Individual

\_\_\_\_\_  
By: \_\_\_\_\_  
Signature and Title

WITNESS: \_\_\_\_\_  
Town of Winterville

\_\_\_\_\_  
By: \_\_\_\_\_  
Town Manager

This instrument had been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Finance Director

**NOTICE TO PROCEED**

You are hereby notified to commence work in accordance with this agreement for Janitorial Services.

Town of Winterville

By \_\_\_\_\_

Title Town Manger \_\_\_\_\_

This instrument has been Pre-Audited in the manner requires by the North Carolina Local Government Budget and Fiscal Act.

\_\_\_\_\_  
Town of Winterville Finance Director

\_\_\_\_\_  
Date

ACCEPTANCE

Receipt to the above Notice to Proceed is hereby acknowledged by \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by \_\_\_\_\_.

**Solicitation of Proposals  
Town of Winterville  
Janitorial Services**

Sealed proposals will be received in the Office of the Fire Chief, Town of Winterville, 2593 Railroad Street, P.O. Box 1459, Winterville, NC 28590, until 2:00 pm on Wednesday, February 14, 2024 for the furnishing of Janitorial Services.

Instructions for submitting bids and complete specifications will be available in the Office of the Fire Chief, Town of Winterville, 2593 Railroad Street, NC 28590 from 8:00 am to 5:00 pm Monday through Friday or via email request to [david.moore@wintervillenc.com](mailto:david.moore@wintervillenc.com). A walk-thru of the Town's facilities will promptly start at the Winterville Town Hall lobby on Wednesday, January 24, 2024 at 10:00 am.

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**Notes to Publisher:**

Legal Advertisement  
[legals@apgenc.com](mailto:legals@apgenc.com)  
(252) 329-9505

Subject: Solicitation of Proposals, Janitorial Services

Please place the above legal advertisement in the Daily Reflector on Wednesday, January 10, 2024 and Saturday, January 13, 2024. Should you have any questions please contact me.

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

Thanks,

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

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Janitorial Services**

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