

TOWN OF WINDSOR



UNIFIED DEVELOPMENT ORDINANCE

Adopted by the Windsor Board of Commissioners: May 12, 2011,
includes amendments through October 8, 2020

Prepared by:



Wilmington, North Carolina

TABLE OF CONTENTS

Article 1.	Purpose and Applicability	1-1
Article 2.	General Regulations	2-1
Article 3.	Administrative Mechanisms	3-1
Article 4.	Administrative Review Procedures	4-1
Article 5.	Nonconforming Situations	5-1
Article 6.	Development Application Approval	6-1
Article 7.	Zoning Districts	7-1
Article 8.	Supplemental Regulations	8-1
Article 9.	Planned Building Group Regulations	9-1
Article 10.	Off-Street Parking and Loading	10-1
Article 11.	Sign Regulations	11-1
Article 12.	Buffer Strips and Fences	12-1
Article 13.	Telecommunication Facilities	13-1
Article 14.	Adult and Sexually Oriented Establishments	14-1
Article 15.	Flood Damage Prevention Ordinance	15-1
Article 16.	Subdivision Regulations	16-1
Appendices		
Appendix A.	Definitions	

ARTICLE 1.
PURPOSE AND APPLICABILITY

Section 1.1 Title [1-2](#)
Section 1.2 Authority [1-2](#)
Section 1.3 Purpose [1-2](#)
Section 1.4 Applicability. [1-3](#)
Section 1.5 Historic Properties Commission [1-4](#)
Section 1.6 Relationship to Existing Zoning and Subdivision Ordinances. [1-4](#)
Section 1.7 Relationship to Comprehensive Plan [1-4](#)
Section 1.8 Severability. [1-4](#)
Section 1.9 Interpretation and Conflict [1-5](#)
Section 1.10 Identification of Official Zoning Map. [1-5](#)
Section 1.11 Zoning Map Interpretation [1-6](#)
Section 1.12 Interpreting Permitted Uses [1-7](#)
Section 1.13 Development Approvals Run with the Land [1-7](#)
Section 1.14 Refund of Illegal Fees [1-7](#)
Section 1.15 Effective Date [1-8](#)

ARTICLE 1. PURPOSE AND APPLICABILITY

SECTION 1.1 TITLE

This Ordinance is officially titled as *Unified Development Ordinance of Windsor, North Carolina*, and shall be known as the Unified Development Ordinance (UDO). The official map designating the various zoning districts shall be titled, *Town of Windsor Zoning Map*, and shall be known as the Zoning Map.

SECTION 1.2 AUTHORITY

Zoning provisions enacted herein are under the authority of NCGS 160D, Article 7 Zoning, which extends to towns the authority to enact regulations which promote the health, safety, morals, or the general welfare of the community. It authorizes towns to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. This section further authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district. The statutes also require that all such regulations shall be uniform for each class or type of building throughout each district, but that the regulations in one district may differ from those in other districts. *(Amended 10/8/2020)*

Subdivision provisions enacted herein are under the authority of NCGS 160D, Article 8 Subdivision Regulations, which provide for the coordination of streets within proposed subdivisions with existing or planned street and with other public facilities, the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or alternatively, for the provision of funds to be used to acquire recreation areas serving residents of more than one neighborhood in the immediate area, and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding. *(Amended 10/8/2020)*

SECTION 1.3 PURPOSE

For the purpose of promoting the health, safety, morals, and general welfare, this Ordinance is adopted by the governing body to regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of units that may be occupied; the size of yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures and land for trade, industry, residence, or other purposes.

This Unified Development Ordinance is intended to coordinate with a comprehensive plan and is designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to control development of flood prone areas and regulate stormwater runoff/discharge; to regulate

ARTICLE 1. PURPOSE AND APPLICABILITY

signs; and to establish proceedings for the subdivision of land. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its areas and their peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction.

SECTION 1.4 APPLICABILITY

1.4.1 Jurisdiction

- (A) The regulations set forth in this Ordinance shall apply to all property within the Town limits/extraterritorial jurisdiction and within the various zoning districts as designated on the official zoning map, as established in Article 7, Zoning Districts.
- (B) Except as hereinafter provided, no building or structure shall be erected, moved, altered, or extended, and no land, building, or structure or part thereof shall be occupied or used unless in conformity with the regulations specified for the district in which it is located.

1.4.2 Exemptions

- (A) These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site specific plan as required by the requirements previously adopted. Any preliminary or final subdivision plat approvals required for such approved or exempted site specific plans shall be conducted in accordance with the requirements of the previous Zoning Ordinance or Subdivision Ordinance.
- (B) The provisions of this Ordinance shall not apply to existing bona fide farms. A bona fide farm is any tract of land containing at least three acres which is used for the production of, or activities relating to, or incidental to, the production of crops, fruit, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural or forest products having a domestic or foreign market.
- (C) This Ordinance does not exercise any controls over crop lands, timber lands, pasture lands, idle or other farm lands, nor over any farm house, barn, poultry house, or other farm buildings, including tenant or other houses for persons working on said farms, as long as such houses shall be in the same ownership as the farm and located on the farm. Such agricultural uses maintain the openness of the land and achieve the purposes of this Ordinance without the need for regulation. Residences for non-farm use or occupancy and other non-farm uses shall be subject to the provisions of this Ordinance.

ARTICLE 1. PURPOSE AND APPLICABILITY

- (D) No land owned by the State of North Carolina may be included within an overlay district or a conditional zoning district without approval by the Council of State as required by GS 160D-913. *(Amended 10/8/2020)*

SECTION 1.5 HISTORIC PROPERTIES COMMISSION *(Amended 10/8/2020)*

The Town of Windsor has established a historic properties commission by ordinance dated October 13, 1980. The Windsor Historic Properties Commission was established to deal only with the Windsor Historic District.

SECTION 1.6 RELATIONSHIP TO EXISTING ZONING AND SUBDIVISION ORDINANCES

To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions that they replace in the Town's zoning, subdivision, and flood damage ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this Ordinance merely by the repeal of the zoning ordinance.

SECTION 1.7 RELATIONSHIP TO COMPREHENSIVE PLAN

It is the intention of the Board of Commissioners that this Ordinance implement the planning policies adopted by the Board of Commissioners for the Town and its extraterritorial planning area, as reflected in the Town's comprehensive plan and other planning documents. While the Board of Commissioners reaffirms its commitment that this Ordinance and any amendment to it be in conformity with adopted planning policies, the Board of Commissioners hereby expresses its intent that neither this Ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document. *(Amended 10/8/2020)*

SECTION 1.8 SEVERABILITY

If any section or specific provision or standard of this Ordinance or any regulating district boundary arising from it is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

Should any section or provision of this Ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

ARTICLE 1. PURPOSE AND APPLICABILITY

SECTION 1.9 INTERPRETATION AND CONFLICT *(Amended 10/8/2020)*

- (A) In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties.
- (B) When the requirements of this UDO, made under the authority of NCGS 160D, require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of NCGS 160D shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of NCGS 160D the provisions of that statute or local ordinance or regulation shall govern.

SECTION 1.10 IDENTIFICATION OF OFFICIAL ZONING MAP

- (A) The Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk and bearing the seal of the Town under the following words: "This is to certify that this is the Official Zoning Map of the Unified Development Ordinance, Windsor, North Carolina," together with the date of the adoption of this Ordinance.
- (B) If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Zoning Map, such changes shall be entered on the Zoning Map promptly after the amendment has been approved by the Board of Commissioners, with an entry on the Zoning Map denoting the date of amendment, description of amendment, and signed by the Town Clerk. No amendment to this Ordinance which involves matter portrayed on the Zoning Map shall become effective until after such change and entry has been made on said map.
- (C) When the Zoning Map is officially replaced, unless the prior map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption of amendment.
- (D) Dully adopted zoning district maps shall be maintained for public inspection in the office of the Town Clerk. Current and prior zoning maps may be maintained in paper or a digital format approved by the Town. *(Amended 10/8/2020)*

ARTICLE 1. PURPOSE AND APPLICABILITY

- (E) This Ordinance may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by state and federal agencies. Where zoning district boundaries are based on these maps, said boundaries are automatically amended to remain consistent with changes in the officially promulgated state or federal maps. A copy of the currently effective version of any incorporated maps shall be maintained for public inspection as provided in subsection (D).
(Amended 10/8/2020)

SECTION 1.11 ZONING MAP INTERPRETATION

Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the Administrator shall employ the following rules of interpretation.

- (A) *Centerline.* Where a boundary line lies within and follows a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated road bed or utility easement.
- (B) *Edge Line.* Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be on the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated road bed or utility easement.
- (C) *Lot Line.* Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, the following requirements shall apply:
- (1) Whenever a single lot two acres or less in size is located within two or more different zoning districts, the district regulations applicable to the district within which the larger portion of the lot lies shall apply to the entire lot.
 - (2) Whenever a single lot greater than two acres in size is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located. *(Amended 11/13/2014)*

ARTICLE 1. PURPOSE AND APPLICABILITY

- (D) *Town Limits.* Boundaries indicated as approximately following Town limits shall be construed as following the Town limits.
- (E) *Watercourses.* Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
- (F) *Extensions.* Boundaries indicated as parallel to or extensions of street or alley rights-of-way, utility easements, lot lines, town limits, county lines, or extraterritorial boundaries shall be so construed.
- (G) *Scaling.* In the case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map.
- (H) Except for subsection 1.11(C) above, where the Administrator determines that physical features existing on the ground or actual property lines or other man-made boundary lines used to depict zoning district boundaries, are at variance with those shown on the Official Zoning Map, the Board of Adjustment shall have the authority to interpret zoning district boundaries.

SECTION 1.12 INTERPRETING PERMITTED USES

If a use is not specifically listed in any of the districts listed in this Ordinance, then the use is expressly prohibited.

SECTION 1.13 DEVELOPMENT APPROVALS RUN WITH THE LAND *(Amended 10/8/2020)*

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approval made pursuant to this Ordinance attach to and run with the land.

SECTION 1.14 REFUND OF ILLEGAL FEES *(Amended 10/8/2020)*

If the Town of Windsor is found to have illegally imposed a tax, fee, or monetary contribution for development or a development approval not specifically authorized by law, the Town shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum to the person who made the payment or as directed by a court if the person making the payment is no longer in existence.

ARTICLE 1. PURPOSE AND APPLICABILITY

SECTION 1.15 EFFECTIVE DATE

These regulations shall become effective on May 12, 2011. Upon such date, these regulations shall supersede, repeal, and replace the Town of Windsor Zoning Ordinance, Town of Windsor Subdivision Regulations, and Town of Windsor Flood Damage Prevention Ordinance.

ARTICLE 2.

GENERAL REGULATIONS

Section 2.1	Applicability of General Regulations	2-2
Section 2.2	Prerequisite to Final Subdivision Plat Recordation	2-2
Section 2.3	Relationship of Buildings and Uses to Lot	2-2
Section 2.4	Reduction of Lot and Yard Areas Prohibited	2-2
Section 2.5	Access to Property	2-2
Section 2.6	One Principal Building	2-3
Section 2.7	Required Yards Not to be Used by Buildings	2-3
Section 2.8	No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions.	2-3
Section 2.9	Height Limitation Exceptions	2-3
Section 2.10	Corner Visibility	2-4
Section 2.11	Building Setback Exceptions	2-4
Section 2.12	North Carolina State Building Code	2-5
Section 2.13	Lot Requirements/Dimensions.	2-5
Section 2.14	Easements	2-6
Section 2.15	Driveways	2-6
Section 2.16	Curb Cuts	2-6
Section 2.17	Issued Building and/or Zoning Permits.	2-6
Section 2.18	Computation of Time	2-7
Section 2.19	Fees	2-7
Section 2.20	Certificates of Occupancy	2-7
Section 2.21	Split Jurisdiction	2-8
Section 2.22	Pending Jurisdiction	2-8
Section 2.23	Miscellaneous Provisions.	2-8

ARTICLE 2. GENERAL REGULATIONS

SECTION 2.1 APPLICABILITY OF GENERAL REGULATIONS

The following general regulations of this Article shall apply in all situations unless otherwise indicated.

SECTION 2.2 PREREQUISITE TO FINAL SUBDIVISION PLAT RECORDATION

After the effective date of this Ordinance, each individual subdivision plat of land within the Town's planning jurisdiction shall be approved by the Town of Windsor Board of Commissioners.

Any final plat, either major or minor, shall be recorded with the Register of Deeds within six (6) months from the date of approval by the town as specified in this ordinance. If the final plat is not recorded within this period, it shall expire. The plat may be resubmitted for review and it shall be reviewed against the Ordinance in effect at that time. *(Amended 11/13/2014)*

Final plats that have been officially approved by the Board of Commissioners prior to adoption of this Ordinance, but not recorded in the Bertie County Register of Deeds Office, shall be deemed grandfathered from this deadline.

SECTION 2.3 RELATIONSHIP OF BUILDINGS AND USES TO LOT

Every building hereafter erected, moved, or placed shall be located on a lot, and in no case shall there be more than one principal residential building on a lot except as specifically allowed by this Ordinance. No building, land, or portion thereof shall be erected, used, moved, or altered except in conformity with the regulations specified for the district in which it is located.

SECTION 2.4 REDUCTION OF LOT AND YARD AREAS PROHIBITED

No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth in this Ordinance. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

SECTION 2.5 ACCESS TO PROPERTY

- (A) No building, structure, or use of land shall be established on a lot, nor shall any lot be created that does not abut upon a public or private street to which it has legal access. The public access requirement shall not apply to land exempt from public/private street access by this Ordinance.

ARTICLE 2. GENERAL REGULATIONS

- (B) Lots which are grandfathered are allowed to be developed so long as they have a dedicated easement to a public road. Development of these lots shall be limited to single-family uses.

SECTION 2.6 ONE PRINCIPAL BUILDING

- (A) Only one principle building per lot shall be allowed unless otherwise is specifically approved by this Ordinance. More than one principal structure devoted to a non-residential use may be located on a lot, provided that access is available from a public street or a 20-foot easement is maintained from a public street to each building for use by service or emergency vehicles.
- (B) No more than one principal building devoted to a residential use shall be allowed on a lot.

SECTION 2.7 REQUIRED YARDS NOT TO BE USED BY BUILDINGS

The minimum yards or other open spaces required by this Ordinance for each and every building shall not be encroached upon by a building or considered as meeting the yard and open space requirements of any other building, except as specifically enabled under the provisions of Section 2.11.

SECTION 2.8 NO USE OR SALE OF LAND OR BUILDINGS EXCEPT IN CONFORMITY WITH ORDINANCE PROVISIONS

- (A) Subject to Article 5 of this Ordinance (Nonconforming Situations), no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Ordinance.
- (B) For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

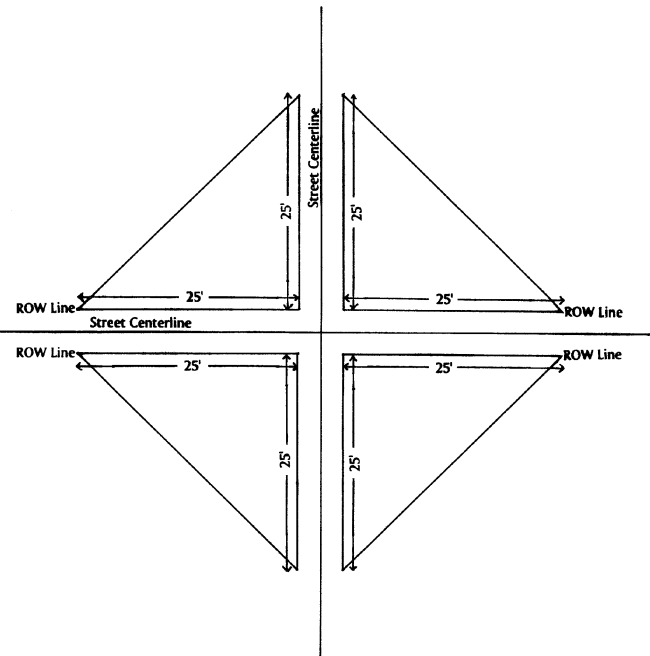
SECTION 2.9 HEIGHT LIMITATION EXCEPTIONS

Except as may otherwise be prohibited by the FAA regulations, the height limitations of this Ordinance shall not apply to public buildings, church spires, belfries, cupolas, and domes not intended for residential purposes, or to monuments, water towers, observation towers, power transmission towers, telecommunication towers, silos, grain elevators, chimneys, smokestacks, derricks, conveyors, flag poles, radio, masts, aerials, and similar structures, provided the structures meet the required State Building Code.

ARTICLE 2. GENERAL REGULATIONS

SECTION 2.10 CORNER VISIBILITY

No planting, fence, sign, or other obstruction to visibility of vehicles shall be erected, planted, maintained, or allowed to exist in any district within the range of two and one-half (2-1/2) feet to ten (10) feet above the centerline grades of the intersecting streets in the triangular area bounded by the street right-of-way lines of such corner lots and a line joining points along these street lines twenty-five (25) feet from the point of intersection. Parcels located in the C-1 district are exempt from this requirement.



SECTION 2.11 BUILDING SETBACK EXCEPTIONS

- (A) Setback distances shall be measured from the property line or street right-of-way line to the nearest portion of any building or structure foundation/footprint, excluding:
- (1) The outermost four feet of any uncovered porch, step, eave, gutter, canopy, or similar fixture.
 - (2) A deck or patio if no portion of the same extends more than 12 inches off the ground.
 - (3) Any structure that is a mere appendage to a building, such as a flagpole or fountain.
 - (4) Fences six feet in height or less.
- (B) Applicants for permits and other procedures as provided for by this Ordinance may be required to pay fees as may be established by the Board of Commissioners for the administration of this Ordinance.
- (C) Essential services as defined by this Ordinance are not subject to the minimum setbacks set forth in the zoning districts.

ARTICLE 2. GENERAL REGULATIONS

- (D) Canopies, awnings, bicycle parking, outdoor seating areas, and front porches may encroach into the front setback up to eight (8) feet.

SECTION 2.12 NORTH CAROLINA STATE BUILDING CODE

The North Carolina State Building Code with appendices are incorporated herein by reference, and serve as the basis for Building Inspector authority to regulate building construction. This Ordinance is not intended to conflict with or supersede the North Carolina State Building Code regulations.

NOTE: Any sign referenced in the code book does not constitute acceptance in this UDO. In addition, the Town's minimum housing code is also incorporated herein by reference. All quasi-judicial procedures prescribed in Article 4 apply to these codes/ordinances. *(Amended 10/8/2020)*

SECTION 2.13 LOT REQUIREMENTS/DIMENSIONS

- (A) Insofar as practical, side lot lines shall be at right angles to straight street lines or radial to curved street lines.
- (B) Lots intended for business uses only may be arranged in convenient units of width and to a depth that is appropriate to the development contemplated.
- (C) Every lot shall have sufficient area, dimensions, and street access to permit a principal building to be erected thereon in compliance with all lot size and dimensions, yard space, setback, and other requirements of this Ordinance.
- (D) The location of required front, side and rear yards on irregularly shaped lots shall be determined by the Administrator. The determination will be based on the spirit and intent of this Ordinance to achieve an appropriate spacing and location of buildings and structures on individual lots.
- (E) All structures shall have access available from a public street via street frontage, access easement, alley, or other useable access for use by service or emergency vehicles.
- (F) All buildings shall front directly upon a street and shall be of sufficient design to allow for the provision of emergency services.
- (G) Flag lots shall not be allowed in subdivisions except to provide access to a body of water, golf course, or similar recreational facility.

ARTICLE 2. GENERAL REGULATIONS

SECTION 2.14 EASEMENTS

- (A) Easements for underground or aboveground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least 20 feet minimum width for water and sanitary sewer lines and as required by the companies involved for telephone, gas, power lines, and cable TV. The TRC will determine whether one easement is sufficient or whether several easements are necessary to accommodate the various facilities, and the subdivider shall provide the required easements.
- (B) Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of the stream and of sufficient width as will be adequate for the purpose. All easements, including width, shall conform with all state and federal requirements. A professional engineer shall design all major drainage networks. A registered surveyor may design all incidental drainage.

SECTION 2.15 DRIVEWAYS

No portion of any residential driveway intersection with a Town public street shall be closer than twenty (20) feet to the corner of any intersection, measured along the right-of-way line. In commercial and industrial zones, this distance shall be thirty (30) feet. The width of any driveway intersection with the public street shall not exceed thirty (30) feet at its intersection with curb and street line. Driveway connections to the State of North Carolina Department of Transportation controlled streets must be requested from and approved by DOT on its standard form. Driveways that have double lane ingress and egress (4-lanes) shall be a minimum 60 feet width at intersection with curb and street line.

SECTION 2.16 CURB CUTS

Construction of curb cuts for purposes of ingress and egress to property abutting a Town public right-of-way shall be approved by the Administrator. The North Carolina Department of Transportation is the approval authority where said curbs affect access to State Highways. Provision for all access work done on state highway right-of-way is subject to approval by the DOT.

SECTION 2.17 ISSUED BUILDING AND/OR ZONING PERMITS

The provisions contained herein shall not affect buildings, structures, and uses for which building and/or development approvals were issued prior to the passage of this Ordinance, provided that the approval is not revoked and the activities for which the outstanding approvals were issued are begun within six (6) months of the date this Ordinance is adopted. Outstanding development approvals not used within six months shall be null and void. *(Amended 10/8/2020)*

ARTICLE 2. GENERAL REGULATIONS

SECTION 2.18 COMPUTATION OF TIME

- (A) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.

- (B) Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

SECTION 2.19 FEES

- (A) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, special use permits, stormwater permits, subdivision plat approval, site plan approval, zoning amendments, variances, changes to Ordinance text and map, and other administrative relief. The amount of the fees charged shall be as set forth in the Town's fee schedule as established by the Board of Commissioners and filed in the office of the Town Clerk. *(Amended 10/8/2020)*

- (B) Fees established in accordance with Subsection (A) shall be paid upon submission of a signed application or notice of appeal.

SECTION 2.20 CERTIFICATES 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 Building Inspector has issued a Certificate of Occupancy. Therefore, the change of occupancy provision shall not apply to rooms intended for transient rental.

- (B) 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 or for other temporary uses.

- (C) Application for a Certificate of Occupancy may be made by the owner or his agent at the same time as submitting an application for a building permit, if needed. The Certificate of Occupancy shall be issued automatically by the Building Inspector after all final inspections have been made and the Administrator has issued a Certificate of Compliance.

ARTICLE 2. GENERAL REGULATIONS

- (D) In the case of existing buildings or other uses not requiring a building permit, after supplying the information and data necessary to determine compliance with this Ordinance and appropriate regulatory codes of the Town for the occupancy intended, the Building Inspector shall issue a Certificate of Occupancy when, after examination and inspection, it is found that the building or use in all respects conforms to the provisions of this Ordinance and appropriate regulatory codes of the Town for the occupancy intended.

SECTION 2.21 SPLIT JURISDICTION *(Amended 10/8/2020)*

If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the Town of Windsor and Bertie County may by mutual agreement and with the written consent of the landowner assign exclusive planning and development regulation jurisdiction for the entire parcel to either the Town or the County. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the Bertie County register of deeds within 14 days of the adoption of the last required resolution.

SECTION 2.22 PENDING JURISDICTION *(Amended 10/8/2020)*

After consideration of a change in local government jurisdiction has been formally proposed, the local government that is potentially receiving jurisdiction may receive and process proposals to adopt development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date.

SECTION 2.23 MISCELLANEOUS PROVISIONS

- (A) Regulations set forth by this Ordinance shall be minimum regulations. If the requirements set forth in this Ordinance are at variance with the requirements of any other lawfully adopted uses, regulations, or ordinances, the more restrictive or higher standard shall govern.
- B) Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants inoperative.

ARTICLE 3.

ADMINISTRATIVE MECHANISMS

PART I. PLANNING AND ZONING BOARD [3-2](#)

Section 3.1 Membership and Vacancies [3-2](#)

Section 3.2 Rules of Conduct [3-2](#)

Section 3.3 Meetings. [3-3](#)

Section 3.4 Basic Studies. [3-3](#)

Section 3.5 Comprehensive Plan [3-4](#)

Section 3.6 Power and Duties [3-5](#)

Section 3.7 Planning Board Procedures for Reporting to the Board of Commissioners [3-6](#)

PART II. BOARD OF ADJUSTMENT [3-6](#)

Section 3.8 Creating the Zoning Board of Adjustment [3-6](#)

Section 3.9 Meetings. [3-6](#)

Section 3.10 Power and Duties [3-6](#)

PART III. ADMINISTRATIVE STAFF [3-7](#)

Section 3.11 Authorization. [3-7](#)

Section 3.12 Duties [3-7](#)

PART IV. BOARD OF COMMISSIONERS [3-8](#)

Section 3.13 Powers and Duties [3-8](#)

Section 3.14 Rules of Conduct [3-8](#)

PART V. CONFLICTS OF INTEREST [3-9](#)

Section 3.15 Governing Board [3-9](#)

Section 3.16 Appointed Boards [3-9](#)

Section 3.17 Administrative Staff [3-9](#)

Section 3.18 Quasi-Judicial Decisions [3-10](#)

Section 3.19 Resolution of Objection [3-10](#)

Section 3.20 Familial Relationship. [3-10](#)

ARTICLE 3. ADMINISTRATIVE MECHANISMS

PART I. PLANNING AND ZONING BOARD

SECTION 3.1 MEMBERSHIP AND VACANCIES *(Amended 10/8/2020)*

The Planning Board shall consist of seven (7) members. Five (5) members shall be citizens and residents of the town and shall be appointed by the Town Board of Commissioners. Two (2) members shall be citizens and residents of the extraterritorial jurisdiction of the town as described pursuant to NCGS § 160D-307 et. seq., and shall be appointed by the County Board of Commissioners. The county representation must be proportional based on the population for residents of the ETJ area. The population estimates for this calculation must be updated following each decennial census. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. Faithful attendance at the meetings of the board is considered a pre-requisite for the maintenance of membership on the Board. A vacancy shall exist on the Board if a member is absent from twenty-five (25) percent or more of the Board's meetings within a twelve (12) month period of time and said vacancy may be declared and filled by the Board of Commissioners. All appointed members shall, before entering their duties, qualify by taking an oath of office.

SECTION 3.2 RULES OF CONDUCT *(Amended 10/8/2020)*

Members of the Board may be removed for cause, including violation of any rule stated below:

- (A) Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite of continuing membership on the Board.
- (B) No Board member shall discuss any case with any parties thereto prior to the meeting on that case; provided however, that members may receive and/or seek information pertaining to the case from any other member of the Board, or staff prior to the meeting. Board members shall disclose publicly any contact made by any party to a matter before the Board.
- (C) Members of the Board shall not express individual opinions on the proper judgement of any case with any parties thereto prior to the Board's determination of that case. Violation of this rule shall be cause for dismissal from the Board.
- (D) Members shall serve at the pleasure of the Board of Commissioners.

ARTICLE 3. ADMINISTRATIVE MECHANISMS

SECTION 3.3 MEETINGS

- (A) Meetings of the Planning and Zoning Board will be held as necessary at a time and place designated by the Board and shall be open to the public. A quorum shall consist of four (4) members of the Board.

- (B) All members may vote on any issue unless they have disqualified themselves for one or more of the reasons listed in Section 3.2, above. A vote of a majority of the members present and voting shall decide issues before the Board.

- (C) Special meetings may be called by the Chairperson. It shall be the duty of the Chairperson to call such a meeting upon a recommendation of the Board. During a special meeting, no other business may be considered except that which was specified by advanced notice. The Clerk shall notify all members of the Board in writing not less than five (5) days in advance of such special meeting. Notice of time, place, and subject of such meeting shall be published in a newspaper having general circulation in the Town of Windsor when possible in accordance with G.S. 143-128.12(b).

- (D) The order of business at regular meetings shall be as follows:
 - (1) Call to Order;
 - (2) Approval of Minutes of Previous Meetings;
 - (3) Approval of the Agenda;
 - (4) Public Input;
 - (5) Unfinished Business;
 - (6) New Business;
 - (7) Announcements;
 - (8) Adjournment.

SECTION 3.4 BASIC STUDIES

As background for its comprehensive plan and any ordinances it may prepare, the Planning Board may gather maps and aerial photographs of manmade and natural physical features of the area, statistics on past trends and present conditions with respect to population, property values, the economic base of the community, land use, and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts. The Planning Board may make studies as to the community's social, economic, as well as its physical needs. In addition, the Planning Board may make, cause to be made, or obtain special studies on the location, condition, and adequacy of specific facilities, which may include but are not limited to studies of housing; commercial and industrial facilities; parks,

ARTICLE 3. ADMINISTRATIVE MECHANISMS

playgrounds, and recreational facilities; public and private utilities; and traffic, transportation, and parking facilities. All town officials shall, upon request, furnish to the Planning Board such available records or information as it may require in its work. The Board or its agents may, in the performance of its official duties, enter upon lands and make examinations or surveys and maintain necessary monuments thereon. *(Amended 11/13/2014)*

SECTION 3.5 COMPREHENSIVE PLAN *(Amended 10/8/2020)*

(A) The Comprehensive Plan, with the accompanying maps, charts, and descriptive matter, shall be and show the Planning Board’s recommendations to the Board of Commissioners for the development of the town’s planning jurisdiction. The comprehensive plan is intended to guide coordinated, efficient, and orderly development within this Ordinance’s jurisdiction based on an analysis of present and future needs. Planning analysis may address inventories of existing conditions and assess future trends regarding demographics and economic, environmental, and cultural factors. The planning process shall include opportunities for citizen engagement in plan preparation and adoption. In addition to a comprehensive plan, the Town may prepare and adopt such other plans as deemed appropriate. These plans may include, but are not limited to, land use plans, small area plans, neighborhood plans, hazard mitigation plans, transportation plans, housing plans, and recreation and open space plans. If adopted pursuant to the process set forth in this section, such plans shall be considered in review of proposed zoning amendments. The comprehensive plan may, among other topics, address any of the following as determined by the town:

- (1) Issues and opportunities facing the town, including consideration of trends, values expressed by citizens, community vision, and guiding principles for growth and development.
- (2) The pattern of desired growth and development and civic design, including the location, distribution, and characteristics of future land uses, urban form, utilities, and transportation networks.
- (3) Employment opportunities, economic development, and community development.
- (4) Acceptable levels of public services and infrastructure to support development, including water, waste disposal, utilities, emergency services, transportation, education, recreation, community facilities, and other public services, including plans and policies for provision of and financing for public infrastructure.
- (5) Housing with a range of types and affordability to accommodate persons and households of all types and income levels.

ARTICLE 3. ADMINISTRATIVE MECHANISMS

- (6) Recreation and open spaces.
 - (7) Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands.
 - (8) Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality.
 - (9) Protection of significant architectural, scenic, cultural, historical, or archaeological resources.
 - (10) Analysis and evaluation of implementation measures, including regulations, public investments, and educational programs.
- (B) The plan and any ordinances or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the town and its environs which will, in accordance with present and future needs, best promote health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements and the improvement of the community social and economic attributes.

SECTION 3.6 POWER AND DUTIES *(Amended 10/8/2020)*

- (A) Prepare, review, maintain, monitor, and periodically update and recommend to the Board of Commissioners a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.
- (B) Facilitate and coordinate citizen engagement and participation in the planning process.
- (C) Develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
- (D) Advise the Board of Commissioners concerning implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by Article 4, Part I, Amendments.

ARTICLE 3. ADMINISTRATIVE MECHANISMS

- (E) Exercise any functions in the administrative and enforcement of various means for carrying out plans that the Board of Commissioners may direct.
- (F) Provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.
- (G) Perform any other related duties that the Board of Commissioners may direct.

SECTION 3.7 PLANNING BOARD PROCEDURES FOR REPORTING TO THE BOARD OF COMMISSIONERS

The Planning Board will submit copies of all minutes of its regular and special meetings to the Board of Commissioners. Minutes shall be submitted to the Town Clerk within seven (7) days of approval of the minutes by the Planning Board.

PART II. BOARD OF ADJUSTMENT *(Amended 11/13/2014)*

SECTION 3.8 CREATING THE ZONING BOARD OF ADJUSTMENT *(Amended 10/8/2020)*

Under the authority of the NCGS Section 160D-302, the Windsor Board of Commissioners serves as and performs any and all duties of the Board of Adjustment in addition to its other duties.

SECTION 3.9 MEETINGS

The Board shall elect one of its members as Chairperson and another as Vice-Chairperson who shall serve for one (1) year. The Administrator shall serve as secretary to the Board of Adjustment. The Board shall draw up and adopt the rules of procedures under which it will operate. All meetings of the Board shall be held at a regular place and time and shall be open to the public. The Chairperson shall have the authority to call a special meeting if he/she deems such a meeting to be necessary. The Chairperson, or in his absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses (see Article 4, Part VI). All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or his absence or failure to vote, indicating such fact, and also keep records of its examination and any other official action.

SECTION 3.10 POWER AND DUTIES *(Amended 10/8/2020)*

- (A) The Board of Adjustment shall hear and decide requests for variances and appeals of decisions of administrative officials charged with enforcement of this Ordinance. As used in this section, the term "decision" includes any final and binding order, requirement, or determination. The Board of Adjustment shall follow quasi-judicial procedures when

ARTICLE 3. ADMINISTRATIVE MECHANISMS

deciding appeals and requests for variances. The Board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development. If any board other than the Board of Adjustment is assigned decision-making authority for any quasi-judicial matter, that board shall comply with all of the procedures and the process applicable to a Board of Adjustment in making quasi-judicial decisions.

- (B) To make interpretations of the Official Zoning Map and to pass upon disputed questions of lot lines or district boundary lines and similar questions as arise in the administration of the Unified Development Ordinance.
- (C) The concurring vote of four-fifths of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are not qualified alternates available to take the place of such members.

PART III. ADMINISTRATIVE STAFF *(Amended 10/8/2020)*

SECTION 3.11 AUTHORIZATION

In accordance with NCGS Section 160D-402, the Town may appoint administrators, inspectors, enforcement officers, planners, technicians, and other staff to develop, administer, and enforce this Ordinance. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the Administrator.

SECTION 3.12 DUTIES

Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to NCGS Chapter 160D; determining whether applications for development approvals are complete; receipt and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order to adequately enforce the laws and development regulations under the Town’s jurisdiction. A development regulation may require that designated staff members take an oath of office. The Town of Windsor shall have the authority to

ARTICLE 3. ADMINISTRATIVE MECHANISMS

enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this UDO. The administrative and enforcement provisions related to building permits set forth in Article 11 of NCGS Chapter 160D shall be followed for those permits.

PART IV. BOARD OF COMMISSIONERS

SECTION 3.13 POWERS AND DUTIES

The Board of Commissioners shall have the following powers and duties to be carried out in accordance with these regulations which include, but are not limited to, the following:

- (A) To initiate and make amendments to the text of these regulations and to the Zoning Map.
- (B) To hear, review, and adopt or reject amendments to the text of these regulations and to the Zoning Map.
- (C) To take such other action not delegated to the Planning Board or Board of Adjustment as the Board of Commissioners may deem desirable and necessary to implement the provisions of these regulations.
- (D) To adopt temporary moratoria on any Town development approval required by law (see Article 4, Part II). *(Amended 10/8/2020)*

SECTION 3.14 RULES OF CONDUCT *(Amended 10/8/2020)*

- (A) The Board of Commissioners, in considering special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Article 6 of this Ordinance.
- (B) In considering proposed changes in the text of this Ordinance or in the zoning map, the Board of Commissioners acts in its legislative capacity and must proceed in accordance with the requirements of Article 4, Part I.
- (C) Unless otherwise specifically provided in this Ordinance, in acting upon special use zoning permit requests or in considering amendments to this Ordinance or the zoning map, the Board of Commissioners shall follow the regular voting and other requirements as set forth in other provisions of the town code.
- (D) The Board of Commissioners shall hear all variances related to subdivisions.

ARTICLE 3. ADMINISTRATIVE MECHANISMS

PART V. CONFLICTS OF INTEREST *(Amended 10/8/2020)*

SECTION 3.15 GOVERNING BOARD

A Town of Windsor Board of Commissioners member shall not vote on any legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Board of Commissioners member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

SECTION 3.16 APPOINTED BOARDS

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

SECTION 3.17 ADMINISTRATIVE STAFF

- (A) No staff member shall make a final decision on an administrative decision required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by this Ordinance.

- (B) No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town.

ARTICLE 3. ADMINISTRATIVE MECHANISMS

SECTION 3.18 QUASI-JUDICIAL DECISIONS

A member of any board exercising quasi-judicial functions pursuant to this Ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed *ex parte* communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

SECTION 3.19 RESOLUTION OF OBJECTION

If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter, and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

SECTION 3.20 FAMILIAL RELATIONSHIP

For purposes of this Part, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

<p>ARTICLE 4.</p> <p>ADMINISTRATIVE REVIEW PROCEDURES</p>

PART I. PROCESS FOR ADOPTION OF DEVELOPMENT REGULATIONS [4-3](#)

Section 4.1 Procedure for Adopting, Amending, or Repealing this Ordinance [4-3](#)

Section 4.2 Notice of Hearing on Proposed Zoning Map Amendments [4-3](#)

Section 4.3 Citizen Comments [4-4](#)

Section 4.4 Planning Board Review and Comment [4-5](#)

Section 4.5 Board of Commissioners Statement [4-6](#)

PART II. MORATORIA [4-6](#)

Section 4.6 Authority [4-6](#)

PART III. VESTED RIGHTS AND PERMIT CHOICE [4-7](#)

Section 4.7 Findings [4-7](#)

Section 4.8 Permit Choice [4-7](#)

Section 4.9 Process to Claim Vested Right. [4-7](#)

Section 4.10 Types and Duration of Statutory Vested Rights [4-7](#)

Section 4.11 Continuing Review [4-10](#)

Section 4.12 Exceptions [4-10](#)

Section 4.13 Miscellaneous Provisions. [4-11](#)

PART IV. DEVELOPMENT AGREEMENTS [4-12](#)

Section 4.14 Authorization [4-12](#)

Section 4.15 Definitions. [4-13](#)

Section 4.16 Approval of Board of Commissioners Required [4-13](#)

Section 4.17 Size and Duration [4-14](#)

Section 4.18 Public Hearing [4-14](#)

Section 4.19 Content and Modification [4-14](#)

Section 4.20 Vesting [4-16](#)

Section 4.21 Breach and Cure [4-16](#)

Section 4.22 Amendment or Termination [4-17](#)

Section 4.23 Change of Jurisdiction [4-17](#)

Section 4.24 Recordation. [4-17](#)

Section 4.25 Applicability of Procedures to Approve Debt [4-17](#)

PART V. APPEALS, VARIANCES, INTERPRETATIONS [4-18](#)

Section 4.26 Appeals [4-18](#)

Section 4.27 Variances [4-19](#)

Section 4.28 Interpretations [4-20](#)

<p>ARTICLE 4.</p> <p>ADMINISTRATIVE REVIEW PROCEDURES</p>

Section 4.29 Requests to be Heard Expeditiously [4-20](#)

Section 4.30 Burden of Proof in Appeals and Variances [4-21](#)

PART VI. QUASI-JUDICIAL PROCEDURES [4-21](#)

Section 4.31 Hearing Required on Appeals and Applications [4-21](#)

Section 4.32 Notice of Hearing [4-22](#)

Section 4.33 Administrative Materials [4-22](#)

Section 4.34 Presentation of Evidence [4-23](#)

Section 4.35 Appearance of Official, New Issues [4-23](#)

Section 4.36 Oaths [4-23](#)

Section 4.37 Subpoenas [4-23](#)

Section 4.38 Modification of Applicant at Hearing. [4-24](#)

Section 4.39 Record [4-24](#)

Section 4.40 Appeals in Nature of Certiorari [4-24](#)

Section 4.41 Voting. [4-24](#)

Section 4.42 Decisions [4-25](#)

Section 4.43 Judicial Review [4-25](#)

PART VII. ENFORCEMENT [4-25](#)

Section 4.44 Notices of Violation [4-25](#)

Section 4.45 Stop Work Orders [4-26](#)

Section 4.46 Remedies [4-26](#)

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

PART I. PROCESS FOR ADOPTION OF DEVELOPMENT REGULATIONS

(Amended 10/8/2020)

SECTION 4.1 PROCEDURE FOR ADOPTING, AMENDING, OR REPEALING THIS ORDINANCE

- (A) *Hearing with Published Notice.* Before adopting, amending, or repealing any ordinance or development regulation authorized by NCGS Chapter 160D, the Town Board of Commissioners shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- (B) A development regulation adopted pursuant to NCGS Chapter 160D shall be adopted by ordinance.
- (C) No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town.

SECTION 4.2 NOTICE OF HEARING ON PROPOSED ZONING MAP AMENDMENTS

- (A) *Mailed Notice.* This Ordinance provides for the manner in which zoning regulations and the boundaries of zoning districts are determined, established, and enforced, and from time to time may be amended, or changed, in accordance with the requirements of this Part. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addressed listed for such owners on the county tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion of the Town's ETJ, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.
- (B) *Optional Notice for Large-Scale Zoning Map Amendments.* The first-class mail notice required under subsection (A) of this section shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

by at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to make the mailed notice provided for in subsection (A) of this section or, as an alternative, elect to publish notice of the hearing as required by Section 4.1, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (A) of this section.

- (C) *Posted Notice.* When a zoning map amendments is proposed, the Town shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the Town shall post sufficient notices to provide reasonable notice to interested persons.
- (D) *Actual Notice.* Except for Town-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the landowner or authorized agent, the applicant shall certify to the Town that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of the hearing. Actual notice shall be provided in any manner permitted under NCGS 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, or by a designated delivery authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with NCGS 1A-1, Rule 4(j1). The person or persons required to provide notice shall certify to the Town that actual notice has been provided, and such certificate shall be deemed conclusive in the absence of fraud.

SECTION 4.3 CITIZEN COMMENTS

Subject to the limitations of this Ordinance, zoning regulations may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment, to the Town Clerk at least two business days prior to the proposed vote on such change, the Town Clerk shall deliver such written statement to the Board of Commissioners. If the proposed change is the subject of a quasi-judicial proceeding under NCGS Chapter 160D-705 or any other statute, the Town Clerk shall provide only the names and

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the Board shall not disqualify any member of the Board from voting.

SECTION 4.4 PLANNING BOARD REVIEW AND COMMENT

- (A) *Zoning Amendments.* Subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulations or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that Board, the Board of Commissioners may act on the amendment without the Planning Board report. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.
- (B) *Review of Other Ordinances and Actions.* Any development regulations other than a zoning regulation that is proposed to be adopted pursuant to NCGS Chapter 160D may be referred to the Planning Board for review and comment. Any development regulation other than a zoning regulation may provide that future proposed amendments of that ordinance be submitted to the Planning Board for review and comment. Any other action proposed to be taken pursuant to NCGS Chapter 160D may be referred to the Planning Board for review and comment.
- (C) *Plan Consistency.* When conducting a review of proposed zoning text or map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. If a zoning map amendment qualifies as a "large-scale rezoning" under NCGS 160D-602(b), the Planning Board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendations made.
- (D) *Separate Board Required.* Notwithstanding the authority to assign duties of the Planning Board to the Board of Commissioners as provided by this Ordinance, the review and comment required by this section shall not be assigned to the Board of Commissioners and must be performed by a separate board.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

SECTION 4.5 BOARD OF COMMISSIONERS STATEMENT

- (A) *Plan Consistency.* When adopting or rejecting any zoning text or map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board of Commissioners that at the time of action on the amendment the Board was aware of and considered the Planning Board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan, and no additional application or fee for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency amendment is not subject to judicial review. If a zoning map amendment qualifies as a "large scale rezoning" under Section 4.2(B), the Board of Commissioners statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.
- (B) *Additional Reasonableness Statement for Rezonings.* When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Board of Commissioners. This statement of reasonableness may consider, among other factors, (i) the size, physical condition, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment, (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under Section 4.2(B), the Board of Commissioners statement on reasonableness may address the overall rezoning.
- (C) *Single Statement Permissible.* The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

PART II. MORATORIA *(Amended 10/8/2020)*

SECTION 4.6 AUTHORITY

In accordance with NCGS 160D-107, the Town of Windsor may adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses. The duration of any

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

PART III. VESTED RIGHTS AND PERMIT CHOICE *(Amended 10/8/2020)*

SECTION 4.7 FINDINGS

Town approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. Therefore, it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, secure reasonable expectations of landowners, and foster cooperation between the public and private sectors in land-use planning and development regulation.

SECTION 4.8 PERMIT CHOICE

If an application made in accordance with local regulation is submitted for a development approval required pursuant to this Ordinance and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. This section applies to all development approvals issued by the State and by local governments. The duration of vested rights created by development approvals are as set forth in Section 4.10.

SECTION 4.9 PROCESS TO CLAIM VESTED RIGHT

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the UDO Administrator, who shall make an initial determination as to the existence of the vested right. The UDO Administrator's determination may be appealed under G.S. 160D-405. On appeal the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided in G.S. 160D-405(c).

SECTION 4.10 TYPES AND DURATION OF STATUTORY VESTED RIGHTS

Except as provided by this section and subject to Section 4.8, amendments to this Ordinance shall not be applicable or enforceable with regard to development that has been permitted or approved

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

pursuant to this Ordinance so long as one of the approvals listed in this subsection remains valid and unexpired. Each type of vested right listed below is defined by and is subject to the limitations provided in this section and the cited statutes. Vested rights established under this section are not mutually exclusive. The establishment of vested right under one subsection does not preclude vesting under one or more other subsections or by common law principles.

- (A) *Six Months - Building Permits.* Pursuant to NCGS 160D-1110, a building permit expires six (6) months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of twelve (12) months after work has commenced.

- (B) *One Year - Other Local Development Approvals.* Pursuant to NCGS 160D-403(c), unless otherwise specified by this section, statute, or local ordinance, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law.

- (C) *Two to Five Years - Site Specific Vesting Plans.*
 - (1) *Duration.* A vested right for a site specific vesting plan shall remain vested for a period fo two years. This vesting shall not be extended by any amendments or modifications to a site specific vesting plan unless expressly provided by the Town. The Town may provide that rights regarding a site specific vesting plan shall be vested for a period exceeding two years, but not exceeding five years if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. This determination shall be made in the discretion of the Town and shall be made following the process specified by subsection (3) below for the particular form of a site specific vesting plan involved.

 - (2) *Relationship to Building Permits.* A right vested as provided in this subsection shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications h ave been filed. Upon issuance of a building permit, the provisions of NCGS 160D-1110 and 160D-1113 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested rights under this section exists.

 - (3) *Requirements for Site Specific Vesting Plans.* For the purposes of this section, a "site-specific vesting plan" means a plan submitted to the Town describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval as may be used by the Town. Unless otherwise expressly provided by the Town, the plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. The Town of Windsor uses existing development approvals, such as a preliminary plat, a special use permit, or a conditional zoning, to approve a site specific vesting plan. A variance shall not constitute a "site specific vesting plan," and approval of a site specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site specific vesting plan.

- (4) *Process for Approval and Amendment of Site Specific Vesting Plans.* If a site specific vesting plan is based on an approval required by a local development regulation, the Town shall provide whatever notice and hearing is required for that underlying approval. If the duration of the underlying approval is less than two years, that shall not affect the duration of the site specific vesting established by this subsection. If the site specific vesting plan is not based on such an approval, a legislative hearing with notice as required by NCGS 160D-602 shall be held. The Town may approve a site specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by such terms and conditions will result in a forfeiture of vested rights. The Town shall not require a landowner to waive vested rights as a condition of developmental approval. A site specific vesting plan shall be deemed approved upon the effective date of the Town's decision approving the plan or such other date as determined by the Board of Commissioners upon approval. An approved site specific vesting plan and its conditions may be amended with the approval of the owner and the Town as follows: Any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

- (D) *Seven Years - Multi-phase Developments.* A multi-phased development shall be vested for the entire development with the Unified Development Ordinance in place at the time a site plan approval is granted for the initial phase of the multi-phased development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development. For the purposes of this subsection, "multi-phased development" means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.
- (E) *Indefinite - Development Agreements.* A vested right of reasonable duration may be specified in a development agreement approved under Part IV of this Article.

SECTION 4.11 CONTINUING REVIEW

Following approval or conditional approval of a statutory vested right, the Town may make subsequent reviews and require approvals by the Town to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The Town may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

SECTION 4.12 EXCEPTIONS

- (A) A vested right, once established as provided for by subsections (C) or (D) of Section 4.10, precludes any zoning action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except:
- (1) With the written consent of the affected landowner;
 - (2) Upon findings, after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, and safety, and welfare if the project were to proceed as contemplated in the approved vested right;
 - (3) To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approved by the Town, together

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

with interest as is provided in Section 1.14. Compensation shall not include any diminution in the value of the property that is caused by such action;

- (4) Upon findings, after notice and an evidentiary hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the Town of the vested right; or
 - (5) Upon the enactment or promulgation of a State or Federal law or regulation that precludes development as contemplated in the approved vested right, in which case the Town may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the plan, after notice and an evidentiary hearing.
- (B) The establishment of a vested right under subsections (C) or (D) of Section 4.10, shall not preclude the application of overlay zoning or other development regulation that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to development regulation by the Town including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations shall become effective with respect to property that is subject to a vested right established under this section upon the expiration or termination of the vested rights period provided for in this section.
- (C) Notwithstanding any provision of this section, the establishment of a vested right under this section shall not preclude, change or impair the authority of the Town to adopt and enforce development regulation provisions governing nonconforming situations or uses.

SECTION 4.13 MISCELLANEOUS PROVISIONS

- (A) A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a vested right under this section, all successors to the original landowner shall be entitled to exercise such rights.
- (B) Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

PART IV. DEVELOPMENT AGREEMENTS *(Amended 10/8/2020)*

SECTION 4.14 AUTHORIZATION

- (A) In accordance with NCGS 160D-1002, the Town of Windsor finds:
- (1) Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources.
 - (2) Such developments often create community impacts and opportunities that are difficult to accommodate within traditional zoning processes.
 - (3) Because of their scale and duration, such projects often require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development.
 - (4) Such projects involve substantial commitments of private capital which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.
 - (5) Such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas.
 - (6) To better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs, the Town needs flexibility to negotiate such developments.
- (B) The Town may enter into development agreements with developers, subject to the procedures of this Part. In entering into such agreements, the Town may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.
- (C) This Part is supplemental to the powers conferred upon the Town and does not preclude or supersede rights and obligations established pursuant to other law regarding development approvals, site-specific vesting plans, phased vesting plans, or other provisions of law. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the Town's development regulations. When the Board of Commissioners approves the

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

rezoning of any property associated with a development agreement executed and recorded pursuant to this Part, the provisions of Section 4.5 apply.

- (D) Development authorized by a development agreement shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of property, including laws governing permitted uses of the property, density, intensity, design, and improvements.

SECTION 4.15 DEFINITIONS

The following definitions apply in this Part:

- (A) *Development.* The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. When appropriate to the context, "development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.
- (B) *Public Facilities.* Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

SECTION 4.16 APPROVAL OF BOARD OF COMMISSIONERS REQUIRED

- (A) The Town of Windsor may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the Board of Commissioners following the procedures specified in Section 4.18.
- (B) The development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the Town. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

SECTION 4.17 SIZE AND DURATION

The Town of Windsor may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size. Development agreements shall be of a reasonable term specified in the agreement.

SECTION 4.18 PUBLIC HEARING

Before entering into a development agreement, the Town shall conduct a legislative hearing on the proposed agreement. The notice provisions of Section 4.2 applicable to zoning map amendments shall be followed for this hearing. The notice for the public hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

SECTION 4.19 CONTENT AND MODIFICATION

- (A) A development agreement shall, at a minimum, include all of the following:
- (1) A description of the property subject to the agreement and the names of its legal and equitable property owners.
 - (2) The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.
 - (3) The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.
 - (4) A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the Town shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

- (5) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.
 - (6) A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.
 - (7) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.
- (B) A development agreement may also provide that the entire development or any phase of it be commenced or completed within a specified period of time. If required by ordinance or in the agreement, the development agreement shall provide a development schedule, including commencement dates and interim completion dates at no greater than five-year intervals; provided, however, the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the development agreement pursuant to Section 4.21 but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as set forth in the agreement.
- (C) If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.
- (D) The development agreement also may cover any other matter, including defined performance standards, not inconsistent with this Ordinance. The development agreement may include mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by the local government pursuant to G.S. 160D-804 shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.
- (E) Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. What changes constitute a major modification may be determined by ordinance adopted pursuant to Section 4.16 or as provided for in the development agreement.
- (F) Any performance guarantees under the development agreement shall comply with Section 16.12.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

SECTION 4.20 VESTING

- (A) Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement.
- (B) Except for grounds specified in Section 4.21(E), the Town may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.
- (C) In the event State or Federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the Town may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the development agreement.
- (D) This section does not abrogate any vested rights otherwise preserved by law.

SECTION 4.21 BREACH AND CURE

- (A) Procedures established pursuant to Section 4.16 may require periodic review by the UDO Administrator or other appropriate officer of the Town, at which time the developer shall demonstrate good-faith compliance with the terms of the development agreement.
- (B) If the Town finds and determines that the developer has committed a material breach of the agreement, the Town shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach.
- (C) If the developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the development agreement, provided the notice of termination or modification may be appealed to the Board of Adjustment in the manner provided by Section 4.26.
- (D) An ordinance adopted pursuant to Section 4.16 or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation. Nothing in this Article shall be construed to abrogate or impair the power of the Town to enforce applicable law.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

- (E) A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement.

SECTION 4.22 AMENDMENT OR TERMINATION

Subject to the provisions of Section 4.19(E), a development agreement may be amended or terminated by mutual consent of the parties.

SECTION 4.23 CHANGE OF JURISDICTION

- (A) Except as otherwise provided by this Article, any development agreement entered into by the Town before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the Town assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction.
- (B) The Town, in assuming jurisdiction, may modify or suspend the provisions of the development agreement if the Town determines that the failure of the Town to do so would place the residents of the territory subject to the development agreement or the residents of the Town, or both, in a condition dangerous to their health or safety, or both.

SECTION 4.24 RECORDATION

The developer shall record the agreement with the Bertie County Register of Deeds within 14 days after the Town and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

SECTION 4.25 APPLICABILITY OF PROCEDURES TO APPROVE DEBT

In the event that any of the obligations of the Town in the development agreement constitute debt, the Town shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the Town, with any applicable constitutional and statutory procedures for the approval of this debt.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

PART V. APPEALS, VARIANCES, INTERPRETATIONS

SECTION 4.26 APPEALS (Amended 10/8/2020)

- (A) *Standing.* Any person who has standing as defined in Appendix A or the town may appeal an administrative decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal. A notice of appeal shall be considered filed with the Town Clerk when delivered to the Town Hall, and the date and time of filing shall be entered on the notice by the town staff.
- (B) *Judicial Challenge.* A person with standing may bring a separate and original civil action to challenge the constitutionality of the Ordinance or that it is ultra vires, preempted, or otherwise in excess of statutory authority without filing an appeal under subsection (A).
- (C) *Notice of Decision.* The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
- (D) *Time to Appeal.* The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice pursuant to NCGS Chapter 160D-403(b) given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- (E) *Record of Decision.* The official who made the decision shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- (F) *Stays.* An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed, unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the Ordinance shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or town may request and the Board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

- (G) *Alternative Dispute Resolution.* The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution.

SECTION 4.27 VARIANCES (Amended 10/8/2020)

- (A) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Administrator in the planning department. Applications shall be handled in the same manner as applications for development approvals in conformity with the provisions of Article 6.
- (B) When unnecessary hardships would result from carrying out the strict letter of the Ordinance, the Board of Adjustment shall vary any of the provisions of the Ordinance upon a showing of all of the following:
- (1) Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
 - (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - (4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

- (C) No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.
- (D) A variance may be issued for an indefinite duration or for a specified duration only.
- (E) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

SECTION 4.28 INTERPRETATIONS

- (A) The Board of Adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Administrator, they shall be handled as provided in Section 4.26.
- (B) An application for a map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with Administrator in the planning department. The application shall contain sufficient information to enable the board to make the necessary interpretation.
- (C) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the map boundary rules provided in Section 1.11 shall apply. Where uncertainties continue to exist after application of the above rules, appeal may be taken to the Board of Adjustment as provided in Part IV of this Article.
- (D) Interpretations of the location of floodway and floodplain boundary lines may be made by the Administrator as provided in Article 15 (Flood Damage Prevention Ordinance).

SECTION 4.29 REQUESTS TO BE HEARD EXPEDITIOUSLY

As provided in Part V, the Board shall hear and decide all applications, appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Part VI of this Article, and obtain the necessary information to make sound decisions. *(Amended 10/8/2020)*

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

SECTION 4.30 BURDEN OF PROOF IN APPEALS AND VARIANCES

- (A) When an appeal is taken to the Board of Adjustment in accordance with Section 4.26, the Administrator shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
- (B) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 4.27(B), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

PART VI. QUASI-JUDICIAL PROCEDURES *(Amended 10/8/2020)*

SECTION 4.31 HEARING REQUIRED ON APPEALS AND APPLICATIONS

- (A) Before making a decision on an appeal or an application for a variance or special use permit, or a petition from the planning staff to revoke a special use permit, the Board of Adjustment or the Board of Commissioners, as the case may be, shall hold a hearing on the appeal or application.
- (B) Subject to Subsection (C), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify. All persons presenting evidence or arguments shall be sworn in by the Chairperson prior to the presentation of any evidence or arguments (see Section 4.36).
- (C) The Board of Adjustment or Board of Commissioners may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- (D) Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

SECTION 4.32 NOTICE OF HEARING

The Administrator shall give notice of any hearing required by Section 4.31 as follows:

- (A) Notice of evidentiary hearings conducted pursuant to this Article shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this Ordinance. In the absence of evidence to the contrary, the town must rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

The Board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

- (B) In the case of special use permits, notice shall be given to other potentially interested persons by publishing a notice in a newspaper having general circulation in the area one (1) time not less than 10 nor more than 25 days prior to the hearing.
- (C) The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

SECTION 4.33 ADMINISTRATIVE MATERIALS

The UDO Administrator shall transmit to the Board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the Board prior to the hearing if at the same time they are distributed to the Board, a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the Board at the hearing.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

SECTION 4.34 PRESENTATION OF EVIDENCE

The applicant, the Town, and any person who would have standing to appeal the decision as defined in Appendix A shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board. Objections regarding jurisdictional and evidentiary hearing issues, including but not limited to, the timeliness of an appeal or the standing of a party, may be made to the Board. The Board Chair shall rule on any objections and the Chair's ruling may be appealed to the full Board. These rulings are also subject to judicial review pursuant to NCGS 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

SECTION 4.35 APPEARANCE OF OFFICIAL, NEW ISSUES

The official who made the decision or the person currently occupying that position if the decision-maker is no longer employed by the Town, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing.

SECTION 4.36 OATHS

All persons who intend to present evidence to the permit-issuing board, rather than arguments only, shall be sworn in. The Chairperson of the Board or any member acting as Chairperson and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

SECTION 4.37 SUBPOENAS

The Board making a quasi-judicial decision under this Article, through the Chairperson, or in the Chairperson's absence anyone acting as Chairperson, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the Town, and any person with standing as defined in Appendix A may make a written request to the Chairperson explaining why it is necessary for certain witnesses or evidence to be compelled. The Chairperson shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chairperson shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chairperson may be immediately appealed to the full Board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board or the party seeking the subpoena may apply to the General Court of Justice for an order

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

SECTION 4.38 MODIFICATION OF APPLICANT AT HEARING

- (A) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Commissioners or Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.
- (B) Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

SECTION 4.39 RECORD

- (A) Accurate minutes shall be kept of all hearings required by Section 4.31, and such minutes shall be kept for at least two years. A transcript is not required.
- (B) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Town for at least two years.

SECTION 4.40 APPEALS IN NATURE OF CERTIORARI

When hearing an appeal pursuant to NCGS 160D-947 or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in GS 160D-1402(k).

SECTION 4.41 VOTING

The concurring vote of four-fifths of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

SECTION 4.42 DECISIONS

The Board shall determine contested facts and make its decisions within a reasonable time. When hearing an appeal, the Board may reverse or affirm (wholly or partly) or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the Board's determination of contested facts and their application to the applicable standards, and be approved by the Board and signed by the Chairperson or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board or such other office or official as this Ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify to the Town that proper notice has been made and the certificate shall be deemed conclusive in the absence of fraud.

SECTION 4.43 JUDICIAL REVIEW

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. Appeals shall be filed within the times specified in NCGS 160D-1405(d).

PART VII. ENFORCEMENT *(Amended 10/8/2020)*

SECTION 4.44 NOTICES OF VIOLATION

When the UDO Administrator determines work or activity has been undertaken in violation of the Unified Development Ordinance or other local development regulations or any State law delegated to the Town for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation shall be posted on the property. The UDO Administrator shall certify to the Town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by NCGS 160D-1123 or GS 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to Section 4.26.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

SECTION 4.45 STOP WORK ORDERS

Whenever any work or activity subject to regulation pursuant to this Ordinance or other applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the Town that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by NCGS 160D-1112 and 160D-1208, a stop work order may be appealed pursuant to Section 4.26. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

SECTION 4.46 REMEDIES

- (A) Any development regulation adopted pursuant to NC General Statutes Chapter 160D may be enforced by any remedy provided in NCGS 160A-175. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this UDO or of any development regulation or other regulation made under authority of NCGS Chapter 160D, the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct, or abate the violation; to prevent any illegal act, conduct, business, or use in or about the premises.
- (B) When a development regulation adopted pursuant to authority conferred by NCGS Chapter 160D is to be applied or enforced in any area outside the planning and development regulation jurisdiction of the Town, the Town and the property owner shall certify that the application or enforcement of the Town UDO is not under coercion or otherwise based on representation by the Town that the Town's development approval would be withheld without the application of the Town. The certification may be evidenced by a signed statement of the parties on any development approval.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

- (C) In case any building, structure, site, area, or object designated as a historic landmark or located within a historic district designated by the Town of Windsor is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed, or destroyed, except in compliance with the UDO, the Town, the historic preservation commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal, to restrain, correct, or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area, or object. Such remedies shall be in addition to any others authorized by this UDO for violation of this Ordinance.

ARTICLE 5.

NONCONFORMING SITUATIONS

Section 5.1	Continuation of Nonconforming Situations and Completion of Nonconforming Projects	5-2
Section 5.2	Nonconforming Lots.	5-2
Section 5.3	Extension or Enlargement of Nonconforming Situations	5-2
Section 5.4	Change in Kind of Nonconforming Use.	5-5
Section 5.5	Abandonment or Discontinuance of Nonconforming Situations	5-5
Section 5.6	Completion of Nonconforming Projects	5-6

ARTICLE 5. NONCONFORMING SITUATIONS

SECTION 5.1 CONTINUATION OF NONCONFORMING SITUATIONS AND COMPLETION OF NONCONFORMING PROJECTS

Nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in Sections 5.2 through 5.6 of this section.

Nonconforming projects may be completed only in accordance with the provisions of Section 5.6 of this section.

SECTION 5.2 NONCONFORMING LOTS

- (A) When a nonconforming lot can be used in conformity with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, such a use may be made a use by right. Otherwise, the nonconforming lot may be used only in accordance with a permit issued by the Board of Adjustment. The Board shall issue such a permit if it finds that (a) the proposed use is one permitted by the regulations applicable to the district in which the property is located, and (b) the property can be developed as proposed without any significant negative impact on the surrounding property or the public health, safety, or welfare. In issuing the permit authorized by this paragraph, the Board may allow deviations from applicable dimensional requirements (such as setback lines and yard size minimums) if it finds that no reasonable use of the property can be made without such deviations.
- (B) Whenever this Ordinance creates a nonconforming lot and the owner of the nonconforming lot also owns land adjacent to it, and a portion of this other land can be combined with the nonconforming lot to create a conforming lot (without hereby creating other nonconformities), the owner of the nonconforming lot, or his successor in interest, may not take advantage of the provisions of the paragraph (A) of this section.

SECTION 5.3 EXTENSION OR ENLARGEMENT OF NONCONFORMING SITUATIONS

- (A) Except as specifically provided in this subsection, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation.
- (B) Subject to paragraph (D) of this subsection, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, subject to Section 5.6 of this Ordinance (authorizing the completion

ARTICLE 5. NONCONFORMING SITUATIONS

of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.

- (C) Subject to Section 5.6 of this Ordinance (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., quarry) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming, if 10 percent or more of the earth products had already been removed at the effective date of this Ordinance.
- (D) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this section occur.
- (E) Physical alternation of structures or the placement of new structures on open land are unlawful if they result in:
 - (1) An increase in the total amount of space devoted to a nonconforming use;
 - (2) Greater nonconformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements; or
 - (3) The enclosure of previously unenclosed areas, even though those areas were previously used in connection with the nonconforming activity. An area is unenclosed unless at least 75 percent of the perimeter of the area is marked by a permanently constructed wall or fence.
- (F) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation -- i.e., work estimated to cost more than 60 percent of the appraised value of the structure to be renovated (and not required by the partial or total destruction of a structure [see paragraph H]) -- may be done pursuant to a permit issued by the Board of Adjustment. The Board of Adjustment shall issue such a permit if it finds that the work will not result in a violation of any other paragraphs of this section (particularly paragraph E) or make the property more incompatible with the surrounding neighborhood.

ARTICLE 5. NONCONFORMING SITUATIONS

- (G) Notwithstanding paragraph (E), any structure used for single-family residential purposes and maintained as a nonconforming use may be replaced with a similar structure of a larger size, so long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard size and setback requirements. In particular, a manufactured home may be replaced with a larger manufactured home, and a "single-wide" manufactured home may be replaced with a "double-wide." This paragraph is subject to the limitations stated in Section 5.5 on abandonment and discontinuance of nonconforming situations.
- (H) A structure that is nonconforming in any respect or a structure that is used in a nonconforming manner may be reconstructed or replaced if partially or totally destroyed, subject to the following restrictions:
- (1) The total amount of space devoted to a nonconforming use may not be increased, except that a larger, single-family residential structure may be constructed in place of a smaller one and a larger manufactured home intended for residential use may replace a smaller one;
 - (2) The reconstructed building may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements, and such dimensional nonconformities must be eliminated if that can reasonably be accomplished without unduly burdening the reconstruction process or limiting the right to continue the nonconforming use of such building;
 - (3) The reconstructed building may not enclose areas that were previously unenclosed, even though those areas were used in connection with the nonconforming activity. An area is unenclosed unless at least 75 percent or more of the perimeter of the area is marked by a permanently constructed wall or fence.
- (I) Except for single-family residential structures (including manufactured homes), if the estimated cost of the reconstruction work exceeds 10 percent of the appraised value of the structure, the work may be done only after issuance of a permit by the Board of Adjustment. The Board shall issue the use permit if it finds that the work will be done in accordance with this paragraph and that the reconstructed building will not make the property more incompatible with the surrounding property than it was before the destruction occurred.

ARTICLE 5. NONCONFORMING SITUATIONS

SECTION 5.4 CHANGE IN KIND OF NONCONFORMING USE

- (A) A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use.
- (B) A nonconforming use may be changed to another nonconforming use only in accordance with a use permit issued by the Board of Adjustment. The Board shall issue such a permit if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use or combination of uses in operation at the time the application is made for the permit.

SECTION 5.5 ABANDONMENT OR DISCONTINUANCE OF NONCONFORMING SITUATIONS

- (A) When a nonconforming use is (1) discontinued for a consecutive period of 180 days, or (2) discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes, except as provided in paragraph (B) of this subsection.
- (B) The Board of Adjustment may issue a use permit to allow a nonconforming use that has been discontinued for more than 180 consecutive days to be reinstated if it finds that (1) the nonconforming use has been discontinued for less than two years, and (2) the discontinuance resulted from factors that, for all practical purposes, were beyond the control of the person maintaining the nonconforming use.
- (C) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is (1) discontinued for a consecutive period of 180 days, or (2) discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be used only in conformity with all of the regulations applicable to the district in which the property is located, unless the Board of Adjustment issues a use permit to allow the property to be used (for a conforming purpose) without correcting the nonconforming situation. The Board shall issue such a use permit if it finds that (1) the nonconforming situation cannot be corrected without undue hardship or expense, and (2) the nonconforming situation is of a minor nature that does not adversely affect the surrounding property or the general public to any significant extent.
- (D) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building or one space in a nonconforming manufactured home park for 180 days shall not result in a loss of the right to rent that

ARTICLE 5. NONCONFORMING SITUATIONS

apartment or space thereafter so long as the apartment building or manufactured home park as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter. And so, if a manufactured home is used as a nonconforming use on a residential lot where a conforming residential structure also is located, removal of that manufactured home for 180 days terminates the right to replace it.

- (E) When a structure or operation made nonconforming by this Ordinance is vacant or discontinued at the effective date of this Ordinance, the 180-day period for purposes of this subsection begins to run at the effective date of this Ordinance.

SECTION 5.6 COMPLETION OF NONCONFORMING PROJECTS

- (A) All work on any nonconforming project shall cease on the effective date of this Ordinance, and all permits previously issued for work on nonconforming projects shall be revoked as of that date. Thereafter, work on nonconforming projects may begin, or may be continued, only pursuant to a use permit issued by the Board of Adjustment (except as provided in paragraph (B) of this section). The Board shall issue such a use permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land use law as it existed before the effective date of this Ordinance and thereby would be unreasonably prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the Board shall be guided by the following:
 - (1) All expenditures made pursuant to a validly issued and unrevoked building or zoning permit shall be considered as evidence of reasonable reliance on the land use law that existed before this Ordinance became effective.
 - (2) Except as provided in subparagraph (1) of this paragraph, no expenditures made more than 180 days before the effective date of this Ordinance shall be considered as evidence of reasonable reliance on the land use law that existed before this Ordinance became effective. An expenditure is made at the time a party incurs a binding obligation to make that expenditure.
 - (3) To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made expenditure to acquire a potential development site if the property obtained is just as valuable

ARTICLE 5. NONCONFORMING SITUATIONS

under the new classification as it was under the old, or the expenditure can be recovered by resale of the property.

- (4) An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of (a) the total estimated cost of the proposed project, and (b) the ordinary business practices of the developer.
 - (5) A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the land use law affecting the proposed development site could not be attributed to him.
 - (6) Even though a person had actual knowledge of a proposed change in the land use law affecting a development site, the Board may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. The Board may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that (a) at the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development; and (b) the developer had legitimate business reasons for making expenditures.
- (B) The requirements of paragraph (A) of this section shall not apply to a nonconforming project if the Building Inspector has issued a building permit, special use permit, zoning permit, variance permit, or a preliminary or final subdivision plat has been approved prior to the effective date of this Ordinance. *(Amended 10/8/2020)*
 - (C) The Board of Adjustment shall not consider any application for a use permit authorized by paragraph (A) of this subsection that is submitted more than 60 days after the effective date of this Ordinance, unless it waives this requirement for good cause shown.
 - (D) If the Board of Adjustment issues a use permit pursuant to paragraph (A) of this section, it may attach such reasonable conditions to the use permit as it finds necessary to reduce the extent to which the nonconforming project is incompatible with the surrounding neighborhood. In particular, the Board may require that work on the nonconforming project be continuously maintained, if possible, and that the project be completed as expeditiously as possible.
 - (E) The Building Inspector shall send copies of this subsection to the owners (and developers, if different from the owners) of all properties in regard to which permits have been issued for nonconforming projects or in regard to which a nonconforming project is otherwise

ARTICLE 5. NONCONFORMING SITUATIONS

known to be under construction. This notice shall be sent by certified mail not less than fifteen days before the effective date of this Ordinance.

- (F) The Board of Adjustment shall establish expedited procedures for hearing applications for special use permits under this subsection. These applications shall be heard, whenever possible, before the effective date of this Ordinance, so that construction work is not needlessly interrupted. *(Amended 10/8/2020)*

- (G) When it appears from the developer's plans or otherwise that the nonconforming project was intended to be or reasonably could be completed in stages, segments or other discreet units, the Board of Adjustment shall not allow the nonconforming project to be constructed or completed in a fashion that is larger or more extensive than is necessary to allow the developer to recoup and obtain a reasonable rate of return on the expenditures he has made in connection with that nonconforming project.

ARTICLE 6.
DEVELOPMENT APPLICATION APPROVAL

Section 6.1 Administrative Development Approvals and Determinations [6-2](#)
Section 6.2 No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled. [6-4](#)
Section 6.3 Applications To Be Complete. [6-4](#)
Section 6.4 Staff Consultation After Application Submitted [6-4](#)
Section 6.5 Authorizing Use or Occupancy Before Completion of Development Under
Development Approval [6-5](#)
Section 6.6 Effect of Development Approval on Successors and Assigns. [6-6](#)
Section 6.7 Applications to be Processed Expeditiously [6-6](#)
Section 6.8 Maintenance of Common Areas, Improvements, and Facilities [6-6](#)
Section 6.9 Special Use Permit Development Approvals Objectives and Purpose [6-7](#)
Section 6.10 Procedure for Special Use Permit Granted by the Board of Commissioners. [6-7](#)
Section 6.11 Table of Regulations for Special Uses. [6-9](#)

ARTICLE 6. DEVELOPMENT APPLICATION APPROVAL

SECTION 6.1 ADMINISTRATIVE DEVELOPMENT APPROVALS AND DETERMINATIONS *(Amended 10/8/2020)*

(A) *Development Approvals.* To the extent consistent with the scope of regulatory authority granted by NCGS Chapter 160D, no person shall commence or proceed with development without first securing any required development approval from the Town of Windsor. A development approval shall be in writing and may contain a provision that the development shall comply with all applicable State and local laws. The Town may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

(B) *Determinations and Notice of Determinations.* The UDO Administrator or his designee is designated as the staff member charged with making determinations under this Unified Development Ordinance. The UDO Administrator shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, providing the sign remains on the property for at least ten days. The sign shall contain the words "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least six (6) inches high and shall identify the means to contact an official for information about the determination. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner, applicant, or person who sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs shall not be required.

(C) *Duration of Development Approval.* A development approval issued pursuant to this Ordinance shall expire one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. If after commencement, the work or activity is discontinued for a period of 12 months after commencement, the development approval shall immediately expire. The time periods set out in this subsection

ARTICLE 6. DEVELOPMENT APPLICATION APPROVAL

shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured. Nothing in this subsection shall be deemed to limit any vested rights secured under Article 4, Part III.

- (D) *Changes.* After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. Minor modifications to development approvals can be exempted or administratively approved. The Town shall follow the same development review and approval process required for issuance of the development approval in the review and approval of any major modification of that approval.
- (E) *Inspections.* The UDO Administrator may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.
- (F) *Revocation of Development Approvals.* In addition to initiation of enforcement of enforcement actions under Article 4, Part VI, development approvals may be revoked by the Town issuing the development approval by notifying the holder in writing stating the reasons for the revocation. The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable Town of Windsor development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to Section 4.26. If an appeal is filed regarding a development regulation adopted by the Town pursuant to NCGS Chapter 160D, the provisions of Section 4.26(F) regarding stays shall be applicable.
- (G) *Certificate of Occupancy.* The Town of Windsor may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit required by Article 11 of Chapter

ARTICLE 6. DEVELOPMENT APPLICATION APPROVAL

160D shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to NCGS 160D-1114 has been issued.

SECTION 6.2 No OCCUPANCY, USE, OR SALE OF LOTS UNTIL REQUIREMENTS FULFILLED

Issuance of a development permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter building or other substantial structures or to make necessary improvements to a subdivision. However, the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this Ordinance and all additional requirements imposed pursuant to the issuance of a special use permit have been complied with. *(Amended 10/8/2020)*

SECTION 6.3 APPLICATIONS TO BE COMPLETE

- (A) All applications for development approvals must be completed before the permit-issuing authority is required to consider the application. *(Amended 10/8/2020)*
- (B) An application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance.
- (C) The Administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In cases where a minimal amount of information is necessary to enable the Administrator to determine compliance with this Ordinance, such as applications for zoning permits development approvals to construct single-family or two-family houses, or applications for sign permits, the Administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information. *(Amended 10/8/2020)*

SECTION 6.4 STAFF CONSULTATION AFTER APPLICATION SUBMITTED

- (A) Upon receipt of a formal application for a development approval, the Administrator shall review the application and confer with the applicant to ensure that he understands the planning staff's interpretation of the applicable requirements of this Ordinance, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do. *(Amended 10/8/2020)*

ARTICLE 6. DEVELOPMENT APPLICATION APPROVAL

- (B) If an application is for a special use permit or subdivision plat approval, the Administrator shall place the application on the agenda of the appropriate board when the applicant indicates that the application is as complete as he intends to make it. However, if the Administrator believes that the application is incomplete, he shall recommend to the appropriate board that the application be denied on that basis. *(Amended 10/8/2020)*

SECTION 6.5 AUTHORIZING USE OR OCCUPANCY BEFORE COMPLETION OF DEVELOPMENT UNDER DEVELOPMENT APPROVAL

- (A) In cases when, because of weather conditions or other factors beyond the control of the development approval recipient (exclusive of financial hardship), it would be unreasonable to require the development approval recipient to comply with all requirements of this Ordinance prior to commencing the intended use of the property or occupying any buildings, the Administrator may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this Ordinance are concerned) if the permit recipient provides a performance bond or other security satisfactory to the Administrator to ensure that all of the requirements of the Ordinance will be fulfilled within a reasonable period (not to exceed 12 months) determined by the Administrator. *(Amended 10/8/2020)*
- (B) When the developer proposes in the plans submitted to install amenities beyond those required by this Article, the Board of Commissioners may authorize the permittee to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:
- (1) A performance bond or other security satisfactory to the Board is furnished;
 - (2) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made;
 - (3) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Article 4, Part VII, Enforcement and Review.
- (C) With respect to subdivisions in which the developer is selling only undeveloped lots, the Board of Commissioners may authorize final plat approval and the sale of lots before all the requirements of this Article are fulfilled if the subdivider provides a performance bond or other security satisfactory to the Board of Commissioners to ensure that all of these requirements will be fulfilled within not more than 12 months after final plat approval.

ARTICLE 6. DEVELOPMENT APPLICATION APPROVAL

SECTION 6.6 EFFECT OF DEVELOPMENT APPROVAL ON SUCCESSORS AND ASSIGNS *(Amended 10/8/2020)*

- (A) Development approvals authorize the permittee to make use of land and structures in a particular way. Such approvals are transferable. However, so long as the land or structures or any portion thereof covered under an approval continues to be used for the purposes for which the permit was granted, then:
- (1) No person (including successors or assigns of the person who obtained the development approval) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and;
 - (2) The terms and requirements of the development approval apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the development approval is obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the development approval was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice (as provided in Subsection (b)) of the existence of the development approval at the time they acquired their interest.
- (B) Whenever a development approval is issued to authorize development (other than single-family or two-family residences) on a tract of land in excess of one acre, nothing authorized by the development approval may be done until the record owner of the property signs a written acknowledgment that the development approval has been issued so that the development approval may be recorded in the Bertie County Registry by the Town of Windsor and indexed under the record owner's name as grantor.

SECTION 6.7 APPLICATIONS TO BE PROCESSED EXPEDITIOUSLY

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the Town shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this Ordinance.

SECTION 6.8 MAINTENANCE OF COMMON AREAS, IMPROVEMENTS, AND FACILITIES

The recipient of any development approval, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this Ordinance or any development

ARTICLE 6. DEVELOPMENT APPLICATION APPROVAL

approval issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed. *(Amended 10/8/2020)*

SECTION 6.9 SPECIAL USE PERMIT DEVELOPMENT APPROVALS OBJECTIVES AND PURPOSE

Special uses add flexibility to the UDO. Subject to high standards of planning and design, certain property uses are allowed in the several districts where those uses would not otherwise be applicable. By means of controls exercised through the special use permit procedures, property uses which would otherwise be undesirable in certain districts can be developed to minimize any bad effects they might have on surrounding properties. Approval of a special use permit is made the duty of the Board of Commissioners. *(Amended 7/12/2018; 10/8/2020)*

SECTION 6.10 PROCEDURE FOR SPECIAL USE PERMIT GRANTED BY THE BOARD OF COMMISSIONERS

(Amended 10/8/2015; 10/8/2020)

Special use permit development approvals may be issued by the Administrator, after approval by the Board of Commissioners, for the uses as designated in the Table of Permitted/Special Uses. The petition for a special use permit and the accompanying plans shall be submitted to the Administrator at least three weeks prior to the regular monthly Board of Commissioners meeting at which it is to be heard. Such application shall include all of the requirements pertaining to it as specified in this section. The Board of Commissioners shall give notice of a public hearing ten days prior to the date of the public hearing (see Section 4.32). At the quasi-judicial public hearing, all directly affected persons shall be permitted to testify (see Sections 4.34 through 4.37). The Board of Commissioners shall consider the application and may approve or deny the requested special use permit. *(Amended 7/9/2018)*

The special use permit development approval, if approved, shall include approval of plans as may be required. In approving the permit, the Board of Commissioners shall find as a specific finding of fact and reflect in their minutes that the development approval will comply with the following four facts: *(Amended 7/9/2018)*

- (A) That the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;
- (B) That the use meets all required conditions and specifications;

ARTICLE 6. DEVELOPMENT APPLICATION APPROVAL

- (C) That the use will not adversely affect the use or any physical attribute of adjoining or abutting property, or that the use is a public necessity; and
- (D) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located. The special use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of the project as required by GS 160D-703(b).

In approving the special use permit development approval, the Board of Commissioners may impose reasonable and appropriate conditions in addition and in connection therewith as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this Ordinance. The applicant/landowner must consent in writing to all conditions imposed by the special use permit. Conditions and safeguards imposed under this subsection shall not include requirements for which the town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the town, including without limitation, taxes, impact fees, building design elements within the scope of GS § 160D-702(b), driveway-related improvements in excess of those allowed in GS 136-18(29) and GS 160A-307, or other authorized limitations on the development or use of land. All such additional conditions shall be entered in the minutes of the meeting at which the special use is granted and also on the special use permit approval, and on the approved plans submitted therewith. All specific conditions shall run with the land and shall be binding on the original applicant for the special use permit development approval, the heirs, successors, and assigns. In order to ensure that such conditions and requirements for each special use will be fulfilled, the petitioner for the special use may be required to enter into a contract with the Town of Windsor providing for the installation of the physical improvements required as a basis for the issuance of the special use. Performance of said contract shall be secured by cash or surety bond which will cover the total estimated cost of the improvements as determined by the Town of Windsor; provided, however, that said bond may be waived by the Board of Commissioners within its discretion. *(Amended 7/9/2018)*

If the Board of Commissioners denies the development approval, the Board shall enter the reason for its action in the minutes of the meeting at which the action is taken.

No appeal may be taken to the Board of Adjustment from this action of the Board of Commissioners in granting or denying a special use. Any such action by the Board of Commissioners shall be considered as the equivalent of action on a proposed zoning amendment and shall be reviewable only in the same manner as action on a proposed amendment.

In addition to the conditions specifically imposed by the Board of Commissioners, special uses shall comply with the height, area, and parking regulations of the zone in which they are located.

ARTICLE 6. DEVELOPMENT APPLICATION APPROVAL

In the event of failure to comply with the plans approved by the Board of Commissioners or with any other conditions imposed upon the special use, the development approval shall thereupon immediately become void and of no effect. No building permits for further construction nor a certificate of compliance under this special use shall be issued, and the use of all completed structures shall immediately cease and such completed structures not thereafter be used for any purpose other than a use-by-right as permitted by the zone in which the property is located.

Where plans are required to be submitted and approved as part of the application for a special use, modifications of the original plans may be authorized by the Board of Commissioners. *(Amended 7/9/2018)*

SECTION 6.11 TABLE OF REGULATIONS FOR SPECIAL USES *(Amended 10/8/2020)*

Detailed regulations for each special use are set forth in this section.

Use – For the uses listed as special in Section 7.5 (Table of Permitted/Special Uses), the following information must be submitted with the request for special use development approval in the districts specified:

Minimum Lot Area: See Table of Yard, Area, and Height Requirements.

Buffering: As specified in Article 12 of this Ordinance, buffering shall be required by the Board of Commissioners.

Plans are required and must show:

- (A) Plans Required. The application shall be accompanied by a site plan drawn to scale, and necessary supporting text which shall include the following information:
 - (1) Name, address, and phone number of the property owner or his or her agent, and the tax parcel number of the property. The property owner or his or her authorized agent are the only two parties who may initiate a request for a special use permit.
 - (2) A boundary survey and vicinity map, showing the property’s total acreage, zoning classification(s), general location in relation to adjoining streets, railroads and/or waterways, date and north arrow.
 - (3) The owner’s names and addresses, tax parcel numbers and existing land use(s) of all adjoining properties.

ARTICLE 6. DEVELOPMENT APPLICATION APPROVAL

- (4) Proposed use of all land and structures including the number of residential units, if applicable.
 - (5) Proposed phasing, if any, and appropriate completion time for each phase and the complete project.
 - (6) Proposed number and location of all structures, their approximate area and their approximate exterior dimensions, including building height.
 - (7) All existing easements, reservations and rights-of-way.
 - (8) Delineation of areas located within a regulatory floodplain, as shown on the official Federal Emergency Management Act (FEMA) flood hazard boundary maps for the county.
 - (9) Traffic, parking and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets.
 - (10) The location and description of all proposed signage.
 - (11) Description/definition of how the property is classified on the Town of Windsor CAMA Land Use Plan Future Land Use Map.
- (B) Additional Information.
- (1) In the course of evaluating the proposed special use, the Board of Commissioners may request additional information from the applicant. A request for any additional information may stay any further consideration of the application by the Board of Commissioners until the requested information is received and evaluated. *(Amended 7/9/2018)*
 - (2) This information may include, but shall not be limited to, the following:
 - (a) Stormwater drainage plan.
 - (b) Existing and proposed topography at five-foot contour intervals or less.
 - (c) The existing and proposed location of all water and sewer lines and fire hydrants intended to serve the proposed development.

ARTICLE 6. DEVELOPMENT APPLICATION APPROVAL

- (d) Proposed design/exterior appearance of structures to ensure general consistency with adjacent properties/structures.
- (e) Lighting plan, inclusive of wattage and illumination.

Other Requirements: The Board of Commissioners may provide additional requirements as it deems necessary in order to make the proposed project more compatible with adjacent areas and existing or proposed traffic patterns. *(Amended 7/9/2018)*

ARTICLE 7.
ZONING DISTRICTS

Section 7.1 Purpose Statement [7-2](#)
Section 7.2 Interpretation [7-2](#)
Section 7.3 Primary Zoning Districts [7-3](#)
Section 7.4 Overlay District Established. [7-5](#)
Section 7.5 Conditional Zoning District [7-5](#)
Section 7.6 Table of Permitted/Special Uses [7-7](#)
Section 7.7 Table of Area, Yard, and Height Requirements [7-19](#)
 7.7.1 Table of Area, Yard, and Height Requirements [7-19](#)
 7.7.2 Notes to the Table of Area, Yard, and Height Requirements [7-21](#)

ARTICLE 7. ZONING DISTRICTS

SECTION 7.1 PURPOSE STATEMENT *(Amended 10/8/2020)*

In accordance with the requirement of NCGS 160D-703 that zoning regulation be by districts, the Town, as shown on the Zoning Map, is hereby divided into the following districts which shall be governed by all of the uniform use and dimensional requirements of this Ordinance.

The purposes of establishing the following zoning districts are:

- To implement adopted plans;
- To promote public health, safety, and general welfare;
- To provide for orderly growth and development;
- To provide for the efficient use of resources;
- To facilitate the adequate provision of services.

SECTION 7.2 INTERPRETATION *(Amended 10/8/2020)*

Zoning districts have uses specified as permitted by right, uses permitted with supplemental regulations, and special uses. Detailed use tables are provided in Section 7.6 showing the uses allowed in each district. The following describes the processes of each of the categories that the uses are subject to:

- **Permitted by Right:** Administrative review and approval subject to district provisions and other applicable requirements only.
- **Permitted with Supplemental Regulations:** Administrative review and approval subject to district provisions, other applicable requirements, and supplemental regulations outlined in Article 8.
- **Special Uses:** Planning Board review and recommendation, Board of Commissioners review and approval of Special Use Permit subject to district provisions, other applicable requirements, and conditions of approval. Some Special Uses may also be subject to supplemental regulations outlined in Article 8.

ARTICLE 7. ZONING DISTRICTS

SECTION 7.3 PRIMARY ZONING DISTRICTS

For the purposes of this Ordinance, the Town of Windsor, North Carolina is hereby divided into the following primary zoning districts:

- (A) RA-20 Single-Family Residential District. The RA-20 district is established as a district in which the principal use of land is for low-density residential and agricultural purposes. The regulations of this district are intended to protect the agricultural sections of this area from an influx of uses likely to render it undesirable for farms and low-density residential development. Lots developed in this district will not generally have access to public water or sewer systems.
- (B) R-10 Single- and Two-Family Residential District. The R-10 district is established to allow a low to medium density of residential land use in areas which will normally be served by both public water and sewer systems.
- (C) R-7 Single- and Two-Family Residential District. The R-7 district is established to allow a medium density of residential land use in areas which are served by both public water and sewer systems.
- (D) R-5 Single- and Two-Family Residential District. The R-5 district is established to allow a high density of residential land use along with other uses compatible with the residential uses and primarily in older sections of the town and where water and sewer systems are available.
- (E) R-75 Residential District. The R-7 district is established to allow a medium density of single-family residential land use in areas which are served by both public water and sewer systems.
- (F) R-15 Single-Family Residential District. The R-15 district is established as a district in which the principal use of land is for low-density single-family residential purposes. Lots within this district will generally have access to public water and, to a lesser extent, public sewer systems.
- (G) R-5MH Single-Family Residential District. The R-5MH district is established to allow a high density of residential land use (including manufactured homes) along with other uses compatible with the residential uses and where water and sewer systems are available.

ARTICLE 7. ZONING DISTRICTS

- (H) R-10MH Single-Family and Two-Family Residential District. The R-10MH district is established to allow a low to medium density of residential land use (including manufactured homes) in areas which will normally be served by both public water and sewer systems.
- (I) O-I Office and Institutional District. The O-I district is established as a district in which the principal use of land is for residences, services, offices, and institutional types such as hospitals, medical offices, and clinics. In promoting the general purposes of this Ordinance, the specific intent of this district is to:
- (1) To encourage the construction of, and continued use of, land for offices and institutional uses;
 - (2) To prohibit commercial and industrial uses of land which would generate large volumes of traffic or would interfere with the use of land for residential and office and institutional uses;
 - (3) To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this section;
 - (4) To encourage the development of areas which will serve as a buffer between business districts and residential districts provided for in this Ordinance.
- (J) C-1 Central Business District. The C-1 district is established to maintain the central town high-density mixed use business area for residents to obtain goods, services, and limited residential usage.
- (K) C-2 Highway Commercial District. The C-2 district is established as a district in which to accommodate highway-oriented retail and commercial service businesses which generally have as their market area the entire town and surrounding area. The major objectives of this district are to (i) encourage planned commercial and office parks; (ii) encourage vehicular access from commercial streets; and (iii) provide a location for major shopping facilities and land uses requiring large outdoor spaces.
- (L) M-I Manufacturing & Industrial District. The M-I district is for industries and warehouses which are not considered detrimental to surrounding land uses or those industries that are not considered to cause unnecessary loads or strain on existing public utility facilities. Further, these industries are to comply with applicable state and federal agencies' standards for emissions, effluents, noise, or odor.

ARTICLE 7. ZONING DISTRICTS

For a detailed table of specified permitted/special uses in the above listed zoning districts, see Section 7.6. *(Amended 10/8/2020)*

SECTION 7.4 OVERLAY DISTRICT ESTABLISHED

- (A) The Central Business Overlay (CBO) District is hereby established. This special control overlay district is intended to be superimposed over the underlying general zoning districts and the land so encumbered may be used in a manner permitted in the underlying zoning district and/or a use which is also permitted in the applicable overlay district.

- (B) The CBO district is designed to accommodate a wide variety of commercial and non-commercial activities (particularly those that are pedestrian oriented) in an intensive development pattern. The regulations of this district are intended to (1) preserve the general character and integrity of the current development in and adjacent to the central business district; (2) encourage land uses which provide for a multi-purpose central business area including retail, offices, services, entertainment, and living space; and (3) encourage land uses which do not require large amounts of outdoor use areas. The uses allowed in the CBO district are in addition to those allowed in the underlying district and the conditions specified by the CBO district are in addition to those imposed by the underlying district.

SECTION 7.5 CONDITIONAL ZONING DISTRICT *(Amended 10/8/2020)*

The large site conditional zoning district (CZD) allows a site to be developed with a mixture of land uses according to an approved overall site plan. For example, a large tract may be developed with a mix of single-family and multi-family housing, with part of the site also devoted to commercial and office uses. The CZD allows for greater flexibility in dimensional standards (such as lot sizes and setbacks) upon approval of an overall master plan for the entire development. The district does not require a rigid separation of different land uses. Uses are limited to the uses identified in Section 7.6 Table of Permitted/Special Uses. All of the site-specific standards and conditions, including a site plan, are incorporated into the zoning district regulations for the CZD. Approval of the site plan will establish all zoning requirements for the subject property. A large site CZD district shall not be less than three (3) acres in area.

This negotiated approach to a legislative decision allows maximum flexibility to tailor regulations to a particular site and project. But it also has great potential for abuse - both in terms of impacts on individual landowners seeking approval and their neighbors and on the public interests zoning is supposed to promote. Thus, special restrictions have been placed on conditional zoning. Conditional Zoning Districts may only occur at the owner's request and cannot be imposed without the owner's agreement. The individual conditions and site-specific standards that can be imposed

ARTICLE 7. ZONING DISTRICTS

are limited to those that are needed to bring a project into compliance with town ordinances and adopted plans and to those addressing the impacts reasonably expected to be generated by use of the site. The town must assure that all of the factors defining reasonable spot zoning are fully considered and that the public hearing record reflects that consideration.

Conditional zoning provides important opportunities to carefully tailor regulations to address the interest of the landowner, the neighbors, and the public. The town may use conditional zoning when it concludes that a particular project should be approved but that the standards in the comparable conventional zoning district(s) are insufficient to protect neighbors or public interests (perhaps because the conventional zoning allows other uses not suitable for the site or dimensional standards inadequate to preserve the neighborhood). Conditional zoning often allows a developer to proceed with a project in a way that addresses site-specific concerns of neighbors and the Town of Windsor. The petitioner must consent in writing to all conditions imposed by the conditional zoning.

ARTICLE 7. ZONING DISTRICTS

SECTION 7.6 TABLE OF PERMITTED/SPECIAL USES *(Amended 11/13/2014; 10/8/2020)*

P - Permitted Use PS - Permitted Use with Special Regulations
 S- Special Use SS- Special Use with Special Regulations

Uses	Primary Zoning Districts												Overlay District	Supplemental Regulations
	RA-20	R-10	R-7	R-5	R-75	R-15	R-5MH	R-10MH	O-I	C-1	C-2	M-I	CBO	
<i>Residential and Related Uses</i>														
Accessory building to residential uses	PS	PS	PS	PS	PS	PS	P	P	PS					Section 8.2
Granny pods	PS	PS	PS	PS	PS	PS	PS	PS	PS					Section 8.3
Home stay lodging <i>(Amended 10/8/2020)</i>	PS	PS	PS	PS	PS	PS	PS	PS	PS					Section 8.51
Housing for migrant workers employed in M-I district												S		
Manufactured home, Class A on individual lot	PS				PS		PS	PS						Section 8.4
Manufactured home, Class B on individual lot	PS						PS							Section 8.4
Manufactured home parks	SS													Article 9
Modular Homes	PS	PS	PS	PS	PS	PS	PS	PS						Section 8.5
Multi-family dwellings			PS					PS					SS	Article 9
Single-family dwellings	P	P	P	P	P	P	P	P	P					
Single-family/multi-family dwellings, over a principal business										SS	SS			Section 8.6
Tiny houses <i>(Amended 3/14/2019)</i>				PS			PS							Section 8.50
Townhouses			P										S	
Two-family dwellings (duplex)	P	P	P	SS	P			P	P					Section 8.7
Whole-house lodging <i>(Amended 10/8/2020)</i>									PS					Section 8.52

ARTICLE 7. ZONING DISTRICTS

Uses	Primary Zoning Districts												Overlay District	Supplemental Regulations
	RA-20	R-10	R-7	R-5	R-75	R-15	R-5MH	R-10MH	O-I	C-1	C-2	M-I	CBO	
Non-Residential Uses														
Accessory uses and structures (excluding open storage)										PS				Section 8.8
Accessory uses and structures (including open storage)											PS	PS		Section 8.8
Adult businesses												SS		Article 14
Adult care homes									SS		PS			Section 8.9
Agriculture or horticulture	PS											PS		Section 8.10
Agritourism (<i>Amended 3/14/2019</i>)	P													
Alcoholic beverages (package retail sales)											P			
Ambulance services											P			
Animal hospitals/veterinarians											PS			Section 8.11
Animal kennels/boarding facilities (including accessory grooming)											P			
Antique shops										P				
Art galleries										P				
Art schools, music and dance studios (excludes industrial trade schools)									S	P	P			
Artisan's workshop (3,000 square feet or less)											PS		PS	Section 8.12
Artisan's workshop (exceeding 3,000 square feet)											PS		SS	Section 8.12
Appliance stores										P				
Assembly halls, coliseums, armories, ball rooms, etc. (<i>Amended 9/14/2017</i>)											PS		SS	Section 8.49

ARTICLE 7. ZONING DISTRICTS

Uses	<i>Primary Zoning Districts</i>												<i>Overlay District</i>	<i>Supplemental Regulations</i>
	RA-20	R-10	R-7	R-5	R-75	R-15	R-5MH	R-10MH	O-I	C-1	C-2	M-I	CBO	
Automobile junkyards and wrecking yards												SS		Section 8.13
Automobile parking lots and structures										P	P	P		
Automobile parts and supplies										P	P			
Automobile repair shops											P	P		
Automobile sales, new & used											P			
Automobile service stations										PS	PS			Section 8.14
Automobile washing establishments											P			
Bakeries, retail										P	P			
Banks and financial institutions									P	P	P			
Barber and beauty shops									P	P	P			
Battery charging station										PS			SS	Section 8.15
Battery exchange station										PS			SS	Section 8.15
Bed & breakfast (serving meals to the general public)			SS											Section 8.16
Bed & breakfast (not serving meals to the general public)													SS	Section 8.17
Bicycle sales and repair shops										P	P			
Boarding/rooming houses and tourist homes			S		S				P					
Boat and trailer works and sales											P	P		
Bona fide farms and their customary appurtenances	PS	PS	PS									PS		Section 8.18
Book store, including the retail of stationery, books, magazines, newspapers										P				

ARTICLE 7. ZONING DISTRICTS

Uses	Primary Zoning Districts												Overlay District	Supplemental Regulations
	RA-20	R-10	R-7	R-5	R-75	R-15	R-5MH	R-10MH	O-I	C-1	C-2	M-I	CBO	
Bottling works												P		
Bowling alleys											P			
Building materials storage and sales yards											PS	PS		Section 8.19
Bus stations										P				
Businesses involved in the cutting and sewing of cloth in connection with the manufacture of wearing apparel												P		
Cabinet, woodworking, and upholstery shops											P	P		
Camera shop										P				
Catalog Sales										P	P			
Cemeteries	SS		SS											Section 8.20
Charitable institutions									P	P	P			
Churches and accessory uses	SS	SS	SS	SS	SS			SS	P		SS			Section 8.21
Clubs and lodges, fraternities, sororities, social, civic, and similar organizations operating on a non-profit basis									P	P	P			
Coin shops										P	P			
Colleges, trade, technical and business schools									S	P	P			
Commercial greenhouses											S			
Communication towers and antennas											S	P		
Computer sales and repair										P				
Convenience food stores, but not including car washes										S	P			

ARTICLE 7. ZONING DISTRICTS

Uses	<i>Primary Zoning Districts</i>												<i>Overlay District</i>	<i>Supplemental Regulations</i>
	RA-20	R-10	R-7	R-5	R-75	R-15	R-5MH	R-10MH	O-I	C-1	C-2	M-I	CBO	
Convenience stores with gas pumps											P	P		
Dairy bars and ice cream manufacturing for retail sales on the premises only										P	P			
Dairy products processing and distributing facilities, including dairy bars											P	P		
Day care facilities – adult	PS	SS	PS						SS					Section 8.9
Day care facilities – child	P	S	P						S					
Day care, home – child	P	S	P						S					
Deli										P				
Distillery											PS		SS	Section 8.30
Domestic animal grooming (no relation to agricultural use)									SS		PS			Section 8.22
Drug stores (with or without fountains)										P	P			
Dry cleaning and laundry										PS	PS			Section 8.23
Electric repair shops										P	P	P		
Electrical supplies and equipment sales and repairs											P			
Electronic gaming operations										S	S			Section 8.24
Exterminators											P			
Fabric store										P	P			
Family care homes	PS	PS	PS	PS	PS	PS	PS	PS						Section 8.9
Farm machinery sales and repairs												P		
Feed and seed stores, hatcheries, and fertilizer sales												P		

ARTICLE 7. ZONING DISTRICTS

Uses	Primary Zoning Districts												Overlay District	Supplemental Regulations
	RA-20	R-10	R-7	R-5	R-75	R-15	R-5MH	R-10MH	O-I	C-1	C-2	M-I	CBO	
Floral and gift shops, but not commercial greenhouses										P	P			
Flour and feed mills												P		
Food stores and meat markets (retail only)										PS	PS			Section 8.25
Food stores, fruit stands, and produce markets										S	P			
Food trucks (<i>Amended 5/11/2017; Effective 6/1/2017</i>)										PS	PS	PS		Section 8.48
Freezer lockers, ice plants, and cold storage plants												P		
Funeral homes, undertaking establishments, embalming									S	P	P			
Golf courses	S	S	S	S	S									
Government uses									PS	PS	PS	PS		Section 8.26
Greenhouses and horticultural nurseries												P		
Grocery and sundries stores										S	P			
Heliports (<i>Amended 10/8/2020</i>)												SS		Section 8.53
Home care agencies									P					Section 8.9
Home occupations, Class A (<i>Amended 12/8/2016</i>)	PS	PS	PS	PS	PS	PS	PS	PS	PS				PS	Section 8.27
Home occupations, Class B (<i>Amended 12/8/2016</i>)	SS	SS	SS	SS	SS	SS	SS	SS	SS				SS	Section 8.27
Hospices									S		P			Section 8.9
Hospitals									P					
Hotels and inns										P	P			

ARTICLE 7. ZONING DISTRICTS

Uses	Primary Zoning Districts												Overlay District	Supplemental Regulations
	RA-20	R-10	R-7	R-5	R-75	R-15	R-5MH	R-10MH	O-I	C-1	C-2	M-I	CBO	
Ice cream stand or store										P	P			
Indoor athletic and exercise facilities										P	P			
Industrial parks												P		
Industrial research offices and laboratories												P		
Industrial supplies and equipment											PS	PS		Section 8.28
Industrial trade schools and research laboratories												P		
Jails, prisons, and similar public detention facilities												P		
Jewelry repair shops and opticians										P	P			
Kindergartens and day nurseries									PS		SS			Section 8.29
Launderettes and laundromats										P	P			
Lawn and garden stores											P	P		
Licensable facilities											P			
Locksmith and gunsmith										P	P			
Machine and welding shops												P		
Manufactured home display lots											P			
Manufacturing – amusement, recreation, and sporting goods												P		
Manufacturing – apparel and clothing, including hosiery												P		
Manufacturing – automobile parts and accessories												P		
Manufacturing – bedding and carpeting												P		

ARTICLE 7. ZONING DISTRICTS

Uses	Primary Zoning Districts												Overlay District	Supplemental Regulations
	RA-20	R-10	R-7	R-5	R-75	R-15	R-5MH	R-10MH	O-I	C-1	C-2	M-I	CBO	
Manufacturing – box and container (using fabricated board products)												P		
Manufacturing – building materials specialties												P		
Manufacturing – business machines												P		
Manufacturing – drugs, medicines, and cosmetics												P		
Manufacturing – electrical appliances and equipment												P		
Manufacturing – furniture												P		
Manufacturing – hardware and housewares												P		
Manufacturing – leather products, including luggage and shoes														
Manufacturing – musical instruments												P		
Manufacturing – not otherwise listed												SS		
Manufacturing – paper products												P		
Manufacturing – plastic products												P		
Manufacturing – precision instruments and jewelry												P		
Manufacturing – rubber and glass products												P		
Manufacturing – textile and cordage												P		
Manufacturing – wholesale food products and packaging												P		
Medical and dental clinics and laboratories									P	P	P			
Metal fabricating plants												P		

ARTICLE 7. ZONING DISTRICTS

Uses	Primary Zoning Districts												Overlay District	Supplemental Regulations
	RA-20	R-10	R-7	R-5	R-75	R-15	R-5MH	R-10MH	O-I	C-1	C-2	M-I	CBO	
Microbrewery											PS		SS	Section 8.30
Miniature golf courses, go-cart tracks											P			
Mini-storage											P			
Mixed use													SS	Section 8.31
Motels and motor courts									SS		P			Section 8.32
Motorcycle, lawnmower, and power saw sales and service											P			
Multi-unit assisted housing with services									SS		PS			Section 8.9
Museums									S	P	P			
Nail/tanning salon										P	P			
Newspaper offices and printing plants incidental to such offices										P	P			
Nursery, plant											P	P		
Nursing facilities	PS								SS		PS			Section 8.9
Nursing pools									P		P			
Office supplies and equipment sales and service									P	P	P			
Office, related to any permitted use in the M-I district												P		
Offices, professional services (i.e., legal, engineering, architectural, etc.)									P	P	P			
Offices, specialized services (i.e., real estate, insurance, advertising, brokerage, etc.)									P	P	P			
Opticians and optical goods									P	P	P			

ARTICLE 7. ZONING DISTRICTS

Uses	Primary Zoning Districts												Overlay District	Supplemental Regulations
	RA-20	R-10	R-7	R-5	R-75	R-15	R-5MH	R-10MH	O-I	C-1	C-2	M-I	CBO	
Paint store										P				
Parking lots									P	P	P	P		
Pawn shop										P	P			
Pet store										P				
Plumbing and heating supply houses											P	PS		Section 8.33
Portable storage containers	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.47
Printing, publishing, engraving, and reproduction establishments									S	P		P		
Public and private parks, playgrounds	S	S	S	S	S			S	P	S				
Public buildings (i.e., fire, police, library, community centers)	S	S	S	S	S			S	P	P		P		
Public utility storage or service yards										S	S	P		
Public works and public utility substations	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.34
Pump stations, municipally owned	SS	SS	SS	SS	SS	SS	SS	SS	SS	PS	PS	PS		Section 8.35
Radio and TV repair shops										P	P			
Repair shops (trucks and large equipment, including tractors and trailers)												P		
Restaurants, including drive-ins										PS	P			Section 8.36
Retail establishments										PS	P			Section 8.37
Retirement/elderly facilities									P	P	P			
Riding stables											P	P		
Schools, primary and secondary	S	S	S		S			S	P					

ARTICLE 7. ZONING DISTRICTS

Uses	Primary Zoning Districts												Overlay District	Supplemental Regulations
	RA-20	R-10	R-7	R-5	R-75	R-15	R-5MH	R-10MH	O-I	C-1	C-2	M-I	CBO	
Schools, primary, secondary, or vocational (not accessory to primary use) <i>(Amended 9/12/2019)</i>												SS		Section 8.38
Second hand stores and swap shops										P	P			
Sheet metal, roofing, plumbing, heating, and refrigeration shops											P	P		
Shoe repair and shine shops										P				
Sign painting and fabrication shops											P	P		
Signs (refer to Article 11)														
Skating rinks											P			
Solar energy generating facility, accessory	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.39
Solar farm	PS											PS		Section 8.40
Special services homes							SS							Section 8.41
Sporting goods store										P	P			
Studios for artists, designers, photographers, etc.									P	P	P			
Tailors and dressmaking shops										P				
Taxicab stands										P	P			
Telecommunication facilities	S	S	S	S	S	S	S	S	S	S	S	S		
Telephone and telegraph offices										P				
Temporary office units	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		Section 8.42
Temporary use, sale of goods other than agricultural products											PS			Section 8.42
Temporary use, sale of agricultural products grown off-site											PS		SS	Section 8.42

ARTICLE 7. ZONING DISTRICTS

Uses	<i>Primary Zoning Districts</i>												<i>Overlay District</i>	<i>Supplemental Regulations</i>
	RA-20	R-10	R-7	R-5	R-75	R-15	R-5MH	R-10MH	O-I	C-1	C-2	M-I	CBO	
Theaters, indoor										P	P			
Toy store										P	P			
Trucking terminals, transfer companies												P		
Twenty-four hour facilities									SS	PS	PS			Section 8.9
Vehicle repair shops, trucks and large equipment (<i>Amended 4/14/2016</i>)											S			
Wholesale and warehousing establishments												PS		Section 8.43
Wholesale merchants										S	P	P		
Wholesale storage, gasoline and oil, bottled gas and oxygen												SS		Section 8.44
Wind energy generating facility, accessory	PS	PS	PS	PS	PS	PS	PS	PS			PS	PS	SS	Section 8.45
Wind farm	SS											SS		Section 8.46

ARTICLE 7. ZONING DISTRICTS

SECTION 7.7 TABLE OF AREA, YARD, AND HEIGHT REQUIREMENTS *(Amended 11/13/2014)*

7.7.1 Table of Area, Yard, and Height Requirements *(see Section 7.7.2, Notes 1-4)*

Zoning District	Minimum Lot Area (SF)	Minimum Lot Width (feet)	SETBACK STANDARDS			Building Height (feet)
			Front (feet)	Side (feet)	Rear (feet)	
RA-20 Single-Family Agricultural Residential	20,000	100	35	15 (see Note 2)	25	35
R-10 Single & Two-Family Residential						
First dwelling	10,000	80	30	10 (see Note 2)	20	35
Second dwelling or duplex	6,000	20	30	10 (see Note 2)	20	35
Non-residential uses	15,000	160	30	20 (see Note 2)	20	35
R-7 Single & Two-Family Residential						
First dwelling	7,000	75	30	10	20	35
Second dwelling or duplex	3,000	10	30	10	20	35
Non-residential uses	15,000	120	30	20	20	35
R-75 Residential						
First dwelling	7,500	75	30	10 (see Note 2)	20	35
Second dwelling or duplex	3,000	10	30	10 (see Note 2)	20	35
Non-residential uses	15,000	120	30	20 (see Note 2)	20	35
R-5 Single & Two-Family Residential						
Residential uses	5,000	50	20	8	12	35
Non-residential uses	15,000	120	20	15	12	35
R-15 Single-Family Residential	15,000	100	30	15 (see Note 2)	20	35
R-5MH Single-Family Residential	5,000	50	20	8	12	35
R-10MH Single & Two-Family Residential	10,000	80	30	10	20	35
O-I Office and Institutional District						
Residential uses	7,000	75	30	10	20	35
Non-residential uses	15,000	160	40	10	20	35

ARTICLE 7. ZONING DISTRICTS

Zoning District	Minimum Lot Area (SF)	Minimum Lot Width (feet)	SETBACK STANDARDS			Building Height (feet)
			Front (feet)	Side (feet)	Rear (feet)	
C-1 Central Business District	N/A	N/A	*	*	*	50 (see Note 4)
C-2 Highway Commercial District (see Note 3)	N/A	N/A	40	10	20	35 (see Note 4)
CBO Central Business Overlay District (Townhouses)	1,500	18	10	0**	15	35
M-I Manufacturing & Industrial District	N/A	N/A	50	15	20	50 (see Note 4)

* No yards are required except that where the rear of a lot abuts a residential district, there shall be a fifteen (15) foot rear yard and where a lot abuts the side of a lot zoned residential there shall be a side yard not less than ten (10) feet in width.

**Building end units shall have a 10 foot side yard.

ARTICLE 7. ZONING DISTRICTS

7.7.2 Notes to the Table of Area, Yard, and Height Requirements

Note 1. Accessory Buildings (see Section 8.2)

- (A) In the RA-20 and R-15 districts, accessory buildings shall not be erected in any required front yard or within 25 feet of any street line or within five feet of any lot line not a street line.
- (B) In the RA-10, R-7, R-5, and R-75 districts, accessory buildings shall not be erected in any required front yard or within twenty (20) feet of any street or highway or within five (5) feet of any lot line not a street or highway line. An accessory building or use may be located in a rear or side yard, provided it is located not less than five (5) feet from the principal building and five (5) feet from any rear or side yard line. *(Amended 10/8/2015)*

Note 2. Corner Lots

- (A) In the RA-10 and R-75, district, the minimum required width of any corner side yard shall be fifteen (15) feet.
- (B) In the RA-20 and R-15 districts, the side yard setback, on that side of the lot abutting the side street, shall not be less than twenty (20) feet.

Note 3. Lot Area. In the C-2 Highway Commercial District, the total ground area covered by the principal building and all accessory buildings shall not exceed fifty (50) percent of the total lot area.

Note 4. Building Height.

- (A) In the C-1 Central Business District, every building hereafter erected or structurally altered to exceed fifty (50) feet in height shall be setback from the front lot line on the ratio of one (1) foot for each two (2) feet rise above said fifty (50) feet, but in no case shall the required setback exceed ten (10) feet.
- (B) In the C-2 Highway Commercial District, no building shall exceed thirty-five (35) feet in height unless the depth of the front and total width of the side yard required herein shall be increased by one (1) foot for each two (2) feet, or fraction thereof, of building height in excess of thirty-five (35) feet.
- (C) In the M-I Manufacturing and Industrial District, no building shall exceed fifty (50) feet in height unless the depth of the front and total width of the side yards required herein shall be increased by one (1) foot for each two (2) feet, or fraction thereof, of building height in excess of fifty (50) feet.

ARTICLE 8.

SUPPLEMENTAL REGULATIONS

Section 8.1	Introduction	8-3
Section 8.2	Accessory Buildings	8-3
Section 8.3	Granny Pods	8-3
Section 8.4	Manufactured Homes	8-4
Section 8.5	Modular Homes	8-10
Section 8.6	Single-Family/Multi-Family Dwellings, Over a Principal Business	8-10
Section 8.7	Two-Family Dwellings (Duplex)	8-10
Section 8.8	Accessory Uses and Structures	8-11
Section 8.9	Health Care Facilities	8-11
Section 8.10	Agriculture or Horticulture	8-11
Section 8.11	Animal Hospitals/Veterinarians	8-12
Section 8.12	Artisan’s Workshop	8-12
Section 8.13	Automobile Junkyards and Wrecking Yards.	8-12
Section 8.14	Automobile Service Stations	8-12
Section 8.15	Battery Charging/Exchange Stations	8-13
Section 8.16	Bed and Breakfast Homes (Serving Meals to the General Public).	8-14
Section 8.17	Bed and Breakfast Homes (Not Serving Meals to the General Public).	8-15
Section 8.18	Bona Fide Farms	8-15
Section 8.19	Building Materials Storage and Sales Yards.	8-16
Section 8.20	Cemeteries	8-16
Section 8.21	Churches and Accessory Uses	8-16
Section 8.22	Domestic Animal Grooming.	8-16
Section 8.23	Dry Cleaning and Laundry Plants.	8-16
Section 8.24	Electronic Gaming Operations	8-16
Section 8.25	Food Stores and Meat Markets (Retail Only)	8-17
Section 8.26	Government Uses	8-17
Section 8.27	Home Occupations	8-17
Section 8.28	Industrial Supplies and Equipment.	8-19
Section 8.29	Kindergartens and Day Nurseries.	8-20
Section 8.30	Microbrewery/Distillery	8-20
Section 8.31	Mixed Use	8-20
Section 8.32	Motels and Motor Courts.	8-21
Section 8.33	Plumbing and Heating Supply Houses	8-22
Section 8.34	Public Works and Public Utility Substations	8-22
Section 8.35	Pumping Stations, Municipally Owned	8-22
Section 8.36	Restaurants, With or Without Drive-Ins	8-22
Section 8.37	Retail Establishments	8-23

ARTICLE 8.

SUPPLEMENTAL REGULATIONS

Section 8.38	Schools, Primary, Secondary, or Vocational (Not Accessory to Primary Use) . . .	8-23
Section 8.39	Solar Energy Generating Facility, Accessory	8-24
Section 8.40	Solar Farm (Major Energy)	8-24
Section 8.41	Special Services Homes	8-26
Section 8.42	Temporary Uses	8-27
Section 8.43	Wholesale and Warehousing Establishments.	8-29
Section 8.44	Wholesale Storage, Gasoline and Oil, Bottled Gas and Oxygen	8-29
Section 8.45	Wind Energy Generating Facility, Accessory	8-29
Section 8.46	Wind Farm (Major Energy)	8-31
Section 8.47	Portable Storage Containers	8-35
Section 8.48	Food Trucks	8-36
Section 8.49	Assembly Halls	8-38
Section 8.50	Tiny Houses	8-39
Section 8.51	Homestay Lodging in Residential Districts	8-39
Section 8.52	Whole-House Lodging/Homestay Lodging in the O/I District.	8-41
Section 8.53	Heliport	8-43

ARTICLE 8. SUPPLEMENTAL REGULATIONS

SECTION 8.1 INTRODUCTION

The following supplemental regulations shall pertain to the various uses listed in the Table of Uses located in Article 7. If not otherwise listed, these regulations shall be applicable in all districts in which the individual uses are allowed.

For any use which requires the issuance of a special use permit, the supplemental use regulations listed herein may be in addition to any other fair and reasonable conditions placed on the use by the Board of Adjustment. The conditions may impose greater restrictions on a particular use than those which are listed herein. *(Amended 10/8/2020)*

SECTION 8.2 ACCESSORY BUILDINGS *(Amended 7/14/2016)*

Residential accessory buildings shall not be rented or occupied for financial gain except as provided for in Section 8.27. Accessory buildings shall not occupy more than thirty percent (30%) of the rear yard.

SECTION 8.3 GRANNY PODS *(Amended 11/13/2014)*

Granny pods shall be permitted as an accessory use in accordance with Section 7.6, subject to the following standards:

- (A) Structures must be transportable residential units assembled off-site and built to the standards of the State Building Code. It must be no more than 300 gross square feet and must not be placed on a permanent foundation.
- (B) The accessory structure must comply with all setbacks and any maximum floor area ratio limits that apply to the primary residential structure. The structure shall be connected to any public water, sewer, and electric utilities serving the property or water and/or sewer systems approved by Bertie County. Only one accessory temporary family care structure is allowed per lot. No signage regarding the presence of the structure is allowed. The structure must be removed within sixty (60) days after care-giving on the site ceases.
- (C) A zoning permit is required to be obtained prior to installation. Evidence of compliance may be required as part of the permitting and annual permit renewal, including an annual renewal of the doctor's certification of impairment. The town may make periodic inspections at times convenient to the caregiver to assure on-going compliance.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (D) The caregiver must be at least 18 years old and must be a first or second degree relative of the impaired person (a spouse, parent, grandparent, child, grandchild, aunt, uncle, nephew, or niece). A legal guardian of the impaired person also qualifies.
- (E) In the O-I district, granny pods shall only be permitted for single-family residentially used property.

SECTION 8.4 MANUFACTURED HOMES

- (A) A manufactured home is a principal use and in no case shall a manufactured home be allowed on a lot occupied by another manufactured home, other dwelling structure, or other principal use.
- (B) The owner of the manufactured home must own the tract on which it is placed.
- (C) The side of the manufactured home with the greater length must be parallel with the street if possible.
- (D) Manufactured Home, Class A (Multi-Section).
 - (1) The manufactured home has a minimum of one thousand (1,000) square feet of enclosed heated living area and meets the wind design load requirement for hurricane resistive manufactured homes.
 - (2) The manufactured home has a length not exceeding four (4) times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
 - (3) The pitch of the roof of the manufactured home shall have a minimum vertical rise of five (5) feet for each twelve (12) feet of horizontal run, with a trussed, hinged roof. The roof shall be finished with a type of shingle that is commonly used in the standard residential construction. The roof shall not be in a state of needed repair. All shingles must be properly in place.
 - (4) All roof structures shall provide an eave and soffit projection of no less than twelve (12) inches including the gutter.
 - (5) The exterior siding shall be predominantly of vinyl or aluminum horizontal siding (whose reflectivity does not exceed that of gloss white paint), wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction. There shall not be any siding

ARTICLE 8. SUPPLEMENTAL REGULATIONS

missing and any siding needing repair shall be repaired before a certificate of occupancy is issued.

- (6) All structures designed for residential use including manufactured housing shall be set up in accordance with the standards set by the state department of insurance for hurricane zones. A continuous permanent solid masonry wall composed of brick, concrete, concrete block set on a concrete footing shall be installed under the perimeter of the home from the ground to the first floor. The walls shall not be pierced except for ventilation and access. The walls shall be built and maintained in a workmanlike manner. All underpinning shall be completed and approved by the building inspector before a permit for electrical hookup will be issued. This section shall not apply to an open patio extension of the main living area.
- (7) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed and constructed in accordance with the standards set by the State Building Code, anchored securely to the ground, and shall be entirely self supporting.
- (8) The moving hitch, wheels and axles and transporting lights have been removed.
- (9) All windows and doors must be in working order and must be repaired if they are cracked or broken before a certificate of occupancy is issued.
- (10) All insulation located beneath the floor shall be held in place by wiring, fiberboard, etc., and must be intact and properly maintained.
- (11) The application for a building permit for a double wide manufactured home shall be accompanied with a three (3) by five (5) inch (minimum) picture of the front elevation of the proposed home, as well as such other documentation as is required to obtain a building permit for a standard dwelling. No manufactured home may be introduced onto the proposed site until a building permit for the home has been issued.
- (12) Before electricity is turned on to the unit, the building inspector and the state certified fire inspector must approve the manufactured home pursuant to the standards set forth in this article.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (13) Methods by which manufactured homes (also known as mobile homes) are set up are herein incorporated below: *(Amended 10/8/2020)*
- (a) *Survey.* A current survey of the property prepared by a registered surveyor if the property is located in a flood hazard zone, an elevation certificate is required to be in our office before a final inspection can be done for properties in a flood hazard zone. A final survey must be turn in for all new manufactured homes.
 - (b) *Water and Sewer.* All manufactured homes shall be connected to the Town of Windsor's municipal water and sewer systems when these services are available and in close proximity. If necessary, a permit is required from the health department for the installation of a septic system. If there is an existing septic system on the property, it must be re-inspected by the health department.
 - (c) *HUD Label.* The manufactured home must have an affixed label certifying that it meets the federal requirement for manufactured homes.
 - (d) *Hurricane zone certification.* The manufactured home must have an affixed label certifying that it meets conditions requirements for a Zone II in accordance with the North Carolina Building Wind Code.
 - (e) The manufactured home must meet all zoning requirements for the applicable zoned area. A copy of the UDO is available upon request.
 - (f) Building, electrical, and mechanical permits must be obtained from the inspections department. All work must be done in compliance with all applicable codes and must be inspected before a certificate of occupancy will be issued and the power connected.
 - (g) Name and set-up license number of the contractor must be furnished before a permit is issued.
 - (h) If in a floodplain area, the blocks used for the foundation are required to have rebar in each cell of the block and filled with concrete. This must be inspected before the cap block is placed on top. After the cap block is in place, the whole column will need to be painted with surwall to hold blocks and cap together. "Sackrete" with rock may be used, however, it must be mixed before it is poured into the blocks. A final elevation is required to be

ARTICLE 8. SUPPLEMENTAL REGULATIONS

in the office before a final inspection can be made for all manufactured home in a flood plain area.

- (i) Requirements of the set-up contractor:
 1. Furnish to the inspection department soil test results and verify the anchor required.
 2. Furnish inspections department with instructions from the manufacturer on installation of the strap and buckle system to be used.
 3. Before the home is set, three (3) footings shall be dug for the compaction test before any footer blocks are laid.
 4. Set-up contractor is responsible for obtaining permits for manufactured home set-up unless the owner is setting up the home him/herself.

- (j) All manufactured homes shall be delivered complete from the manufacturer and shall meet all current Town ordinances prior to delivery. No structural modifications shall be allowed on site. Underpinning, steps, stoops, decks or porches shall not be considered structural modifications for the purpose of this Ordinance.

(E) Manufactured Home, Class B (Single-Section).

- (1) The manufactured home has a minimum of seven hundred fifty (750) square feet of enclosed heated and living area; and meets the wind design load requirements for hurricane resistive manufactured homes.
- (2) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed and constructed in accordance with the standards set by the State Building Code, anchored securely to the ground, and shall be entirely self supporting.
- (3) All structures designed for residential use including manufactured housing shall be set up in accordance with the standards set by the state department of insurance for hurricane zones. A continuous permanent solid masonry wall composed of brick, concrete, concrete block or a prefabricated masonry board, e.g. hardi panel, shall be installed under the perimeter of the home from the ground to the first floor. The

ARTICLE 8. SUPPLEMENTAL REGULATIONS

walls shall not be pierced except for ventilation and access. The walls shall be built and maintained in a workmanlike manner. All underpinning shall be completed and approved by the building inspector before a permit for electrical hookup will be issued. This section shall not apply to an open patio extension of the main living area.

- (4) The wheels and axles, and transporting light have been removed.
- (5) All windows and doors must be in working order and must be repaired if they are cracked or broken before a certificate of occupancy is issued.
- (6) All siding must be properly secured and there shall not be any missing pieces. If siding needs to be repaired or replaced, it shall be accomplished before a certificate of occupancy is issued.
- (7) The roof must be in good condition.
- (8) All insulation located beneath the floor shall be held in place by wiring, fiberboard, etc., and must be intact and properly maintained.
- (9) Before electricity is turned on to the unit, the building inspector and the state certified fire inspector must approve the manufactured home pursuant to the standards set forth in this article.
- (10) Methods by which manufactured homes (also known as mobile homes) are set up are herein incorporated below: *(Amended 10/8/2020)*
 - (a) *Survey.* A current survey of the property prepared by a registered surveyor if the property is located in a flood hazard zone, an elevation certificate is required to be in our office before a final inspection can be done for properties in a flood hazard zone. A final survey must be turn in for all new manufactured homes.
 - (b) *Water and Sewer.* All manufactured homes shall be connected to the Town of Windsor's municipal water and sewer systems when these services are available and in close proximity. If necessary, a permit is required from the health department for the installation of a septic system. If there is an existing septic system on the property, it must be re-inspected by the health department.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (c) *HUD Label.* The manufactured home must have an affixed label certifying that it meets the federal requirement for manufactured homes.
- (d) *Hurricane Zone Certification.* The manufactured home must have an affixed label certifying that it meets conditions requirements for a Zone II in accordance with the North Carolina Building Wind Code.
- (e) The manufactured home must meet all zoning requirements for the applicable zoned area. A copy of the UDO is available upon request.
- (f) Building, electrical, and mechanical permits must be obtained from the inspections department. All work must be done in compliance with all applicable codes and must be inspected before a certificate of occupancy will be issued and the power connected.
- (g) Name and set-up license number of the contractor must be furnished before a permit is issued.
- (h) If in a floodplain area, the blocks used for the foundation are required to have rebar in each cell of the block and filled with concrete. This must be inspected before the cap block is placed on top. After the cap block is in place, the whole column will need to be painted with surwall to hold blocks and cap together. "Sackrete" with rock may be used, however, it must be mixed before it is poured into the blocks. A final elevation is required to be in the office before a final inspection can be made for all manufactured home in a flood plain area.
- (i) Requirements of the set-up contractor:
 - 1. Furnish to the inspection department soil test results and verify the anchor required.
 - 2. Furnish inspections department with instructions from the manufacturer on installation of the strap and buckle system to be used.
 - 3. Before the home is set, three (3) footings shall be dug for the compaction test before any footer blocks are laid.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

4. Set-up contractor is responsible for obtaining permits for manufactured home set-up unless the owner is setting up the home him/herself.
- (j) All manufactured homes shall be delivered complete from the manufacturer and shall meet all current Town ordinances prior to delivery. No structural modifications shall be allowed on site. Underpinning, steps, stoops, decks or porches shall not be considered structural modifications for the purpose of this Ordinance.

SECTION 8.5 MODULAR HOMES

Modular homes are subject to the same regulation as for other dwelling houses in this use district. The modular home shall have a continuous, permanent masonry foundation or masonry curtain wall around the perimeter of the home, constructed in accordance with standards of the North Carolina Building Code and unpierced except for required ventilation and access.

SECTION 8.6 SINGLE-FAMILY/MULTI-FAMILY DWELLINGS, OVER A PRINCIPAL BUSINESS

(Amended 11/13/2014; 10/8/2020)

Following the date of adoption of this Ordinance, multi-family and single-family residential will be permitted in the C-1 and C-2 districts as special uses when limited to the following conditions:

- (A) Minimum non-ground level building floor area of 600 square feet per residential unit.
- (B) Street frontage use requirements: All ground floor space shall be developed for nonresidential uses, as permitted in the C-1 and C-2 districts.
- (C) Parking: Off-street parking for residential dwelling units is not required in the C-1 district.

SECTION 8.7 TWO-FAMILY DWELLINGS (DUPLEX)

Two-family dwellings provided that the following dimensional requirements are met:

- (A) Minimum required lot area shall be nine thousand (9,000) feet.
- (B) Minimum lot width shall be ninety (90) feet.
- (C) Minimum lot depth shall be one hundred (100) feet.
- (D) Minimum building setback shall be thirty (30) feet.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (E) Minimum side yard shall be fifteen (15) feet.
- (F) Minimum rear yard shall be fifteen (15) feet.

SECTION 8.8 ACCESSORY USES AND STRUCTURES

- (A) In the C-1 district, customary accessory uses and structures are permitted when located on the same block as the principal structures, excluding, however, open storage.
- (B) In the C-2 and M-I districts, customary accessory uses and structures including open storage are permitted provided the area devoted to open storage is enclosed by a solid fence not less than six (6) feet in height.

SECTION 8.9 HEALTH CARE FACILITIES

As defined by NCGS 131E-256, shall not be located within a one-half ($\frac{1}{2}$) mile radius of an existing health care facility.

SECTION 8.10 AGRICULTURE OR HORTICULTURE *(Amended 10/8/2020)*

Any form of agriculture or horticulture, including the sale of products at a retail stand on property where produced, provided that no facility for the commercial production of poultry or swine within an enclosed building or structure shall be permitted if any part of said building or structure is located within 1,500 feet of a residence which the owner of said facility does not own or within 1,500 feet of a subdivision for which a preliminary or final plot has been approved pursuant to the subdivision regulations of the Town of Windsor. It shall be unlawful for an person to own, operate, or maintain a poultry or swine production facility in violation of the forgoing proviso, but said proviso shall not be construed as prohibiting production of poultry or swine solely for personal or family use or consumption of the producer, and production of poultry or swine other than within an enclosed building or structure shall be permitted in the course of normal farming operations within the RA-20, Single Family Residential District.

Property that is located in Windsor's extraterritorial planning and development regulation jurisdiction and that is used for bona fide purposes, including agritourism, is exempt from this UDO to the same extent bona fide farming activities are exempt from county zoning pursuant to NCGS 160D-903. As used in this subsection, "property" means a single tract of property or an identifiable portion of a single tract. Property that ceases to be used for bona fide farm purposes shall become subject to exercise of the Town's extraterritorial planning and development regulation jurisdiction under NCGS Chapter 160D. For purposes of complying with State or federal law, property that is exempt from the exercise of municipal extraterritorial planning and development regulation

ARTICLE 8. SUPPLEMENTAL REGULATIONS

jurisdiction pursuant to this subsection shall be subject to the Town's floodplain regulation or all floodplain regulation provisions of the County's ordinances.

SECTION 8.11 ANIMAL HOSPITALS/VETERINARIANS

Animal hospitals are permitted provided no pens or kennels are located closer than twenty (20) feet to any property line.

SECTION 8.12 ARTISAN'S WORKSHOP *(Amended 11/13/2014; 10/8/2020)*

Artisan's workshops shall be permitted in accordance with Section 7.6, provided all artisan production is conducted inside an enclosed building. Workshops exceeding 3,000 square feet require approval of a special use permit.

SECTION 8.13 AUTOMOBILE JUNKYARDS AND WRECKING YARDS

Junkyards along interstate and primary highways shall meet the requirements of the Junkyard Control Act of 1967. Automobile wrecking yards and similar types of used material industries must be conducted within a structure or on a lot enclosed by a solid fence at least six feet in height, provided that the Board of Commissioners finds that such wrecking yard will not have injurious effect on the public interest or welfare.

SECTION 8.14 AUTOMOBILE SERVICE STATIONS

Automobile service stations and gas pumping stations shall be permitted uses in the C-1 and C-2 zoning districts provided the following conditions are met:

- (A) The service station is limited in function to dispensing gasoline, oil, grease, antifreeze, tires, batteries, and automobile accessories directly related to motor vehicles; to washing, polishing and servicing motor vehicles, only to the extent of installation of the above-mentioned items; and to selling at retail the items customarily sold by service stations.
- (B) The service station shall not overhaul motors, provide upholstery work, auto glass work, painting, welding, bodywork, tire recapping, or auto dismantling.
- (C) The service station shall provide a screen planting and/or fence along the property lines that abut residential properties. Lighting facilities shall be arranged and of such nature that nearby residential properties are not disturbed.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (D) Service stations shall extinguish all floodlights at the close of daily operation or 11:00 p.m., whichever is earlier.

Automobile service stations located within the Town shall have no gasoline or oil pumps located within twelve (12) feet of any street right-of-way line. Outside the Town, no such pump shall be located within fifteen (15) feet of any street right-of-way line.

SECTION 8.15 BATTERY CHARGING/EXCHANGE STATIONS *(Amended 11/13/2014)*

Battery charging stations and battery exchange stations shall be permitted in accordance with Section 7.6, subject to the following requirements:

- (A) Electric vehicle charging stations should be reserved for parking and charging of electric vehicles only.
- (B) Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that would apply to any other vehicle that would park in that space.
- (C) Battery Charging Stations. For land use compatibility purposes, the charging activity should be proportionate to the associated permitted use. Electric vehicle charging station(s) shall be permitted in a single-family garage designed to service the occupants of the home. Accessory single-family charging stations shall not exceed residential building code electrical limitations. Whereas, charging station(s) installed in a parking lot for non single-family residential use are expected to have intensive use and will be permitted to have multiple "rapid charging stations" to serve expected demand.
- (D) Battery Exchange Stations. Exchange stations are permitted in any commercial or industrial zoning district, provided, however, all other requirements for the building or space the use occupies can be satisfied, such as design review, fire code, and building code requirements. This use is specifically prohibited in exclusively residential or conservation/recreation zoning districts.
- (E) Design Criteria for Commercial and Multi-Family Development. The following criteria shall be applied to electric charging facilities.
- (1) Number Required. This is an optional improvement. No minimum number of stalls applies. Provided, if electric vehicle stalls are reserved for electric vehicles, care should be taken to ensure enough spots are available for all of a site's parking needs.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (2) Generally. Location and provision of electric vehicle parking will vary based on the design and use of the primary parking lot, keeping in mind flexibility will be needed in various parking lot layout options.
- (3) Signage to Identify. Each charging station space should be posted with signage indicating the space is only for electric vehicle charging purposes. Days and hours of operations should be included if time limits or tow away provisions are to be enforced by the owner.
- (4) Maintenance. Charging station equipment should be maintained in all respects, including the functioning of the charging equipment.
- (5) Accessibility. Where charging station equipment is provided within an adjacent pedestrian circulation area, such as a sidewalk or accessible route to the building entrance, charging equipment should be located so as to not interfere with accessibility.
- (6) Lighting. Where charging station equipment is installed, adequate site lighting should also be provided unless charging is for daytime purposes only.
- (7) Notification of Station Specifics. Information on the charging station identifying voltage and amperage levels and any time of use, fees, or safety information.
- (8) Avoid the Most Convenient Parking Spaces. Stalls should not be located in the most convenient spots because this would encourage use by non electric vehicles.
- (9) Avoid Conflict with Handicap Spots. Stalls should generally not be located adjacent to handicap spots unless designed for handicapped use.
- (10) Design for Compatibility. Design should be appropriate to the location and use. Facilities should be able to be readily identified by electric cars but blended into the surrounding landscape/architecture for compatibility with the character and use of the site.

SECTION 8.16 BED AND BREAKFAST HOMES (SERVING MEALS TO THE GENERAL PUBLIC)

Bed and breakfast homes, as defined by NCGS 130A-248 and in Appendix A, which also have a separate commercial kitchen allowing them to obtain a permit to operate as an "establishment that prepares or serves food to the public," as defined by NCGS 130A-247(5), are allowed as a special use. Due to its separate commercial kitchen, such establishment may serve food and drink to the general public for lunch and supper, subject to the following conditions: *(Amended 10/8/2020)*

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (A) The home must be restricted to homes located on King Street within the historic district of the Town of Windsor between Dundee Street and Water Street.
- (B) The home must be consistent with the architectural and historic integrity of the residential homes situated on King Street within the historic district of the Town of Windsor.
- (C) The home must comply with all state and local rules, regulations, and laws governing both the operation of a "bed and breakfast home," and an "establishment that serves food to the public." The home may also serve beer and wine and offer set-ups to individuals deciding to bring their own alcoholic beverages to evening meals, provided the home complies with all state and local rules, regulations, and laws governing service of the same, have an on-premises permit issued by the NC Alcoholic Beverage Control Commission, and gross receipts from food and nonalcoholic beverages exceed gross receipts from alcoholic beverages.
- (D) On-street parking for services of meals to the public shall only be allowed on King Street.

SECTION 8.17 BED AND BREAKFAST HOMES (NOT SERVING MEALS TO THE GENERAL PUBLIC)

(Amended 11/13/2014)

- (A) A bed and breakfast shall be permitted only within a principal residential structure.
- (B) A bed and breakfast shall be located in a dwelling in which there is a resident owner or resident manager.
- (C) In residential districts, food service shall be available only to guests and not to the general public.
- (D) Signage shall be limited to one (1) identification sign not to exceed four (4) square feet in area and four (4) feet in height.
- (E) A bed and breakfast shall have vehicular access to a subcollector or higher classified street.

SECTION 8.18 BONA FIDE FARMS *(Amended 11/13/2014; 10/8/2020)*

Bona fide farms in the Town of Windsor extraterritorial jurisdiction are exempt from the provisions of this Unified Development Ordinance as directed by NCGS 160D-903. Bona fide farms located in the extraterritorial jurisdiction are regulated by the Bertie County Flood Damage Prevention Ordinance.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

SECTION 8.19 BUILDING MATERIALS STORAGE AND SALES YARDS

Building materials storage and sales yards are permitted provided all open storage is fenced by a solid fence not less than six (6) feet in height.

SECTION 8.20 CEMETERIES

Cemeteries shall be permitted on finding that sufficient space is provided for off-street parking and that surrounding residential properties are not impaired.

SECTION 8.21 CHURCHES AND ACCESSORY USES

Churches and their customary related uses including private and public cemeteries are permitted provided that all buildings and graves shall be set back at least twenty (20) feet from any property lines.

SECTION 8.22 DOMESTIC ANIMAL GROOMING

Grooming in accessory buildings of dogs, cats, and other domestic animals. This provision shall not prevent the grooming of any farm animals as an incident of any form of agriculture where authorized as a permitted use under Article 7.

SECTION 8.23 DRY CLEANING AND LAUNDRY PLANTS

Such establishments shall be permitted when only oil, gas, or electricity is used for heat. Screening and filtering devices shall be used to prevent the emission of smoke, dust, fumes, odors, or steam into the atmosphere. The facilities must have less than 2,000 square feet of floor space.

SECTION 8.24 ELECTRONIC GAMING OPERATIONS

- (A) Maximum number of computer terminals is twenty.
- (B) If food or beverage is served, establishment must meet the requirements of the Bertie County Health Department, including all necessary permits and/or licenses.
- (C) The establishment must be minimum of three hundred (300) feet from any building used for residential purposes.
- (D) The establishment must be a minimum five hundred (500) feet from any other establishment/business engaged in electronic gaming operations.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (E) The establishment must be a minimum of five hundred (500) feet from any religious institution, school, daycare center, library, public park, and/or recreation establishment.
- (F) No alcoholic beverages will be served or consumed on the premises of the establishment.

SECTION 8.25 FOOD STORES AND MEAT MARKETS (RETAIL ONLY)

Food stores and meat markets (retail only) are permitted, but excluding the killing or dressing of any flesh or fowl.

SECTION 8.26 GOVERNMENT USES

Municipal, county, state, and federal offices and buildings are permitted as long as they do not involve the outdoor storage of equipment or materials.

SECTION 8.27 HOME OCCUPATIONS *(Amended 12/8/2016)*

- (A) Class A Home Occupations. Class A home occupations include dressmaking, cooking and baking, hairdressing, music instruction, the practice of such professions as insurance and accounting, and shall be permitted as accessory uses in a residence, provided that:
 - (1) No person other than members of the family residing on the premises shall be engaged in such occupation.
 - (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the enclosed floor area of the principal dwelling unit shall be used in the conduct of the home occupation or be located in an accessory building as provided in subsection (3) below.
 - (3) The home occupation may be located in an accessory structure if the accessory structure complies with the following:
 - (a) The accessory structure enclosed floor area must not exceed 25% of the enclosed floor area of the principal residential structure.
 - (b) The accessory structure must be connected to the Town of Windsor water, sewer, and electric utility systems.
 - (c) The accessory structure must comply with the North Carolina State Building Code.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (d) The accessory structure must comply with Section 8.2 of this Ordinance.
- (4) There shall be no changes in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.
- (5) There shall be no sales in connection with such home occupation.
- (6) No traffic shall be generated by such home occupations in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- (7) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

The Board of Adjustment shall decide whether other home occupations not listed are within the spirit of this category of accessory uses.

- (B) Class B Home Occupations. Class B home occupations require a special use permit. These home occupations are potentially more disruptive to a residential zoning district than a Class A home occupation. The Class B home occupation will be limited to services without any on-site retail/wholesale sales of commodities. Special use services may include real estate sales, agricultural support services, timber sales, law practice, and accounting services. To obtain a Class B home occupation special use permit, the following conditions must be met: *(Amended 10/8/2020)*

- (1) No more than three (3) non-resident employees may be employed by the home occupation.
- (2) A signed letter/statement of support/no objection from all adjacent property owners must be provided by the applicant.
- (3) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the enclosed floor area of the principal dwelling unit shall be used in the conduct of the home occupation or be located in an accessory building as provided in subsection (4) below.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (4) The home occupation may be located in an accessory structure if the accessory structure complies with the following:
 - (a) The accessory structure enclosed floor area must not exceed 25% of the enclosed floor area of the principal residential structure.
 - (b) The accessory structure must be connected to the Town of Windsor water, sewer, and electric utility systems.
 - (c) The accessory structure must comply with the North Carolina State Building Code.
 - (d) The accessory structure must comply with Section 8.2 of this Ordinance.
- (5) There shall be no changes in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, except for signage.
- (6) There shall be no manufactured product sales in connection with such home occupation.
- (7) No traffic shall be generated by such home occupations in greater volumes than would normally be expected in a residential neighborhood, and any need for employee parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- (8) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

The Board of Adjustment shall decide whether other home occupations not listed are within the spirit of this category of accessory uses.

SECTION 8.28 INDUSTRIAL SUPPLIES AND EQUIPMENT

Industrial supplies and equipment sales and service are permitted provided all open storage is fenced by a solid fence not less than six (6) feet in height.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

SECTION 8.29 KINDERGARTENS AND DAY NURSERIES

Kindergartens and day nurseries are permitted provided that not less than two hundred (200) square feet of play area is provided for each child and provided further, said aggregate play space is surrounded by a sturdy fence at least four (4) feet in height.

SECTION 8.30 MICROBREWERY/DISTILLERY *(Amended 11/13/2014)*

An establishment that meets the definition of a microbrewery or distillery shall be permitted in accordance with Section 7.6, provided it meets the requirements of NCGS 18B-1104 or 18B-1105, respectively. Tasting rooms are an accessory use to a microbrewery.

SECTION 8.31 MIXED USE *(Amended 11/13/2014; 10/8/2020)*

- (A) Mixed Use Defined. The Mixed Use option is provided to allow flexibility in development requirements such as setbacks, density, permitted uses, etc., to accommodate the unique physical, economic, design or other characteristics of a development without compromising the essential standards needed for the protection of the public interest. Mixed Use developments require a special use permit, as specified in Section 6.16, in which the primary use of land is a mix of residential and small-scale commercial uses such as retail, office, service and entertainment establishments. A mix of permitted uses is allowed within the same building or on the same lot or as separate uses on individual parcels. This development pattern is characterized by overlapping patterns of use and activities, and clearly defined, human scale external spaces, where citizens can live, conduct business, and meet freely with others. Development within the mixed use special use shall be in accordance with the standards set forth herein.
- (B) Performance Standards. The UDO Administrator, Planning Board, and Board of Commissioners will work cooperatively with the applicant in determining the appropriate performance standards for Mixed Use developments. The standards of the zoning district, or districts, in which the Mixed Use is located, provide general guidance in determining the standards, with consideration given to the specific characteristics and needs of the individual project. All performance standards including density, parcel dimensional requirements, lighting, landscaping, parking, and signage shall be established by the Board of Commissioners upon recommendation of the Planning Board through issuance of the special use permit. The conditions specified by the special use permit shall be compatible with the surrounding area and the objectives of this UDO. Creative design concepts are encouraged to minimize impacts on infrastructure and to support environmental protection. The mixed use shall comply with Article 15, Flood Damage Prevention and Article 16, Subdivision Regulations.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

(C) Permitted Uses. The following uses may be established as permitted uses in a mixed use development. Any use that is not listed in this section is expressly prohibited from being located within a mixed use development.

- (1) Accessory uses
- (2) Art galleries
- (3) Banks and financial institutions
- (4) Barber and beauty shops
- (5) Bookstore, including the retail of stationery, books, magazines, newspapers
- (6) Computer sales and repair
- (7) Drug store
- (8) Dwelling, Duplex
- (9) Dwelling, Multi-Family
- (10) Dwelling, Single-Family
- (11) Dwelling, Single-Family (as an accessory for a principal business)
- (12) Fabric store
- (13) Floral and gift shops, but not commercial warehouses
- (14) Government uses
- (15) Home occupations
- (16) Ice cream stand or store
- (17) Jewelry repair shops and opticians
- (18) Dry cleaning and laundry
- (19) Nail/tanning salon
- (20) Office supplies and equipment sales and service
- (21) Public and private parks, playgrounds
- (22) Indoor athletic and exercise facilities
- (23) Offices, professional and specialized services
- (24) Restaurants, excluding drive-in or drive-through service
- (25) Retail establishments
- (26) Sporting goods store
- (27) Tailors and dressmaking shops
- (28) Toy store

SECTION 8.32 MOTELS AND MOTOR COURTS

Motels and motor courts are permitted as a special use in the O-I district provided that all buildings are located not less than 100 feet from a public right-of-way. *(Amended 10/8/2020)*

ARTICLE 8. SUPPLEMENTAL REGULATIONS

SECTION 8.33 PLUMBING AND HEATING SUPPLY HOUSES

Plumbing and heating supply houses are permitted provided all open storage is fenced by a solid fence not less than six (6) feet in height.

SECTION 8.34 PUBLIC WORKS AND PUBLIC UTILITY SUBSTATIONS

Public works and public utility substations such as water tanks, pumping stations, treatment plants and electric, gas, oil pipeline, and telephone substations, are permitted provided that all dangerous apparatus shall be enclosed by a chain link fence at least six (6) feet in height; no vehicles or materials shall be stored on the premises and no offices shall be permitted; and landscape shall be screened with shrubs and other vegetation so as to blend with the surrounding area.

SECTION 8.35 PUMPING STATIONS, MUNICIPALLY OWNED

Public utility substations or pumping stations shall be permitted when authorized by the Board of Commissioners on finding that such installations will be housed in buildings that harmonize with the character of the neighborhood and will have adequate side yards, fences and other safety devices to protect the public safety and welfare.

SECTION 8.36 RESTAURANTS, WITH OR WITHOUT DRIVE-INS

- (A) Restaurants, including drive-in restaurants, are permitted provide such drive-in restaurants are fenced on all sides which abut residential districts. Such fences shall be solid from the ground to a height of six (6) feet.
- (B) No business or establishment shall qualify for a permitted use within the C-1 or C-2 district, if beer, malt beverages, unfortified wine, or fortified wine shall be sold at such business or establishment for consumption on its premises, provided restaurants (without drive-ins) having on-premises permit issued by the NC Alcoholic Beverage Control Commission and selling one ore more of such beverages for consumption on the premises may qualify for a permitted use if the following requirements are met:
 - (1) The restaurant must be an establishment substantially engaged in the business of preparing and serving meals.
 - (2) The restaurant's gross receipts from food and non-alcoholic beverages must be greater than its gross receipts from alcoholic beverages.
 - (3) The restaurant must have a kitchen and an inside dining area. The inside dining area must provide seating for at least 36 people.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (C) Brown-Bagging, as defined in NCGS 18B-1001, in restaurants (without drive-ins), provided the restaurant has a brown-bagging permit issued by the NC Alcoholic Beverage Control Commission, and provided further:
- (1) The restaurant must be an establishment substantially engaged in the business of preparing and serving meals.
 - (2) The restaurant's gross receipts from food and non-alcoholic beverages must be greater than its gross receipts from alcoholic beverages.
 - (3) The restaurant must have a kitchen and an inside dining area. The inside dining area must provide seating for at least 36 people.
- (D) Outdoor music entertainment for restaurants shall be allowed, provided such entertainment may only occur for a maximum of three (3) times per month between the hours of 6:00 p.m., and 11:00 p.m.; provided, further, that such entertainment does not violate the noise ordinance or ordinances of the Town of Windsor; and provided, further, such entertainment occurs on the restaurant property.

SECTION 8.37 RETAIL ESTABLISHMENTS

Retail establishments are permitted such as department, clothing, fabric, show, variety, notion, drug, hardware, furniture, appliances, floor covering, paint, antique, art goods, jewelry, gift, music, toy, pet and hobby and craft stores, but not excluding similar retail outlets.

SECTION 8.38 SCHOOLS, PRIMARY, SECONDARY, OR VOCATIONAL (NOT ACCESSORY TO PRIMARY USE) *(Amended 9/12/2019)*

- (A) The school may be located on a parcel as a permanent use.
- (B) The school must comply with all applicable UDO requirements including, but not limited to, Articles 10 and 11, and Article 7, Section 7.7.
- (C) If a primary or secondary school, the school must be sanctioned/approved by the State of North Carolina.
- (D) The school must be located to provide adequate fire and EMS access.
- (E) There must be a designated drop-off/pick-up area.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (F) A site plan must be provided which shows the location of the school footprint(s) and compliance with all requirements of this Ordinance.

SECTION 8.39 SOLAR ENERGY GENERATING FACILITY, ACCESSORY

Solar collectors shall be permitted as an accessory use to new or existing structures or facilities in accordance with Section 7.6, subject to the following standards:

- (A) Roof-Mounted Solar Systems. The collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.
- (1) *Pitched Roof Mounted Solar Systems*. For all roof-mounted systems other than a flat roof, a drawing shall be submitted showing the location of the solar panels.
- (2) *Flat Roof Mounted Solar Systems*. For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building.
- (B) Ground-Mounted Solar Systems. Ground-mounted solar collectors (accessory) shall meet the minimum zoning setback for the zoning district in which it is located, except that it may be located within the front yard setback in the R-20A, O-I, C-2, and M-I zoning districts when the system does not exceed six (6) feet in height and screening shall be required consistent with Article 12.
- (C) Approved Solar Components. Electric solar system components shall have a UL listing.
- (D) Compliance with Building and Electrical Codes. All solar collector systems shall be in conformance with the International Building Code with North Carolina amendments.
- (E) Compliance with Other Regulations. All solar collector systems shall comply with all other applicable regulations.

SECTION 8.40 SOLAR FARM (MAJOR ENERGY)

A Solar Farm developed as a principal use shall be permitted in accordance with Section 7.6, subject to the following:

- (A) Setbacks. Solar farms shall meet the minimum zoning setbacks for the zoning district in which located.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (B) Height. 15 feet maximum.

- (C) Visibility.
 - (1) Solar farms with panels located at least 150 feet from an adjacent public street right-of-way shall not require screening.

 - (2) Solar farms with panels located less than 150 feet from an adjacent public street right-of-way, a residentially zoned property, or a property currently utilized for residential purposes must be screened by a continuous screen of evergreen vegetation intended to be at least six (6) feet high and three (3) feet thick at maturity. *(Amended 10/8/2020)*

- (D) Application Requirements.
 - (1) Submit a site plan denoting the dimensions of the parcel, proposed solar farm location (arrangement of panels), distance from the proposed area to all property lines, and location of the driveway(s). No portion of the system area may encroach into the required setbacks and any buffer area(s).

 - (2) The site plan should also show the location of required buffers.

 - (3) Submit horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the property.

 - (4) State and Local Stormwater permits may be required based upon ground cover.

 - (5) If applicable, the applicant must apply and receive from the North Carolina Department of Transportation (NCDOT) a driveway permit, or submit documentation from NCDOT that the existing site access is acceptable for the required use prior to final project approval.

- (E) Installation and Design.
 - (1) Approved Solar Components - Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

 - (2) Compliance with Building and Electrical Code - All solar farms shall meet all requirements of the International Building Code with North Carolina Amendments.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

(F) Decommissioning. *(Amended 10/8/2020)*

- (1) The facility owner shall have twelve (12) months to complete decommissioning of the Solar Farm if no electricity is generated for a continuous period of twelve (12) months. For the purposes of this section, this 12-month period shall not include delay resulting from *force majeure*.
- (2) Decommissioning shall include removal of all solar panels, buildings, cabling, electrical components, roads, and any other associated facilities down to thirty-six (36) inches below grade.
- (3) Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- (4) The applicant shall provide a cash bond, payable to the Town of Windsor to cover the cost of decommissioning. The amount shall be established by an independent expert not previously associated with the project or its company and shall be reviewed at five-year intervals and revised as applicable. The bond and any other instrument shall remain in full force and effect until necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the Special Use Permit.
- (5) If the applicant or subsequent owner abandons the facility or fails to decommission and remove the facility in accordance with this Ordinance, the Town of Windsor will utilize the cash bond to have the decommissioning accomplished.

SECTION 8.41 SPECIAL SERVICES HOMES

Special services homes are allowed as a special use in the districts indicated in Section 7.6, subject to the following requirements: *(Amended 10/8/2020)*

- (A) The minimum room sizes in a special services home shall be one hundred fifty (150) square feet for a living or principal room; one hundred (100) square feet for a kitchen and dining room combination; one hundred (100) square feet for the first bedroom; and seventy (70) square feet for each additional bedroom.
- (B) The issuance of a permit for a special services home shall be conditioned upon the applicant obtaining any required state license within ninety (90) days after approval of the permit.
- (C) No special services home shall house mentally ill persons who are determined to be dangerous to themselves or others as defined in NCGS 112C-3(11)(b).

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (D) Signage shall be limited to a nameplate not to exceed two (2) square feet in area.
- (E) The applicant shall submit to the permit issuing authority a statement addressing (1) the number of staff personnel to reside in the facility, (2) the number of individuals to be housed in the facility, (3) the purpose of the facility, and (4) the nature of the handicap of the individuals who will reside there.
- (F) In order to prevent a concentration of special services homes in residential neighborhoods, no such home shall be located within two thousand six hundred forty (2,640) feet of another such facility, measured along the nearest property lines in relation to one another.

SECTION 8.42 TEMPORARY USES *(Amended 11/13/2014)*

- (A) Temporary Office Units. The Board of Commissioners shall consider the effects of the use on adjacent properties and shall set a time limit on the temporary use.
- (B) Sales of Goods Other Than Agricultural Products. Merchants may display and/or sell goods in the town on a temporary basis without establishing a permanent place of business, subject to the requirements of this Ordinance. The outdoor display and/or sale of goods consistent with the provisions of this Ordinance is considered an accessory use and does not require a temporary use permit. Additionally:
 - (1) The proposed display or sales of goods for commercial purposes may not occur within 200 feet of an occupied residential dwelling unit.
 - (2) The proposed display or sales of goods for commercial, public, or institutional purposes shall take place on a developed site where the principal use is retail sales, or on an immediately adjacent developed outparcel of such a site. Upon approval of the UDO Administrator, temporary sales of goods for a public or institutional purpose may take place on public property.
 - (3) A temporary display or sale of products shall be limited in scope to similar or complimentary products to those offered by the existing principal use.
 - (4) Submittal requirements include written permission from the property owner, a sketch plan showing the location of any tent or temporary structure to be used, the location of pedestrian, vehicular, and emergency ingress and egress, the location and number of available off-street parking spaces, the location, size, color, and design of any temporary sign, and electrical power connection, if applicable.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (5) The hours of operation are limited to 7:30 am to 10:00 pm, or the same hours as the principal use, whichever is more restrictive.
 - (6) The temporary sale of non-agricultural products shall be allowed on an individual parcel or site for no more than 90 total days per calendar year, and no more often than three events per calendar year.
- (C) Sales of Agricultural Products Grown Off-Site. For the purposes of this section, agricultural products are defined as products obtained primarily through farming or agricultural activities, including but not limited to: pumpkins; grains and seed crops; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; trees and forest projects, including Christmas trees, firewood, and pine straw; bees and beekeeping products; seafood; dairy products; any USDA-recognized agricultural product. For the purposes of this section, processed or prepared food products of any kind shall not be considered as agricultural products. Additionally:
- (1) As well as locations listed above, the temporary sale of agricultural products may occur from a vacant lot.
 - (2) The temporary sale of agricultural products is exempt from the requirement to be similar to the products of the principal use.
 - (3) The temporary sale of agricultural products may be accomplished from a vehicle, trailer, or shipping container.
 - (4) The temporary sale of agricultural products shall be allowed on an individual parcel or site for no more than 120 total days per calendar year, and no more than three events per calendar year.
- (D) Agricultural Sign. Signs advertising agricultural products for sale shall be allowed provided that they meet the requirements of Article 11, Sign Regulations, and the following:
- (1) On properties where agricultural products for sale are grown and sold, one ground sign is allowed facing each road on which the property has frontage;
 - (2) On other private properties, with the permission of the property owner, provided that:
 - (a) Only agricultural goods grown on property located within Windsor or its extraterritorial jurisdiction may be sold.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (b) No more than one such sign may be erected on any other single piece of property.
- (c) No person, entity, or family shall be entitled to permits for more than four off-premises agricultural signs for any sale location.
- (3) Such signs may be up only during the season while agricultural products are actually for sale at the location and shall in no case remain in place for more than 90 days.
- (4) Such off-site signs shall not exceed 42' in height and 4 square feet in area.

SECTION 8.43 WHOLESALE AND WAREHOUSING ESTABLISHMENTS

Wholesale and warehousing establishments shall be permitted, except for the storage of dangerous or offensive items such as uncured hides and explosives.

SECTION 8.44 WHOLESALE STORAGE, GASOLINE AND OIL, BOTTLED GAS AND OXYGEN

No above ground storage tank shall be closer than 50 feet to any property lines, and the uses must conform with the state and local regulations governing the storage of combustible fuels.

SECTION 8.45 WIND ENERGY GENERATING FACILITY, ACCESSORY

Wind energy generating facilities (accessory) designed to supplement other electricity sources shall be permitted as an accessory use in accordance with Section 7.6, subject to the following standards:

- (A) A wind energy generator (accessory) shall be setback from all property lines a distance equal to one linear foot for every foot of height of the highest structure that is part of the facility or the minimum setback for the zoning district, whichever is greater.
- (B) A wind turbine may not be located between the front wall of the primary structure and the street.
- (C) Rotor blades on wind turbines shall maintain at least twenty-four (24) feet of clearance between their lowest point and the ground.
- (D) Maximum height of wind turbines shall be consistent with the requirements of the underlying zoning district. The height shall be measured from the ground to the highest point of the prop.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (E) Installation and Design.
- (1) The installation and design of the wind energy generator (accessory) shall conform to applicable industry standards, including those of the American National Standards Institute.
 - (2) All electrical, mechanical, and building components of the wind energy generator (accessory) shall be in conformance with the International Building Code with North Carolina amendments.
 - (3) Any on-site transmission or power lines shall, to the maximum extent possible, be installed underground.
 - (4) Attachment to a building of any kind shall be prohibited.
- (F) The visual appearance of wind energy generator (accessory) shall:
- (1) Be constructed of a corrosion resistant material that will not fade, show rust spots, or otherwise change the appearance as a result of exposure to the elements and be a non-obtrusive color such as white, off-white, or gray.
 - (2) Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
 - (3) Landscaping, buffering, and screening shall be provided in accordance with Article 12.
- (G) Any wind energy generator (accessory) that is not functional shall be repaired by the owner within a three (3) month period or be removed. In the event that the Town becomes aware of any wind energy system that is not operated for a continuous period of three (3) months, the Town will notify the landowner by certified mail and provide thirty (30) days for a written response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the Town deems the timetable for corrective action as unreasonable, the Town shall notify the landowner and such landowner shall remove the turbine within thirty (30) days of receipt of said notice. Any disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- (H) Compliance with Other Regulations. All wind energy generators shall comply with all other applicable regulations.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

SECTION 8.46 WIND FARM (MAJOR ENERGY)

Wind Farms developed as a principal use shall be permitted in accordance with Section 7.6., subject to the following:

(A) Setbacks.

<u>Wind Energy Facility Type</u>	<u>Minimum Lot Size</u>	<u>Minimum Setback Requirements¹</u>				<u>Maximum Height from Grade</u>
		<u>Occupied Buildings (Subject Property)²</u>	<u>Property Lines²</u>	<u>Public/Private Right-of-Way²</u>	<u>Highway Corridor Overlay District</u>	
Wind Farm	5 Acres	1.0	1.0	1.5	2.5	250 Ft.

¹Measured from the center of the wind turbine base to the property line, right-of-way, or nearest point on the foundation of the occupied building. ²Calculated by multiplying required setback number by wind turbine height.

(B) Height. Two hundred fifty feet (250') maximum.

(C) Ground Clearance. Rotor blades on wind turbines must maintain at least twenty-four feet (24') of clearance between their lowest point and the ground.

(D) Visibility.

- (1) Wind Farms located at least 150 feet from an adjacent public street right-of-way shall not require screening.
- (2) Wind Farms located less than 100 feet from an adjacent public street right-of-way, a residentially zoned property, or a property currently utilized for residential purposes must be screened by a continuous screen of evergreen vegetation intended to be at least six (6) feet high and three (3) feet thick at maturity.

(E) Wind Farm Facility Noise, Shadow Flicker, and Electromagnetic Interference.

- (1) Audible sound from a Wind Turbine shall not exceed fifty-five (55) dBA, as measured at any occupied building of a Non-Participating Landowner.
- (2) Shadow flicker at any occupied building on a Non-Participating Landowner's property caused by a Wind Energy Facility located within 2,500 feet of the occupied building shall not exceed thirty (30) hours per year.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (3) Wind turbines may not interfere with normal radio and television reception in the vicinity. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.
- (F) Application Requirements.
- (1) Provide identification and location of the property on which the proposed wind farm will be located.
 - (2) Submit a site plan denoting the dimensions of the parcel, proposed wind farm location (arrangement of turbines and related equipment), distance from the proposed area to all property lines, and location of the driveway(s). No portion of the wind farm area may encroach into the required setbacks and any buffer area(s).
 - (3) The site plan should also show the location of required buffers.
 - (4) Provide the representative type and height of the wind turbine in the form of horizontal and vertical (elevation) to-scale drawings, including its generating capacity, dimensions and respective manufacturer, and a description of ancillary facilities.
 - (5) Provide evidence of compliance with applicable Federal Aviation Administration regulations.
 - (6) State and Local Stormwater permits may be required based upon ground cover.
 - (7) If applicable, the applicant must apply and receive from the North Carolina Department of Transportation (NCDOT) a driveway permit, or submit documentation from NCDOT that the existing site access is acceptable for the required use prior to final project approval.
 - (8) An applicant for a Wind Farm special use permit shall include with the application an analysis of the potential impacts of the wind power project, proposed mitigative measures, and any adverse environmental effects that cannot be avoided, in the following areas:
 - (a) Demographics including people, homes, and businesses.
 - (b) Noise.
 - (c) Visual impacts.
 - (d) Public services and infrastructure.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (e) Cultural and archaeological impacts.
 - (f) Recreational resources.
 - (g) Public health and safety, including air traffic, electromagnetic fields, and security and traffic.
 - (h) Hazardous materials.
 - (i) Land-based economics, including agriculture, forestry, and mining.
 - (j) Tourism and community benefits.
 - (k) Topography.
 - (l) Soils.
 - (m) Geologic and groundwater resources.
 - (n) Surface water and floodplain resources.
 - (o) Wetlands.
 - (p) Vegetation.
 - (q) Avian impact assessment that includes an indication of the type and number of birds that are known or suspected to use a project site and the area surrounding that site.
 - (r) Wildlife.
 - (s) Rare and unique natural resources.
- (9) An applicant for Wind Farm special use permit shall state in the application whether a Certificate of Public Convenience and Necessity for the system is required from the North Carolina Utilities Commission and, if so, the anticipated schedule for obtaining the certificate. The Town may ask the Utilities Commission to determine whether a Certificate of Public Convenience and Necessity is required for a particular wind power project for which the Town has received an application. The Town shall not approve a project requiring a certificate unless and until such certificate is issued by the Utilities Commission. If a certificate is not required from the Utilities Commission, the permit shall include with the application a discussion of what the applicant intends to do with the power that is generated.
- (G) Installation and Design.
- (1) The installation and design of the wind generation facility shall conform to applicable industry standards, including those of the American National Standards Institute.
 - (2) All electrical, mechanical, and building components of the wind generation facility shall be in conformance with the International Building Code with North Carolina Amendments.
 - (3) Any on-site collection and distribution lines shall, to the maximum extent possible, be installed underground.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (4) Attachment to a building of any kind shall be prohibited.
- (H) Visual Appearance.
- (1) The wind turbine shall be constructed of a corrosion resistant material that will not fade, show rust spots or otherwise change the appearance as a result of exposure to the elements, and be a non-obtrusive color such as white, off-white or gray; and
 - (2) The wind turbine shall not be artificially lit, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
- (I) Maintenance. Any wind generation facility that is not functional shall be repaired by the owner within a 6-month period or be removed. In the event that the Town becomes aware of any wind farm that is not operated for a continuous period of 6 months, the Town will notify the landowner by certified mail and provide 30 days for a written response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the Town deems the timetable for corrective action as unreasonable, the Town shall notify the landowner, and such landowner shall remove the turbine(s) with 180 days of receipt of said notice. Any disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- (J) Decommissioning.
- (1) The applicant must remove the wind generation facility if, after the completion of the construction, the wind generation facility fails to begin operation, or becomes inoperable for a continuous period of one (1) year.
 - (2) The one-year period may be extended upon a showing of good cause to the Town of Windsor Board of Adjustment.
 - (3) Applicants proposing development of a Wind Farm must provide to the Town a form of surety equal to 125% of the entire cost, as estimated by the applicant and approved by the Town Attorney, either through a surety performance bond, irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town, to cover the cost of removal in the event the applicant is unable to perform any required removal and the Town chooses to do so. Following initial submittal of the surety, the cost calculation shall be reviewed every 12 months by the applicant and adjusted accordingly based upon the estimated

ARTICLE 8. SUPPLEMENTAL REGULATIONS

decommissioning costs in current dollars. The adjustment must be approved by the Town. Failure to comply with any requirement of this paragraph shall result in the immediate termination and revocation of all prior approvals and permits; further, the Town of Windsor shall be entitled to make immediate demand upon, and/or retain any proceeds of, the surety, which shall be used for decommissioning and/or removal of the Wind Farm, even if still operational.

SECTION 8.47 PORTABLE STORAGE CONTAINERS *(Amended 11/13/2014)*

- (A) Portable storage containers are defined as:
- (1) Containers no larger in dimension than 8 ft x 8 ft 6 in x 16 ft and transported to a designated location for temporary storage purposes, including moving (typically known as PODS).
 - (2) Containers designed or used on property zoned or used for residential property for the collection and hauling of waste or debris, including but not limited to roll-off containers or boxes and bin containers (construction dumpsters).
 - (3) Non self-propelled, fully enclosed trailers that are designed or used to transport goods, materials and equipment and are placed on property zoned or used for residential purposes (semi-trailers).
- (B) Portable storage containers may be allowed pursuant to the use table contained in Section 7.6, upon compliance with all of the following:
- (1) No more than two (2) temporary storage containers shall be located on a single lot or parcel of land.
 - (2) No other type of container or shipping container is located on the same lot or parcel of land.
 - (3) Portable storage containers shall not be used to store or transport hazardous materials and substances, including but not limited to the following: solid waste, hazardous materials, explosives and unlawful substances and materials.
 - (4) Permits issued for portable storage containers will be issued incident to an active building permit. Subsequent to issuance of a certificate of occupancy all portable storage containers must be removed within thirty (30) days. The owner(s) of a lot or parcel on which a dumpster will be placed shall be jointly responsible for providing notice to the UDO Administrator within twenty-four (24) hours of the

ARTICLE 8. SUPPLEMENTAL REGULATIONS

placement. The placement of the storage container will require the issuance of a permit through the Town of Carolina Shores. The UDO Administrator may approve an extension by issuing an extension permit for up to ninety (90) days if a building permit had been issued for the renovation, repair or reconstruction, if required, and remains valid beyond the initial thirty (30) days approval, provided that the portable storage container will not be used to store nonresidential materials and equipment such as contractor's materials and equipment during the extension. Portable storage containers shall comply with the following setbacks:

- If a portable storage container is placed in the required front yard, then the portable storage container shall be located only in the area primarily used for vehicular ingress and egress and must have five (5) feet setback from the edge of the paved right-of-way, unless otherwise approved by the UDO Administrator.
 - If a portable storage container is placed in the required rear or side yard, no setback shall be required except that no portable storage container shall encroach upon adjacent property.
- (5) Portable storage containers (PODS) for the purposes of moving must be removed within thirty (30) days.
- (6) Portable storage containers shall be constructed of noncombustible materials.

SECTION 8.48 FOOD TRUCKS *(Amended 5/11/2017; Effective 6/1/2017)*

Food trucks shall be permitted in accordance with the Table of Uses and Activities, subject to the following standards:

- (A) Exceptions to the Process.
- (1) Food trucks may conduct sales while parked on a public street when the Board of Commissioners has approved a temporary street closing for a Town or civic event such as a street festival/fair.
 - (2) Food trucks may operate on a private property for a maximum of twenty (20) days, three individual weekend events, or both each calendar year when utilizing a temporary event permit.
 - (3) Food trucks operating during the hours of a Town-approved event are exempt from the provisions of this section except for the requirement for a zoning permit.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (B) Food Truck Location. Food trucks must be located at least 100 feet from the front door of any restaurant and outdoor dining area and at least 50 feet from any permitted mobile food vending cart location. Additionally, food trucks must be parked at least 15 feet from any fire hydrant, and 5 feet away from any driveway, sidewalk, utility box or vault, handicapped ramp, building entrance or exit, or emergency call box. These minimum distance requirements are all measured in a straight line from the closest point of the proposed food truck location to the closest point from the buffered point, or in the case of a restaurant measured from the closest point of the restaurants main entrance. If a zoning permit is issued and a restaurant subsequently opens within 100 feet (measured from the restaurants main entrance) of the approved food truck location, the food truck may continue to operate until the permit expires.
- (C) Zoning Permit. The zoning permit must be signed by the property owner, and completed and submitted along with a site plan or plot plan. If a property owner has a property large enough to accommodate more than one food truck, only one zoning permit is required to be submitted showing the location of all food trucks. The plot plan must show the limits of the property, the location(s) of the proposed food truck, and label adjoining uses on neighboring properties. The applicant must also submit a NC Department of Agriculture Permit and a copy of the vehicle or trailer registration. Any food truck operating/locating on Town-owned property must secure a zoning permit and will be required to pay rent to the Town of Windsor at a daily rental rate established by the Town of Windsor Board of Commissioners. All Town property locations must be approved by the Board of Commissioners.
- (D) Parking. Food trucks may not occupy any required parking stall for the primary use while the primary use is open to the public. Food trucks and the primary use may share parking spaces when having separate hours of operation. Parking stalls that are overflow or extra according to the regulations in the UDO may be used to park a food truck; however, parking stalls leased to another business or adjacent use may not be used unless the food truck is operating under separate hours of operation. Food trucks may not park in handicapped accessible parking spaces, nor can they park in access or drive aisles. The approved location for the parking trucks, as shown on the zoning permit, must be physically marked. The food truck parking space can be marked with paint, tape or other easily identifiable material. Food trucks may not be parked in an approved location after hours of operation.
- (E) Hours of Operation. Food trucks may operate between the hours of 6 a.m. and 7 p.m., unless the food truck is located within 150 feet of a property with a single- or two-family residential dwelling. When located within 150 feet of this residential dwelling, the hours of operation shall be between 7 a.m. and 3 p.m. This measurement is taken from the property line of the residential dwelling in a straight line to the closest point of the approved food truck location.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (F) Prohibitions. Food trucks may not use audio amplification or freestanding signage. All equipment associated with the food trucks must be located within three (3) feet of the food truck. The food truck operator is responsible for disposing of all trash associated with the operation of the food truck. Town trash receptacles may not be used to dispose trash or waste. All areas within five (5) feet of the food truck must be kept clean. Grease and liquid waste may not be disposed in tree pits, storm drains, the sanitary sewer system or public streets. Food trucks are all subject to the Town-wide noise ordinance.
- (G) Maximum Number of Trucks Per Property.
- (1) Maximum of two (2) food trucks on lots of one-half acres or less.
 - (2) Maximum of three (3) food trucks on lots between one-half acre and 1 acre.
 - (3) Maximum of four (4) food trucks on lots greater than 1 acre.
 - (4) Outdoor seating associated with a food truck is only permitted on lots at least one-half (1/2) acre in size or greater.

SECTION 8.49 ASSEMBLY HALLS *(Amended 8/8/2019; 10/8/2020)*

Assembly halls shall be permitted in accordance with the Table of Uses and Activities, subject to the following standards:

- (A) If alcohol is dispensed for any event at an assembly hall, all applicable alcohol beverage permits must be secured and provided to the Town.
- (B) If any events or activities conducted at the assembly hall result in two (2) or more violations of Town of Windsor nuisance ordinances or Town, Bertie County, or North Carolina police are called to the site for intervention two (2) or more times within any three hundred sixty-five (365) day period of time, the special use permit (if required) and the certificate of occupancy shall be revoked.
- (C) Assembly halls cannot be membership only enterprises; must be open to the general public for use and/or rental use.
- (D) Assembly halls cannot be used for alcohol sales when fees are charged for entry to an event.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

SECTION 8.50 TINY HOUSES *(Amended 3/14/2019; 10/8/2020)*

Tiny houses not exceeding 699 square feet in size, including container homes, shall be allowed in accordance with Section 7.6, subject to the following:

- (A) A tiny house must comply with the North Carolina State Building Code.
- (B) A tiny house must be situated on a permanent foundation with secure wind-resistant tie-downs and connected to public water, sewer, and electric utilities.
- (C) If the tiny house is constructed on a travel chassis with wheels, the wheels must be removed for permanent location on a foundation.
- (D) A tiny house may be used as a second dwelling in the R-10, R-7, or R-75 zoning districts.
- (E) A tiny house must comply with all UDO requirements for the zoning district in which it is located.

SECTION 8.51 HOMESTAY LODGING IN RESIDENTIAL DISTRICTS *(Amended 10/8/2020)*

Homestay lodging uses shall only be allowed in lawfully permitted dwelling units serving as the principal residence of a host. Only a property owner may register a homestay lodging; however, the principal resident may act as a host. Homestay lodging uses do not include bed and breakfast lodging uses.

- (A) Registration.
 - (1) A property owner shall register each establishment annually with the Town of Windsor.
 - (2) Registration is restricted to a property owner, who shall provide proof of possession of the registered premises, and to natural persons only. A host may be the property owner or another principal resident.
 - (3) A registration number shall be assigned to each registered establishment, which shall be clearly noted along with any advertisement for lodging.
 - (4) Active registrations shall not expire, provided that a property owner shall renew registration on an annual basis. If a property owner fails to renew a registration, the registration shall be considered terminated by the property owner.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (5) Registration does not vest the premises or property owner with any rights. Registration terminates upon transfer of the property to another owner.
- (6) Any bedroom rentals for periods of twenty-nine (29) days or less not properly registered as a bed and breakfast shall register as a homestay.
- (B) The maximum number of guest rooms allowed shall be one less than the total number of bedrooms in the dwelling unit, not to exceed three (3) guest rooms.
- (C) In the Residential zoning districts:
 - (1) The host shall issue a parking placard to each guest parking on site.
 - (2) Guest parking shall be restricted to behind the plane of the front façade of the home, except on an existing improved parking surface existing at the time of the adoption of this Ordinance.
 - (3) No more than three (3) motor vehicles owned or operated by patrons shall be parked onsite at any time.
- (D) The use provisions of this section are not subject to variance by the Board of Adjustment.
- (E) Any use for which there are three (3) final determinations of violations of the Town Code and/or criminal convictions related to the parcel (on, adjacent to, or within the property) by a property owner, tenant, guest, host, lessee, or individual otherwise related directly to the property within any rolling 365-day period, shall constitute a violation of the terms of registration and shall terminate registration. For any registration that is terminated due to code/criminal violations, a property owner shall be ineligible for registration for a period of three (3) years.
- (F) Any property owner registering a homestay lodging, as well as any host, shall: (1) be responsible for ensuring compliance with all federal, state, and local laws, including but not limited to tax code, building code, fire code, and environmental health regulations for the level of occupancy of the homestay; and (2) not allow any party, event, classes, weddings, receptions, or other large gatherings on the premises.
- (G) Property owners registering a homestay are responsible for keeping in full force and effect during all times the unit is used as a homestay lodging commercial general liability insurance with a total limit of not less than \$500,000 each occurrence for bodily injury and property damage.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (H) Homestay lodging registrants and hosts shall maintain records demonstrating that the home is a host's primary residence, the dates of rental for the previous 365 days, and the number of renters. Such records shall be made available, upon request, to the Town.
- (I) The definition of "family" and the restriction of a minimum thirty (30) day rental period in the R-5MH and R-10MH districts shall not apply to properly registered homestay lodging.
- (J) Written notice shall be conspicuously posted inside each short-term lodging unit setting forth the following information:
 - (1) The name and telephone number of the host.
 - (2) The address of the lodging, the maximum number of overnight occupants, and the day(s) established for garbage collection.
 - (3) The non-emergency phone number of the Bertie County Sheriff's Department.
 - (4) The annual registration documentation.
 - (5) That parties, events, classes, weddings, receptions, and other large gatherings are not permitted.
- (K) All homestay lodging shall comply with the requirements of this UDO.
- (L) Inspection of homestay lodging shall occur only when there is reasonable cause, for fire prevention code, or if the rental is located in a blighted area.

SECTION 8.52 WHOLE-HOUSE LODGING/HOMESTAY LODGING IN THE O/I DISTRICT

(Amended 10/8/2020)

- (A) Registration.
 - (1) Property owners shall obtain a zoning certificate and register each establishment annually with the Town of Windsor.
 - (2) A registration number shall be assigned to each registered establishment, which shall be clearly noted along with any advertisement for lodging.
- (B) Any use for which there are three (3) final determinations of violations of the Town Code and/or criminal convictions related to the parcel (on, adjacent to, or within the property) by a property owner, tenant, guest, host, lessee, or individual otherwise related directly to the

ARTICLE 8. SUPPLEMENTAL REGULATIONS

property within any rolling 365-day period, shall constitute a violation of the terms of registration and shall terminate registration. For any registration that is terminated due to code/criminal violations, a property owner shall be ineligible for registration for a period of three (3) years.

- (C) A property owner, as well as any host/operator, shall: (1) be responsible for ensuring compliance with all federal, state, and local laws, including but not limited to tax code, building code, fire code, and environmental health regulations for the level of occupancy of the short-term lodging; and (2) not allow any party, event, classes, weddings, receptions, or other large gatherings on the premises.
- (D) Property owners shall be responsible for keeping in full force and effect during all times the unit is used as a short-term lodging or homestay commercial general liability insurance with a total limit of not less than \$500,000 each occurrence for bodily injury and property damage.
- (E) Written notice shall be conspicuously posted inside each short-term lodging unit setting forth the following information:
 - (1) The name and telephone number of the host/operator.
 - (2) The address of the lodging, the maximum number of overnight occupants, and the day(s) established for garbage collection.
 - (3) The non-emergency phone number of the Bertie County Sheriff's Department.
 - (4) The annual registration documentation.
 - (5) That parties, events, classes, weddings, receptions, and other large gatherings are not permitted.
- (F) The host/operator shall ensure that all refuse is stored in appropriate containers and set out for collection on the proper collection day(s) and the carts removed from the street or alley on the scheduled collection day.
- (G) Preparation and service of food by host/operators for guests shall be prohibited. No cooking shall be permitted in individual bedrooms.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

- (H) Short-term lodging uses shall be prohibited on the ground floor of street-facing facades, excluding alleys, except within any properly permitted single-family, duplex, triplex, quadraplex, and multi-family structures existing at the time of the adoption of this Ordinance.

SECTION 8.53 HELIPORT *(Amended 10/8/2020)*

- (A) Heliport facilities shall comply with current FAA regulations in its design, size, and use, and shall meet all applicable federal and state requirements.
- (B) The heliport shall be ground-based only. No rooftop facility shall be permitted.
- (C) All chemicals and flammable materials shall be stored in compliance with North Carolina state regulations and Federal regulations.
- (D) The heliport landing zone must be located at its closest point at least one thousand (1,000) feet in linear distance from the closest point of any dwelling unit.

ARTICLE 9.
PLANNED BUILDING GROUP REGULATIONS

Section 9.1 Purpose [9-2](#)
Section 9.2 Planned Building Group Regulations for Apartments, Townhouses,
and Condominiums [9-2](#)
Section 9.3 Manufactured Home Park Regulations [9-6](#)
Section 9.4 Business or Manufacturing Planned Building Group Regulations [9-16](#)

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

SECTION 9.1 PURPOSE

A planned building group is a residential project containing three or more attached dwelling units; a residential project with attached dwelling units for individual ownership; a commercial, office-institutional, and/or manufacturing project located in an O-I, C-1, C-2, or M-I zoning district involving the construction of a building greater than 7,000 square feet or involving the construction of more than one building; or a manufactured home park.

Site development plans for planned building groups (inclusive of manufactured home parks) must be approved by the Windsor Board of Commissioners, upon recommendation of the Planning Board. Planned building group site development plans (inclusive of manufactured home parks) shall be submitted to the Administrator at least 21 days prior to the regular Planning Board meeting at which it is to be reviewed.

SECTION 9.2 PLANNED BUILDING GROUP REGULATIONS FOR APARTMENTS, TOWNHOUSES, AND CONDOMINIUMS

- (A) Minimum Lot Area. As required by the zoning district in which the Planned Building Group is located, see Section 7.7, Table of Area, Yard, and Height Requirements.
- (B) Parking. As specified in Article 10 of this Ordinance.
- (C) Open Space (Recreation) Area. Open space areas shall be provided for all apartments and condominium planned building groups with over five dwelling units. A minimum play area of 2,000 square feet, having a minimum width of 40 feet or a minimum radius of 26 feet shall be provided for the first 6 to 25 dwelling units. For each dwelling unit over 25 in number, an additional 56 feet per dwelling unit shall be provided. The spatial distribution and number of individual play areas within the planned building group shall be determined by the Planning Board on the basis of the spatial arrangement of the dwelling units, topography, and other physical features. Swimming pools including their accessory areas shall not constitute any part of the open space requirements. No part of the required play area shall be used for any other purpose. All recreation areas shall be enclosed with permanent fencing at least five feet in height.

All open space shown on the site development plan shall be recorded in the Bertie County Register of Deeds office and shall be conveyed by the following method.

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

By leasing or conveying title including beneficial ownership to a corporation, association, or other legal entity, the terms of such lease or other instruments of conveyance must include provisions suitable to the town for guaranteeing:

- (1) The continued use of land for the intended purposes;
- (2) Continuity of proper maintenance for those portions of open space land requiring maintenance;
- (3) When appropriate, the availability of funds required for such maintenance;
- (4) Adequate insurance protection; and
- (5) Recovery for loss sustained by casualty, condemnation, or otherwise.

Furthermore, the applicant shall file in the Bertie County Register of Deeds office at the time of site development approval, legal documents which shall produce the above guarantees and in particular, will provide a method for reserving the use of open space for the use and enjoyment of the residents of the development.

- (D) Timing. Proposed schedule of development including stages likely to be followed.
- (E) Sketch Design Plan. Previous to the filing of an application for approval of the planned building group, the developer shall submit to the Planning Board a sketch design of the proposed development. This plan shall be submitted at least ten days prior to a regular meeting of the Planning Board. At this meeting, the developer should discuss ideas and thoughts pertaining to the new development and also become familiar with the ordinances affecting the land being developed. Included in the sketch design plan indicating the proposed development layout shall be a sketch vicinity plan, including scale, which shows the development in relation to the surrounding areas. Structures shall be appropriate in scale and appearance to avoid sharp contrast with the character of the town and the surrounding area. This procedure does not require formal application or fee.

The sketch plan should contain or be accompanied by the following information:

- (1) The proposed name and location of the development.
- (2) The name and address of the owner and the developer.
- (3) The total acreage in the tract to be developed.
- (4) The tentative street and plat arrangement.
- (5) The approximate rights-of-way, rights-of-way designation (public or private), easements, and lot lines.
- (6) The existing and proposed uses of land throughout the development.
- (7) Surface and subsurface drainage of the development.
- (8) The zoning classification of the tract.
- (9) Sites, if any, for parks and/or open spaces.

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

- (10) Acreage in parks and other land uses.
 - (11) Sketch vicinity map showing relationship between the development and the surrounding area.
 - (12) Existing and proposed utilities.
- (F) Planned Building Group Site Development Plan. A site development plan, accompanied by the appropriate fee from the schedule of fees, drawn to scale shall contain the following information:
- (1) The names of the development, owner(s), and developers;
 - (2) The exact boundary lines of the development by lengths and bearings and the location of intersecting boundary lines and adjoining lands, along with the total acreage of the tract;
 - (3) Scale denoted both graphically and numerically;
 - (4) The plans for utility layouts, including sewers, storm sewer, water distribution lines, natural gas, telephone and electric service, connections to existing systems or plans for individual water supply systems and sewage disposal systems. Plans must show line sizes, the location of fire hydrants, blow-offs, manholes, pumps, force mains, gate valves, daily estimated sewer flow figures (NOTE: Type of construction materials and brand of appurtenances will require approval from the Town of Windsor);
 - (5) Street names, if applicable;
 - (6) The location, purpose, and dimensions of areas to be used for uses other than residential (i.e., parks, easements, etc.);
 - (7) Minimum building setback lines;
 - (8) The names of owners of adjoining properties and any adjoining subdivisions of record (or proposed and under review);
 - (9) The location and dimensions of all rights-of-way, utility or other easements, riding trails, natural buffers, pedestrian or bicycle paths and areas to be dedicated to public or property owner's use with a statement of the purpose of each;
 - (10) Right-of-way lines, and pavement widths of all streets and the location and width of all adjacent streets and easements.
 - (11) Property lines, buildings, or other structures, water courses, railroads, bridges, culverts, storm drains (both on the land to be subdivided and on the land immediately adjoining), corporate limits, and extraterritorial jurisdiction limits;
 - (12) Sufficient engineering data to determine readily, and to be reproducible on the ground, every straight or curved boundary line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distances for the center line of curved streets and curved property lines that are not the boundary of curved streets. All

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute;

- (13) The accurate locations and descriptions of all monuments, markers, and control points;
- (14) The deed or master restrictions, proposed articles of incorporation and by-laws of property owner's association, or any other similar covenants;
- (15) The date of the survey and plat preparation;
- (16) North arrow and declination;
- (17) The name and location of any property within the planned development, or within any contiguous property, that is listed in the US Department of Interior's National Register of Historic Places; likewise any property that has been designated by local ordinance as a "historic property" pursuant to GS Chapter 160A, Article 19, Par 3A;
- (18) The name(s), address(es), telephone number(s) of the owner(s), registered surveyor(s), land planner(s), architect(s), landscape architect(s), and professional engineer(s) responsible for the subdivision and the registration number(s) and seal(s) of the professional engineer(s) and registered surveyor(s);
- (19) Flood hazard areas according to FEMA flood insurance rate map;
- (20) Topographic information showing vertical contour every two feet;
- (21) Show boundaries of areas of environmental concern (CAMA, Corp of Engineers);
- (22) Total number of multi-family dwellings and total number of dwelling units;
- (23) Total residential floor area in the development;
- (24) Total number of floors in each building/structure;
- (25) Total height of each building/structure;
- (26) Total open space area(s);
- (27) Total number of parking spaces;
- (28) All proposed landscaping including planting details as specified in Article 12 of this Ordinance.

(G) Placement of Buildings.

- (1) There shall be maintained at least 16 linear feet of open space between individual and unattached buildings in a residential planned building group.
- (2) Any group of buildings forming a courtyard shall have at least 25% of the perimeter of such courtyard open for access by emergency vehicles.
- (3) Where the length of a street exceeds 200 feet and where there exists six or more dwelling units, an area must be provided for the turnaround of fire-fighting vehicles on a paved or graveled surface. This area shall not be used for parking and shall subscribe a circular area having a paved radius of 35 feet or shall have a configuration which provides comparable turnaround space.
- (4) All fire hydrants, whenever possible, should be located adjacent to the paved roadways suitable for transporting fire-fighting vehicles. Hydrants shall be located

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

no more than 50 feet from any building. Hydrants shall be located at entrance and exit ways, and additional hydrants shall be located so that each building and portion thereof will be within 350 feet of a hydrant. If buildings have standpipes and sprinkler systems, one hydrant shall be located within 75 feet of each standpipe and sprinkler connection system. All hydrants must be served by a water main of sufficient size. In no case shall the minimum size main be less than six inches in diameter.

(5) All building locations shall be approved by the Planning Board.

(H) Design Standards.

(1) Entrances and parking lots should be configured to be functional and inviting with walkways conveniently tied to logical destinations.

(2) The features and spaces should enhance the building and center as integral parts of the community. The use of such features as plazas, patios, and courtyards should be used when practical.

(3) Multi-family structures shall be controlled by a maximum height, maximum number of dwelling units per acre, maximum floor area ratio (FAR), the maximum open space ratio (OSR), and maximum impervious coverage ratio.

(4) Maximum number of dwelling units per acre shall be 11.

(5) Maximum FAR shall be 3:1.

(6) Minimum OSR shall be 55%.

(7) Maximum impervious coverage ratio shall be 35%.

SECTION 9.3 MANUFACTURED HOME PARK REGULATIONS

(A) Compliance. All manufactured home parks existing on the effective date of this Ordinance are required to comply with all applicable procedures and requirements of this Ordinance. Any manufacture home park failing to comply with the applicable provisions of this Ordinance is hereby declared to be a nonconforming use of land. All complying manufactured home parks shall continuously satisfy the general requirements of this Ordinance. Failure to meet continuously each of the general requirements shall be grounds for revocation of the certificate of occupancy/compliance for any conforming manufactured home park.

No person shall begin construction of a manufactured home park or make any addition to a manufactured home park that either alters the number of sites for manufactured homes within the park or affects the facilities required therein until he first secures a permit authorizing such construction or addition. The construction or addition shall be in accordance with plans and specifications submitted with the application to the Planning Board. The application will be reviewed by the Windsor Planning Board, the Administrator,

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

the Code Enforcement Department, the Public Works and Public Utilities Departments, and when applicable, the Bertie County Health Department. All applications for a manufactured home park construction permit will be accompanied by six prints.

- (B) Sketch Design Plan. Previous to the filing of an application for approval of the planned building group, the developer shall submit to the Planning Board a sketch design of the proposed development. This plan shall be submitted at least ten days prior to a regular meeting of the Planning Board. At this meeting, the developer should discuss ideas and thoughts pertaining to the new development and also become familiar with the ordinances affecting the land being developed. Included in the sketch design plan indicating the proposed development layout shall be a sketch vicinity plan, including scale, which shows the development in relation to the surrounding areas. Structures shall be appropriate in scale and appearance to avoid sharp contrast with the character of the town and the surrounding area. This procedure does not require formal application or fee.

The sketch plan should contain or be accompanied by the following information:

- (1) The proposed name and location of the development.
 - (2) The name and address of the owner and the developer.
 - (3) The total acreage in the tract to be developed.
 - (4) The tentative street and plat arrangement.
 - (5) The approximate rights-of-way, rights-of-way designation (public or private), easements, and lot lines.
 - (6) The existing and proposed uses of land throughout the development.
 - (7) Surface and subsurface drainage of the development.
 - (8) The zoning classification of the tract.
 - (9) Sites, if any, for parks and/or open spaces.
 - (10) Acreage in parks and other land uses.
 - (11) Sketch vicinity map showing relationship between the development and the surrounding area.
 - (12) Existing and proposed utilities.
- (C) Conformance with Regulations. It shall be unlawful for any person to construct or engage in the construction of any manufactured home park or make any addition or alteration to an existing mobile home park within the jurisdiction of this Ordinance unless a site development plan of the manufactured home park has been approved in accordance with this Section. No new manufactured home park or manufactured home park addition shall be occupied until a Certificate of Occupancy has been issued by the Administrator.

The Administrator may, after due notice, subject to the right of appeal, suspend or revoke a Certificate of Occupancy for failure to maintain the park in compliance with the provisions

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

of this Ordinance. The Certificate of Occupancy may be revoked for a specific section of a manufactured home park which is in violation and occupancy allowed to continue in portions of the park which are in conformity with the Certificate of Occupancy.

The Administrator and his designee, as well as the Bertie County Health Department may conduct as many inspections of manufactured home parks as are deemed necessary to ensure the maintenance of applicable standards.

- (D) Contents of the Site Development Plan. The site development plan shall be drawn at a scale not more than 100 feet to the inch and shall show the following on one or more sheets:
- (1) Title information shall include: name of park, name of developer, scale, date, and name of surveyor.
 - (2) Small scale location diagram showing all roads in the vicinity and the relationship of the site to major roads.
 - (3) Dimensions and bearings of exterior property lines.
 - (4) Topography information as deemed necessary by inspectors.
 - (5) Location of any flood hazard areas as defined by Corps of Engineers which is located on property adjacent to the proposed manufactured home park.
 - (6) Roads in vicinity (access roads and adjacent roads).
 - (7) Manufactured homes spaces well defined.
 - (8) Surface water drainage plans.
 - (9) All structures in the park site (present or proposed).
 - (10) Recreation areas.
 - (11) Method of surfacing roads within the park.
 - (12) Location and intensity of area lights, riser diagrams, and typical connections to manufactured homes, or a statement indicating that the power companies will be responsible for design and installation of the electric system.
 - (13) Source of water and water distribution system. If water source is a well, it shall meet the appropriate county and/or state agencies.
 - (14) Sanitary sewerage. If a private sewerage collection and disposal system is used, plans and specifications approved by appropriate County and/or State Agencies.
 - (15) Proposed provisions for storm drainage (including retention pond facilities, when applicable), approved by the Administrator.
 - (16) All proposed landscaping including plant details as specified in Article 12 of this Ordinance.
 - (17) Developer should meet with the County Environmental Health Department, County Soil Scientist, and the Administrator to discuss his proposed development.

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

- (E) Review of Site Development Plans. After site development plan(s) for a manufactured home park have been properly submitted to the Planning Board, the following agencies shall be responsible for reviewing the proposed plans.
- (1) Planning Board. The Planning Board shall review the site development plan(s) for manufactured home parks. This agency shall be responsible for the review of the following to determine if the proposed design is in accordance with the approved sketch plan and the requirements of this Ordinance.
 - (2) Bertie County Health Department. When septic tank or individual wells are required, the Health Department permit shall be submitted with the application for approval of a Manufactured Home Park site development plan. The Health Department shall be responsible for the review of the following to determine if they are in accordance with the minimum health standards and regulations.
 - (a) Source of water and water distribution system;
 - (b) Sanitary sewerage system; and
 - (c) Adequate lot size.
 - (3) Administrator. The Administrator shall review the plans for manufactured home parks to determine if the site development plans comply with the requirements of this Ordinance.
 - (4) Building Inspector. The Building Inspector shall review the site development plans for manufactured home parks to determine if the proposed electrical system is in accordance with state electrical codes and to determine that any proposed buildings comply with the State Building Code.
 - (5) Should any agency find deficiencies in the review of the site development plans of a proposed manufactured home park, that agency shall notify the developer of the park to correct such deficiencies. Each agency shall notify the Planning Department after approving the plans of a proposed park. The Planning Department, after receiving notification of approval from all agencies involved in the review of a proposed manufactured home park, shall notify the developer of the proposed park that preliminary approval has been granted for the construction of the park.
- (F) Issuance of Construction Permit and Certificate of Compliance.
- (1) After approval of the site development plans for a manufactured home park by the town and county agencies concerned, the Administrator is authorized to issue a construction permit and the Code Enforcement Officer may issue any required

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

building permits. The intent of this permit is to enable the execution of the plan in the field and shall not be construed to entitle the recipient to offer spaces for rent or lease or to operate a park as defined in this Ordinance.

- (2) During this phase, all field work shall be in accordance with the approved plans. It shall be the responsibility of the developer to inform the various agencies as to the progress of field work so that timely inspections may be made.
- (3) The Administrator is authorized to issue a Certificate of Compliance after the installation of the number of spaces the developer wishes to initially install. In no case shall the Certificate of Compliance be issued for less than the minimum spaces required by this Ordinance. The Certificate of Compliance will be issued only after the Administrator is satisfied that all work has been executed as outlined in that section of the approved plans and in accord with the intent and spirit of this Ordinance. Should additional spaces be added to a park that has preliminary plans approved, a Certificate of Compliance for the additional spaces will be necessary before such spaces are offered for rent or lease.
- (4) Upon receipt of the Certificate of Compliance, the permittee is duly authorized to operate and maintain his park in any way that is not contrary to the provisions of the permit. However, should the Administrator find at any time subsequent to the issuance of the permit that the park is operating in violation of the terms of this Ordinance or of special conditions set forth in the permit, the Administrator shall revoke the Certificate of Compliance and further operations of the park without a Certificate of Compliance shall be cause for legal action.

(G) Manufactured Home Park Site Development.

- (1) If wells or septic tanks are required, the amount of land for each manufactured home space shall be determined by the Bertie County Health Department after an investigation of soil conditions, the proposed method of sewerage disposal, and proposed water system. However, in no case shall the size of a manufactured home space be less than the following:
 - (a) Lot sizes with public water and sewer shall be: 6,000 square feet when streets are paved with curb and gutter; 8,000 square feet when streets are paved with no curb and gutter; curb and gutter requirements will be waived only upon proof of extraordinary conditions during the special use permit hearing.

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

- (b) Lot sizes with central water and individual septic tanks shall be: 20,000 square feet with paved streets.
- (c) Lot sizes with individual wells and individual septic tanks shall be: 25,000 square feet.
- (d) Minimum lot width of 50 feet on public water and sewer, central well. Minimum lot width of 75 feet on individual well, individual septic tank.

All manufactured home parks shall be located on an undivided tract of land not less than three acres in size.

- (2) Parking space sufficient to accommodate at least two automobiles shall be located on each manufactured home space.
- (3) The manufactured home park shall be located on ground that is not susceptible to flooding. The park shall be graded so as to prevent any water from ponding or accumulating on the premises. All ditch banks shall be sloped and seeded.
- (4) There shall be at least 20 feet clearance between manufactured homes including manufactured homes parked end to end. No manufactured home shall be located closer than 20 feet of any exterior boundary line of the park, no closer than 15 feet to the edge of any interior street right-of-way, or closer than 10 feet to any manufactured home space (lot) boundary line.
- (5) The manufactured home park shall have a buffer which complies with Article 12 of this Ordinance.
- (6) Existing manufactured home parks which provide manufactured home spaces having a width or area less than that described above may continue to operate with spaces of existing width and area, but in no event shall any such nonconforming manufactured home park be allowed to expand unless such extension meets the requirements of this Ordinance.
- (7) Each manufactured home space shall be graded, the graded areas grassed to prevent erosion, and provide adequate storm drainage (including retention pond facilities, when applicable) away from the manufactured home. Each manufactured home space shall abut upon an improved paved interior drive. The dimensions of all manufactured home spaces shall be shown.

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

- (8) Interior Drives. All manufactured home spaces shall abut upon an interior drive of no less than 36 feet in right-of-way, which shall have unobstructed access to a public street or highway, it being the intent of this section that manufactured home spaces shall not have unobstructed access to public streets or highways except through said interior drive. Interior drives shall be privately owned and maintained. All interior drives shall be graded to their full right-of-way and shall have a road of at least 20 feet in width. Minimum improvements shall be a compacted base of four inches of #7 ABC stone. Roads shall be maintained with paved surface of 2" of asphalt. Graded and stabilized road shoulders and ditches shall be provided. Standing water shall not be permitted.
- (a) Cul-de-sacs. Any interior drive designed to be closed shall have a turnaround at the closed end with a minimum right-of-way diameter of 100 feet. The entire right-of-way of such turnaround shall be graded and usable for the turning of motor vehicles. Cul-de-sacs shall not exceed 600 feet in length.
- (b) Access to the manufactured home park must be via a public road and not located in a flood hazard area. The following street and parking standards shall be complied with:
- (i) Maintenance of such streets shall be provided by the owner or operator of the park, who will be required to post a bond for the first year's maintenance, amount and terms to be determined by the Board of Commissioners.
- (ii) Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 60 degrees. Where a street intersects a public street or road, the design standards of the NC Department of Transportation shall apply.
- (iv) Proposed streets, which are obviously in alignment with others, existing and named, shall bear the assigned name of the existing streets. In no case shall the name of proposed streets duplicate or be phonetically similar to existing street names, irrespective of the use of a suffix: Street, Avenue, Boulevard, Drive, Place, Court, etc. New manufactured home park names shall not duplicate or be similar to any existing manufactured home park name in the County. Street name signs that are in compliance with current Town policy are required and may be purchased for the Town.

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

- (v) A minimum of two automobile parking spaces surfaced with a minimum of four inches of gravel shall be provided on each manufactured home space and shall not be located within any public right-of-way or within any street in the park.
 - (vi) All spaces within a manufactured home park shall be serially numbered for mailing address purposes. These numbers shall be displayed in the front of the manufactured home on the driveway side with four inch lettering.
 - (vii) When more than five rural mail boxes are used for mail delivery, the approval of the local Post Office Department and the District Highway Engineer shall be required.
 - (viii) Each manufactured home park in a community's flood prone area shall have an evacuation plan indicating alternate vehicular access and escape routes. All manufactured homes to be placed in flood prone areas shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top ties at each of the four corners of the manufactured home with two additional ties per side at intermediate locations.
- (10) Intersections. Drives shall intersect as nearly as possible at right angles, and no drive shall intersect at less than 75 degrees. Where an interior drive intersects a public right-of-way, the design standards of the North Carolina Department of Transportation shall apply.
- (11) Spaces Numbered. Each manufactured home space shall be identified by a permanent number which shall not be changed. All space numbers must be shown on the site development plan. The appropriate number of each manufactured home space must be permanent and visibly displayed on the space. Each number shall be placed on a concrete, wood, metal, or any permanent post and conspicuously located on the lot.
- (12) Signs for Identification of Manufactured Home Parks. Permanent identification sign(s) shall be required for every manufactured home park. The size of the signs shall be as follows: Not more than two signs with a total maximum area of 48 square feet and a total minimum area of 12 square feet. Signs must be located on the park property within 50 feet of the entrance and at least 10 feet off the front property line. Signs must be located a minimum of five feet from any side property lines. Only indirect non-flashing lighting may be used for illumination, and the sign

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

must be constructed in such a manner as to prevent a direct view of the light source from any public road right-of-way.

(H) Sanitary Facilities, Water Supply, Sewerage, Electricity, Lighting, and Refuse Collection Facilities.

- (1) Each manufactured home space shall be equipped with plumbing and electrical connections and shall be provided with electrical current in sufficient amount to safely meet the maximum anticipated requirements of a manufactured home.
- (2) Water, sewerage, and electricity. Each manufactured home space shall be provided with and shall be connected to sanitary sewerage and water supply systems. Wells and septic tanks shall be approved by the Bertie County Health Department.
- (3) Lighting. All electrical wiring shall be installed in accordance with the National Electrical Code and shall be approved only by the electrical inspector. Distribution lines shall be installed underground. Underground lines shall be placed at least 18 inches below the ground surface where possible and at least one foot radial distance from water, sewer, gas, or communications lines. Electrical systems of manufactured home developments shall be calculated on the basis of at least 100 amps (at 120/140 volts) for each manufactured home. The point of electrical connection for a manufactured home shall be within an area of the manufactured home stand and approximately 40 feet from the front of the manufactured home and approximately four feet from either side of the manufactured home. Where other utilities and fixtures prevent the location of electrical connections shall be made with due regard to uniformity, safety, and convenience. Exterior lighting shall be provided for all streets, walkways, buildings, and other facilities subject to nighttime use. The average illumination level in manufactured home parks shall be at least three tenths (0.3) footcandle, and a minimum level of one tenth (0.1) footcandle shall be maintained on all streets. Potentially hazardous locations such as street intersections and walkways shall be individually illuminated with a minimum level of six tenths (0.6) footcandle.
- (4) Refuse collection facilities. The park owner is responsible for seeing to refuse collection. All refuse shall be collected at least once/week or more if the need is indicated. When manufactured home parks are located in the Town of Windsor town limits, the applicable sanitation regulations shall be complied with.

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

- (I) Manufactured Home Stands and Anchors.
- (1) The area of the manufactured home stand shall be improved to provide an adequate foundation for the placement and anchoring of the manufactured home, thereby securing the structure against uplift, sliding, rotation, and/or overturning.
 - (2) Each manufactured home owner shall provide anchorage in accordance with the North Carolina Regulations for Manufactured Homes.
 - (3) Any manufactured home placed in a manufactured home park after adoption of this Ordinance shall have skirting.
- (J) Service, Administration, and Other Buildings.
- (1) Within a manufactured home park, one manufactured home may be used as an administrative office. Other administrative and service buildings housing sanitation and laundry facilities or any other such facilities shall comply with all applicable ordinances, codes, and statutes regarding buildings, electrical installations, plumbing, and sanitation systems.
 - (2) All service buildings, commercial structures, and the grounds of the park shall be maintained in a clean condition and kept free from any condition that will menace the health of any occupant or the public or constitute a nuisance.
- (K) Structural Additions. All structural additions to manufactured homes other than those which are built into the unit and designed to fold out or extend from it shall be erected only after a building permit is obtained, and such additions shall conform to the North Carolina Building Code, and shall meet the standards of special regulations adopted with respect to such additions. The building permit shall specify whether such structural additions may remain permanently, must be removed when the manufactured home is removed, or must be removed within a specified length of time after the manufactured home is removed. Structural alterations existing at the time of passage of this Ordinance shall be removed within 30 days after the manufactured home which they serve is moved unless attached to another manufactured home on the same site within that period.
- (L) Storage. Storage of a manufactured home or recreational vehicle is prohibited.
- (M) Management. In each manufactured home park, the permittee or duly authorized attendant or caretaker shall be in charge at all times to keep the manufactured home park, its facilities and equipment in a clean, orderly, safe, and sanitary condition.

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

- (N) Manufactured Home Park. It shall be the duty of the operator of a manufactured home park to keep an accurate register containing a record of all registered occupants. The operator shall keep the register available at all times for inspection by law enforcement officials, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register.
- (O) Sales in Manufactured Home Parks.
- (1) It shall be unlawful to sell on a commercial basis manufactured homes or trailers within manufactured home parks.
 - (2) It shall be unlawful to sell a manufactured home space(s) within the manufactured home parks.
 - (3) Except for accessory uses, it shall be unlawful to operate any business within a manufactured home park.
- (P) Landscaping and Screening Requirements. Refer to Article 12, Buffer Strips and Fences.

SECTION 9.4 BUSINESS OR MANUFACTURING PLANNED BUILDING GROUP REGULATIONS

- (A) Construction or Expansion of Planned Building Group. The following planned building group regulations shall apply to a commercial, office-institutional, or manufacturing project located in an O-I, C-1, C-2, or M-I zoning district involving the construction of a building greater than 7,000 square feet or involving the construction of more than one building. Mixed uses are allowed in approved Business Planned Building Groups.

Parking: As specified in Article 10 of this Ordinance.

Loading: As specified in Article 10 of this Ordinance.

Screening and Fencing: A screen not less than six feet high of dense plant material and/or fence where a lot abuts a residentially zoned lot.

Plans are required and must show:

Structures: Location and approximate size of all structures.

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

Circulation: Proposed points of access and egress and proposed pattern of internal automobile and pedestrian circulation. Curb cuts at a maximum combined width of 25 feet shall be allowed for each 80 feet of lot frontage or portion thereof. The locations of all points of ingress and egress shall be approved by the Planning Board.

Signs: The applicable zone sign regulations shall apply to this planned building group requirement.

Other site plan requirements:

- (1) Size and location of all signs.
- (2) Size and location of all fences, walls, and hedges.
- (3) Proposed provision for storm drainage (including retention pond facilities, when applicable), approved by the Administrator.
- (4) Proposed solid waste storage facilities.
- (5) Lighting plan, inclusive of wattage and illumination.
- (6) Installation of curb and gutter may be required in conformance with the storm water control ordinance.
- (7) Depict traffic control devices.
- (8) Parking area shall have a stabilized surface with parking space and traffic lanes clearly marked.

- (B) Construction of a Building Greater than 7,000 Square Feet in O-I, C-1, C-2, and M-I Districts. The following planned building group regulations shall apply in the development of O-I, C-1, C-2, and M-I districts involving the construction of a building greater than 7,000 square feet or projects involving the construction of more than one building, structure or combination thereof shall also comply with the following regulations:

Parking and Loading: Four parking spaces per 1,000 square feet of leasable building area for planned building groups having a leasable building area of 400,000 square feet or less; 4-1/2 parking spaces per 1,000 square feet of leasable building area for planned building groups having a leasable building area from 400,001 to 600,000 square feet; and five parking spaces per 1,000 square feet of leasable building area for planned building groups having a leasable building area over 600,000 square feet.

One loading bay for up to 20,000 square feet of leasable building area; one loading bay for each 30,000 square feet over 20,000 square feet, up to 110,000 square feet; one loading bay for each 50,000 square feet over 110,000 square feet.

Warehouse and office-institutional planned building groups shall adhere to the respective parking ratios as listed in Article 10 of this Ordinance.

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

Screening and Fencing: A screen not less than six feet high of dense plant material and/or fence where the lot abuts a residential lot.

Lots Fronting on a Public Street: The Planning Board may approve plans with lots within the interior of a business planned building group project provided that the Board finds that adequate access is assured by the design of the planned building group.

Minimum Yard Requirements: The Planning Board may approve plans which do not provide minimum yards along interior lot lines within a business planned building group project. All exterior lot lines located along the perimeter of the business planned building group shall satisfy the standards listed within Section 7.7, "Table of Area, Yard, and Height Requirements."

Plans are required and must show:

Structures: Location and approximate size of all existing and proposed structures within the site, and all buildings and structures within 500 feet, in addition to public or private easements or rights-of-way adjoining or intersecting such property.

Circulation: Proposed points of access and egress and proposed pattern of internal automobile and pedestrian circulation.

Parking and Loading: Location and extent of proposed parking and loading areas.

Timing: Proposed schedule of development, including stages likely to be followed.

Other Details:

- (1) Proposed provision for storm drainage (including retention pond facilities, when applicable) and sanitary sewerage, approved by the Administrator.
- (2) Size and proposed location of any signs.
- (3) Proposed solid waste storage facilities.
- (4) Proposed water system. Hydrants shall be located within 300 feet of any building or portion thereof. Where possible, such hydrants shall be located at least 50 feet from any building. If buildings have standpipes and sprinkler systems, one hydrant shall be located within 75 feet of each standpipe and sprinkler system connection.
- (5) Types of surfacing, slope, grade and cross-section of driveways, sidewalks, malls, etc.
- (6) The location and heights of all fences, walls, and hedges shall be shown.
- (7) Profiles of publicly maintained water and sewer lines.

ARTICLE 9. PLANNED BUILDING GROUP REGULATIONS

- (8) Profiles, cross-sections and slopes of on-site and off-site ditches carrying water runoff.
- (9) Erosion and sedimentation control plan.
- (10) Lighting plan, inclusive of wattage and illumination.
- (11) Installation of curb and gutter shall be mandatory.
- (12) Depict traffic control devices.
- (13) All plans and construction details must meet the current specifications of the Town of Windsor.

Other Requirements:

- (1) Points of access and egress shall consist of driveways or roadways at least 20 feet in width and shall be set back a sufficient distance from highway intersections to minimize traffic hazards, inconvenience, and congestion.
- (2) Parking areas shall have a stabilized surface with parking spaces and traffic lanes clearly marked.

Placement of Buildings:

- (1) Exterior walls of unattached buildings shall be located no closer than a distance equal to the height of the taller building.
- (2) Any courtyard created by the placement of the buildings shall have at least 25% of its perimeter open for access by emergency vehicles.

ARTICLE 10.
OFF-STREET PARKING AND LOADING

Section 10.1 Application [10-2](#)
Section 10.2 General. [10-2](#)
Section 10.3 Minimum Parking Requirements [10-5](#)
Section 10.4 Driveways. [10-9](#)
Section 10.5 Off-Street Loading Requirements. [10-11](#)

ARTICLE 10. OFF-STREET PARKING AND LOADING

SECTION 10.1 APPLICATION

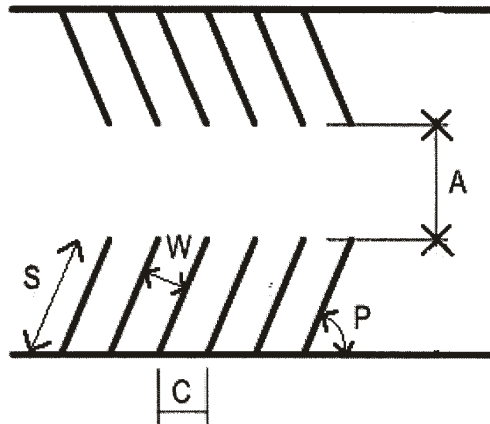
The off-street parking and loading requirements shall apply to all districts shown on the Official Zoning Map of the Town of Windsor.

SECTION 10.2 GENERAL

- (A) Off-Street Parking Requirements. There shall be provided at the time of the erection of any building, at the time an existing structure is demolished in order to permit new construction, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area; or before conversion from one type of use or occupancy to another, permanent off-street parking space in the amount specified by this Ordinance. Such parking space may be provided in a parking garage or properly graded open space. All parking areas shall be designed so that ingress to and egress from such area shall be established and maintained, and that all vehicular traffic shall enter and leave the lot by forward motion of the vehicle. No required off-street parking shall be located on any public right-of-way. All off-street parking lots shall comply with Section 2.10. *(Amended 8/8/2019)*
- (B) Minimum Parking Requirements. Each application for a zoning permit shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. Required off-street parking area for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another. This information shall be in sufficient detail to enable the Building Inspector to determine whether or not the requirements of this Ordinance are met. No Certificate of Occupancy shall be issued until the parking requirements of this section are met.
- (C) Dimensions. Each automobile parking space shall have the following minimum dimensions:

Angle (degrees)	Stall Width (feet)	Curb Length per Car (feet)	Stall Depth (feet)	Aisle Width between parking spaces (feet)
0	9	23	9	12
20	9	26-1/3	14	12
30	9	18	16-1/2	12
45	9	13	19-1/6	12
60	9	10	20-1/2	14-1/2
70	9	9-3/5	20-5/6	23
90	9	9	19	24

ARTICLE 10. OFF-STREET PARKING AND LOADING



P=Parking Angle, degrees
C=Curb Length, feet
S=Stall Depth, feet

W=Stall Width, feet
A=Aisle Width, feet

(D) Parking Lots with More than Four Spaces. (Amended 8/8/2019)

- (1) Surfacing. All such parking lots constructed on or after August 8, 2019, shall be graded and surfaced with crush and run, blacktop, concrete, brick, or other such surfacing material to ensure a dustless surface condition. Nonresidential uses providing off-street parking for more than 20 vehicles, and all nonresidential uses in the O/I, C-1, C-2, or M-I districts providing off-street parking shall have paved parking lots, with blacktop, concrete, or brick as surfacing material. Any unpaved parking lots existing prior to August 8, 2019, shall not be required to be paved.
- (2) Markings. Each parking stall shall be marked off and maintained so as to be distinguishable.
- (3) Lighting. Any lighting shall be so arranged as to direct the light and glare away from streets and adjacent property.
- (4) Curb or Bumpers. The required yards shall be set off from parking areas by either continuous curb or one noncontinuous stationary bumper for each parking space abutting on a yard, which curb or bumper shall not be less than five inches or more than two feet high.
- (5) Drainage. Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement. In already developed areas where this condition would be impossible to meet, the Administrator may exempt the developer from this requirement, provided that adequate provision is made for drainage.

ARTICLE 10. OFF-STREET PARKING AND LOADING

- (6) Separation of Bumper and Walkways. In the event any parking stall abuts upon a walkway, there shall be a space of three and a half feet between the wheel bumper or curb and the edge of the walkway.
- (7) Entrances and Exits. These shall be provided in accordance with Section 10.4 of this Ordinance.
- (E) Combination of Required Parking Space. The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use, except that ½ of the parking spaces required for churches, theater, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.
- (F) Remote Parking Space. If the off-street parking space required by this Ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within 400 feet of the main entrance to such principal use.
- (G) Separation from Walkways, Sidewalks, and Streets. All parking, loading, and service areas shall be separated from walkways, sidewalks, and streets by curbing or other suitable protective device to prevent vehicles from intruding into these areas.
- (H) Handicapped Parking Requirements. Handicapped parking spaces shall meet the following criteria:
- (1) Handicapped parking spaces shall be in accordance with the regulations set forth by the Americans with Disabilities Act. All handicapped spaces shall be identified by pavement markings and by appropriate signage. Handicapped parking shall be required on all multi-family and nonresidential sites.
 - (2) Handicapped parking spaces shall be located in the closest proximity to major building entrances, but in no event shall such spaces be located more than 100 feet from a major building entrance.
 - (3) Handicapped parking spaces shall be a minimum of eight feet in width by 20 feet in length and shall have an adjacent access aisle that has a minimum width of five feet. Two accessible parking spaces may share a common access aisle.
 - (4) The first one out of every eight accessible parking spaces shall be a van accessible space. Van parking spaces shall have an adjacent access aisle a minimum of eight feet in width and a vertical clearance of at least eight feet along the vehicular route to the parking space.

ARTICLE 10. OFF-STREET PARKING AND LOADING

- (5) Handicapped parking will be required on all sites. The minimum number to be provided for all multi-family and nonresidential development is as follows:
- (a) Up to 25 spaces in lot: One handicapped space.
 - (b) 26 to 50 spaces in lot: Two handicapped spaces.
 - (c) 51 to 75 spaces in lot: Three handicapped spaces.
 - (d) 76 to 100 spaces in lot: Four handicapped spaces.
 - (e) 101 to 150 spaces in lot: Five handicapped spaces.
 - (f) 151 to 200 spaces in lot: Six handicapped spaces.
 - (g) 201 to 300 spaces in lot: Seven handicapped spaces.
 - (h) 301 to 400 spaces in lot: Eight handicapped spaces.
 - (i) Over 400 spaces in lot: Two percent of total spaces.

(I) Exceptions.

- (1) The Administrator may withhold a permit or Certificate of Occupancy if a parking layout not specifically prohibited by this Section would be likely to cause avoidable safety or traffic congestion problems until modification is made. The applicant may appeal the Administrator's decision to the Board of Adjustment under the normal procedure for an appeal.
- (2) If a peculiar characteristic of an establishment makes the requirements in this Section clearly unrealistic, the Board of Adjustment may grant the applicant a parking modification.
- (3) In the Central Business District, the Administrator may allow a new use to be established in an existing building even if all parking requirements of this Article cannot be met for the new use, provided that as much off-street parking as can reasonably be provided is provided by the use, and no foreseeable traffic congestion problems will be created.

SECTION 10.3 MINIMUM PARKING REQUIREMENTS

The minimum number of required off-street parking spaces shall be calculated as follows. In the case of a building or use not expressly provided for, the number of off-street access spaces shall be the same as for a similar use or inclusive category for which space is provided. Where there is more than one use in a single structure, or on a single tract, or two or more instances of the same use, the minimum number of required off-street parking spaces shall be equal to the sum of the requirements of the various uses, except for shopping centers for which numbers of spaces are expressly provided.

ARTICLE 10. OFF-STREET PARKING AND LOADING

USE	REQUIRED PARKING SPACE
Agricultural - Livestock and Vegetative	One space per 400 square feet of gross floor area.
Art Gallery	One space per each 300 square feet of gross floor area.
Assemblies (Assembly Hall, Armory, Stadium, Coliseum)	One space or each four spectator seats (one seat is equal to two feet of bench length).
Automobile Sales and Repair Garages	One space for each two employees at maximum employment on a single shift, plus two spaces for each 300 square feet of repair or maintenance space.
Automobile Washing Establishments, Full Service	One space for each two employees on shift of greatest employment, plus one space for the manager. Plus sufficient space for twelve stacking/queuing spaces per day.
Automobile Washing Establishments, Self Service	Four stacking spaces for each washing stall, plus two drying spaces for each washing stall.
Automobile Service Stations	1.5 spaces for each fuel nozzle. In addition, one space shall be provided for each 50 square feet of usable floor area in the cashier's and office areas. In no instance shall such a facility provide less than five parking spaces. In no instance shall a required parking space or its maneuvering area conflict with vehicles being fueled or awaiting fuel.
Bank	One space per each 400 square feet of floor area up to 20,000 square feet, plus one for each 500 square feet of floor area in excess of 20,000 square feet.
Barber and Beauty Shops	Two spaces per beauty or barber chair.
Bed and Breakfast Homes*	One space for every rental room plus one space for every two permanent occupants.
Bicycle Sales and Repair	Three spaces per 1,000 square feet of gross floor area.
Bowling Alley	Two spaces for each lane, plus one additional space for each two employees.
Cemetery	One space per full-time employee.
Churches and Funeral Homes	One space for each six seats in the main chapel.
Day Care Center	One space for each adult attendant and one space for every six children or fraction thereof.
Drive-in Restaurant*	One space for each three seats, fifteen spaces for drive-in service, plus one space for each two employees.
Dry Cleaning and Laundry	One space for each 200 square feet of gross floor area used by the general public.

ARTICLE 10. OFF-STREET PARKING AND LOADING

USE	REQUIRED PARKING SPACE
Dwelling, Single and Two-family	Two spaces per dwelling unit.
Dwelling, Multi-family	1.5 spaces for each 1 bedroom unit, 2 spaces for each 2 bedroom unit, 2.5 spaces for all units over 2 bedroom.
Elementary School and Junior High Schools, Public and Private	One space for each classroom and administrative office.
Exterminating Services	Three spaces per 1,000 square feet of gross floor area.
Golf Course	Twenty-five spaces per nine holes, plus one space per employee on shift of greatest employment.
Health Club/Gymnasium	One space for each 100 square feet of gross floor area.
Home Occupation	Two spaces in addition to residence requirements.
Hospitals	One space for each four patient beds plus one space for each staff or visiting doctor, plus one space for each four employees.
Industrial and Research Uses, Warehousing, and Very Low Customer Volume Wholesaling Operations	One space for each employee on the largest shift, plus one space for every administrative office and two spaces for visitors.
Libraries	One space for each 4 seats provided for patron use.
Manufactured Home Parks	Two spaces for each manufactured home plus one visitor parking space for each four manufactured homes.
Medical/Dental Offices & Clinics	Four spaces for each doctor practicing at the clinic, plus one space for each employee.
Motels, Tourist Homes, and Tourist Courts*	One space for each accommodation plus two additional spaces for employees.
Municipal Building	One space for each employee and one space for each five seats in the largest assembly room.
Nursery Operations (Plant)	One space per 1,000 square feet of total sales area.
Nursing Home/Assisted Living	One space per three residents, plus one additional space for each employee.
Offices, Business, Professional or Public including Banks	One space for each 200 square feet of floor area.
Post Office	One space for each 400 square feet of gross floor area, plus one space per each two employees on the shift of greatest employment.

ARTICLE 10. OFF-STREET PARKING AND LOADING

USE	REQUIRED PARKING SPACE
Places of public assembly including private clubs and lodges, auditoriums, dance halls, pool rooms, theaters stadiums, gymnasiums, amusement parks, community centers, and all similar places of public assembly	One space for each four fixed seats provided for patron use, plus one space for each 100 square feet of floor or ground area used for amusement or assembly but not including fixed seats.
Public Utility Buildings	One space for each employee.
Rescue Squads and Armories	Parking space equivalent to three times the gross floor area in the main building.
Restaurant (<i>Amended 8/8/2019</i>)	One space per 75 square feet of enclosed floor area.
Retail Business and Consumer Service Outlets	One space for each 200 square feet of gross floor area.
Rooming or Boardinghouse	One space for each guest room, plus one additional space for the owners or managers.
Sanitariums, Rest and Convalescent Homes, Home for the Aged, and Similar Institutions	One space for each six patient beds, plus one space for each staff or visiting doctor, plus one space for each four employees.
Senior High Schools, Public and Private	One space for each ten students for whom the building was designed, plus one space for each classroom and administrative office.
Shopping Centers	Parking space equivalent to three times the combined gross floor area of the businesses in the shopping center.
Telecommunication Towers	Four spaces per 1,000 square feet.
Theater Productions, Indoor	One space for each four seats in the largest assembly area.
Theater Productions, Outdoor	One space for each 45 square feet of assembly or floor area.
Veterinarian	One space per 500 square feet.
Wholesaling and manufacturing uses	One space for each two employees at maximum employment on a single shift.

*The requirement of off-street parking shall not apply to tourist homes or bed and breakfast homes (including B&B homes that also have a separate commercial kitchen allowing them to operate as an "establishment that prepares or serves food to the public") located on King Street in the historic district of the Town of Windsor between Dundee Street and Water Street; in such cases on-street parking shall be restricted to King Street.

ARTICLE 10. OFF-STREET PARKING AND LOADING

Special situations which are not covered by the table above shall be handled by the Board of Adjustment. The Board of Adjustment shall make the final determination as to the number of spaces to be required, but shall in all cases give due consideration to the needs therefor.

SECTION 10.4 DRIVEWAYS

- (A) General. After the date of passage of this section, only driveways designed, approved, constructed, and surfaced in accordance with the provisions herein shall be allowed to provide motor vehicle access to or from any property upon which a building has been constructed, reconstructed, or physically altered. All driveways shall be paved with either asphalt or concrete, or with alternative paving material (e.g., concrete pavers, brick, "turfstone" or similar pervious material) determined to exhibit equivalent wear resistance and load bearing characteristics as asphalt or concrete.

Before a building permit is issued for the construction, reconstruction, or change in use of any building or land used for purposes other than a single or two-family residence, all driveways shall be reviewed and approved by the Administrator. Private driveways serving single-family and two-family dwellings shall not be regulated by the provision of this Ordinance. "Construction, reconstruction, or change in use" refers to those improvements made to the site involving overall structure size or to changes in use which would require the addition of one or more parking spaces under the provision of Article 10, Off-Street Parking and Off-Street Loading Requirements; it is not intended to refer to construction activities which merely involve changes to exterior architectural features (e.g., painting, addition of siding, roofing activities, etc.).

When the use of any driveway has been permanently discontinued, the property owner of that driveway shall, at his expense, replace all necessary curbs, gutters, aprons, sidewalks, and appurtenances thereto, within 60 days of receipt of a written notice from the Administrator.

No driveway shall conflict with any municipal facility such as traffic signal standards, catch basins, fire hydrants, crosswalks, loading zones, bus stops, utility poles, fire-alarm supports, meter boxes, and sewer clean-outs or other necessary structures, except with the express approval of the Town Administrator. Any adjustments to municipal facilities to avoid such conflicts shall be at the expense of the driveway applicant.

- (B) Permit Requirements. A permit must be obtained from the Town Administrator prior to the removal, alteration, or construction of any curb, driveway, gutter, and/or pavement or prior to the performance of any other work in any public or private street. Conditions governing the issuance of such a permit are:

ARTICLE 10. OFF-STREET PARKING AND LOADING

- (1) A continuing indemnity bond with sufficient surety acceptable to the town may be required of the party performing the work. All work must be done in conformity with the standards established herein.
- (2) The town shall be indemnified for any damages it might sustain as a result of the breach of condition above. The damages payable to the town shall be the amount required to make such improvement conform to town standards.

Based on the Town of Windsor Schedule of Fees, a fee shall be paid to the town at the time the application for a driveway permit is made.

- (C) Submission of Plans. Two copies of plans showing the location and dimensions of all proposed improvements shall be filed with the Administrator for approval prior to the issuance of a driveway permit for uses other than single or two-family residential.

All design and construction of driveways shall conform to the requirements of the North Carolina Department of Transportation.

- (D) Driveway Location(s).

- (1) A safe means of ingress and egress shall be provided for all parking spaces and driveways for uses other than single and two-family residential and shall be at least 24 feet wide.
- (2) Two driveways entering the same street from a single lot shall be permitted only if the minimum distance between the closest edges of the driveways equals or exceeds 50 feet.
- (3) Three driveways entering the same street from a single lot shall be permitted only if the minimum distance between the closest edges of the driveways equals or exceeds 150 feet.
- (4) Four or more driveways entering the same street from a single lot shall be prohibited.
- (5) In no case may the total width of all driveways exceed 50% of the total property frontage.
- (6) No driveway (nearest edge) shall be located within 10 feet of a side lot property line except in the case of a shared driveway (single curb/access point) utilized by two or more lots.

ARTICLE 10. OFF-STREET PARKING AND LOADING

- (7) No driveway (nearest edge) shall be located within 25 feet of an intersection on a secondary road and 40 feet on a primary road except in the case where no other lot access to a public street or town-approved private road is available.

- (E) Driveway Permit Inspection. Once the driveway permit is duly issued, the supervisor of the driveway construction site shall keep the permit available for on-the-job inspection by authorized personnel of the town. The inspector or other authorized representative of the town shall have the authority to require the immediate stoppage of work not performed either in accordance with the approved plans or under the requirements of this section and may order the nonconforming installations be corrected and/or blocked.

- (F) Brick Driveways. Brick driveways will be allowed consisting of smooth, hard-burned clay bricks with an appropriate concrete base conforming to the design standards of the Administrator. In the event repairs are required after brick driveways are installed due to utility replacement or other construction work, the driveway applicant shall pay that portion of the repair cost which exceeds the cost of repair using standard concrete six inches in thickness. Normal maintenance or replacement will be the responsibility of the driveway applicant.

SECTION 10.5 OFF-STREET LOADING REQUIREMENTS

In any district in which a building hereafter erected is to be occupied by any manufacturing, processing, assembly, wholesaling, retailing, laundering, dry cleaning, or similar activity requiring the receiving or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one off-street loading space. Each such loading space shall be at least 15 feet in width, 30 feet in length, and shall have a height clearance of at least 15 feet.

If there is not more than one delivery and pickup during the hours when a retail trade, office, or institutional establishment is open to patrons, such space may be combined with the existing parking space on the premises. Loading space shall be provided in accordance with the following schedule:

USE	REQUIRED LOADING SPACE
Office and Institutional Uses including Hotels and Motels	One space for each 50,000 square feet of gross floor area or fraction thereof.
Retail Operations	One space for each 20,000 square feet of gross floor area or fraction thereof.

ARTICLE 10. OFF-STREET PARKING AND LOADING

USE	REQUIRED LOADING SPACE
Manufacturing and Wholesale Operations	One space for each 50,000 square feet of gross floor area or fraction thereof.
Elementary, Junior High, High Schools, Kindergartens, Nurseries, and Day Care Centers	One space for each 50,000 square feet of gross floor area or fraction thereof, plus a safe place off the street for the loading and unloading of children from automobiles and buses.

The off-street loading space provided shall be permanent and shall not be used for any other purpose.

Exceptions. If a peculiar characteristic of an establishment makes the requirements of this Section clearly unrealistic, the Board of Adjustment may grant the applicant a modification of the loading requirements in regard to that particular establishment.

The Administrator may allow a new use to be established in an existing building even if all loading requirements of this Section cannot be met for the new use, provided that as much loading space as can reasonably be provided is provided by the use, and traffic or safety hazards will not be created.

ARTICLE 11.

SIGN REGULATIONS

Section 11.1	Purpose and Intent	11-2
Section 11.2	Permitted Signs	11-2
Section 11.3	Signs Not Requiring a Permit.	11-2
Section 11.4	Prohibited Signs.	11-5
Section 11.5	District Signs	11-6
Section 11.6	Supplemental Sign Standards for the O-I, C-1, C-2, and CBO Districts.	11-11
Section 11.7	Specifications for Signs Requiring a Permit	11-12
Section 11.8	Sign Illumination	11-16
Section 11.9	Enforcement	11-17

ARTICLE 11. SIGN REGULATIONS

SECTION 11.1 PURPOSE AND INTENT

The purpose and intent of this Article is to support and complement the various land uses allowed in Windsor by the adoption of policies and regulations concerning the placement of signs.

The Windsor Board of Commissioners does hereby find and declare the outdoor placement of signs to be a legitimate use of private property but that the erection of signs should be controlled and regulated in order to promote the health, safety, welfare and convenience and enjoyment of travel on and protection of the public investment in streets and roads in Windsor and to promote the reasonable, orderly and effective display of such signs, displays and devices. It is also the intent of this Ordinance to prevent signs from dominating the visual appearance of the area in which they are located.

SECTION 11.2 PERMITTED SIGNS

Unless specifically exempted by other sections of the Article, all signs will be required to have proper permits prior to construction or installation. Whether the sign is new, part of new construction, or an existing sign, the following information will be required as part of the permit application.

- (A) A detailed description of any new sign for which a permit is requested. This will include, but not necessarily be limited to, a detailed drawing of the sign showing size, height, and site location relative to property lines and street right-of-way.
- (B) Existing signs must meet the Article requirements if, for any reason, the sign is to be changed or altered. Normal copy changes and routine maintenance matters are exceptions to this requirement.
- (C) Prior to issuance of a sign permit, all fees in accordance with the associated fee schedule shall be paid.
- (D) Upon notification of completion by the permit holder, the Administrator shall inspect the sign to verify conformance with applicable codes.

SECTION 11.3 SIGNS NOT REQUIRING A PERMIT *(Amended 10/8/2015)*

Signs listed in this section are exempt from the permit requirements of Section 11.2 and may be erected in any zoning district provided they comply with the conditions described herein.

ARTICLE 11. SIGN REGULATIONS

- (A) Incidental Informational. A sign, generally informational, that has a purpose to the use of the subject property on which it is located, such as "no parking," "entrance," "loading only," and other similar directives.
- (B) Flags. Flags on a single, straight flagpole provided that:
- (1) The flagpole is attached to the ground, building, or other object at only one end; it may not be attached to another pole;
 - (2) Flags are not hung or stretched between two (2) poles or a pole and another object or the ground;
 - (3) Flags are attached to the pole (or rope) on one (1) side only and are not weighted on an unattached side;
 - (4) Flags hung from a horizontal or nearly horizontal, pole and displayed against, or nearly against, a wall, fence, or similar structure are prohibited (this applies only to flags permitted by this paragraph);
 - (5) More than one (1) flag may fly on a single pole; and
 - (6) All applicable requirements of Article 11 are complied with.
- (C) Temporary Signs. Temporary signs are signs which relate to/reference specific activities or events of a commercial, noncommercial, or non-profit entity, including political signs.
- (D) Construction Signs. An on-site temporary sign identifying the names of the individuals and/or firms connected with the construction of an active project. Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the town may regulate the signage but shall continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this subsection may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

ARTICLE 11. SIGN REGULATIONS

(E) Miscellaneous Exemptions.

- (1) Such as handicapped parking space signs; with the operation of equipment or other functional elements such as menu boards, automatic teller machines, gas pumps, vending machines, scoreboards, license plates and similar incidental signs; signs visible only from the premises, markers which are non-commercial in nature.
- (2) Memorial signs, plaques or grave markers, which are noncommercial in nature.
- (3) On-premises directional and instruction signs not exceeding four (4) square feet in area apiece. These signs shall not contain advertising matter.
- (4) All signs located within the interior of a business or operation. This exemption includes all window signage.
- (5) Public interest signs (i.e., historical markers).
- (6) Identification signs not exceeding three (3) square feet in area (one only per premises).
- (7) Address and name signs. Signs or plates on residential structures giving the name and/or address of the occupant.
- (8) Integral decorative or architectural features of buildings or works of arts, provided such features or works of art do not contain advertisements, trademarks, moving parts, or lights.
- (9) Displays, including lighting, erected in connection with the observance of holidays. Such displays shall not be considered as illuminated signs and they shall be removed within ten (10) days following the holiday.

(F) Political Signs. Political signs erected in accordance with NCGS § 136-32 as follows:
(Amended 10/8/2020)

- (1) Compliant Political Signs Permitted. During the period beginning on the 30th day before the beginning date of "one stop" early voting under NCGS § 163-227.2 and ending 10 days after the election, persons may place political signs in the right-of-way of the State highway system or Town street as provided in this section. Signs must be placed in compliance with subsection (2) below and removed by the end of the period prescribed therein. Political signs that remain in a right-of-way of streets located within the Town's corporate limits more than 30 days after the end

ARTICLE 11. SIGN REGULATIONS

of the period prescribed in this section is to be deemed unlawfully placed and abandoned property, and a person may remove and dispose of such political sign without penalty.

- (2) Sign Placement. The permittee must obtain the permission of the property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected. Signs must be placed in accordance with the following:
- (a) No sign shall be permitted in the right-of-way of a fully controlled access highway.
 - (b) No sign shall be closer than three feet from the edge of the pavement of the road.
 - (c) No sign shall obscure motorist visibility at an intersection.
 - (d) No sign shall be larger than six (6) square feet.
 - (e) No sign shall obscure or replace another sign.

SECTION 11.4 PROHIBITED SIGNS

The following list of signs are prohibited in the Town, any violation is subject to the regulations as stated in this Article.

- (A) Any sign, which the Administrator determines, obstructs the view of bicyclists, pedestrians, or motorists using any street, approach to any street intersection, or which interferes with the effectiveness of or obscures any traffic sign, device, or signal shall be prohibited.
- (B) Illuminated, highly reflective signs or spot lights that the Administrator determines hampers the vision of motorists or bicyclists.
- (C) Signs, lights, rotating disks, words, and other devices, which resemble traffic signals, traffic signs, or emergency vehicle lights.
- (D) Any sign, which interferes with free passage from or obstructs any fire escape, downspout, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light or air.

ARTICLE 11. SIGN REGULATIONS

- (E) Any sign placed on any curb, sidewalk, post, pole, hydrant, bridge, tree, or other surface located on, over, or across any public street or right-of-way unless authorized by the Windsor Board of Commissioners or the North Carolina Department of Transportation.
- (F) Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign.
- (G) Flashing, fluttering, swinging, rotating signs (except governmental signs and signs, which give time and temperature and other commercial public information message).
- (H) Roof signs, or signs above the parapet of a building.
- (I) Electronic message boards in all Residential districts.
- (J) Portable signs.
- (K) Obsolete or Abandoned Signs. Non-conforming signs or parts of signs which advertise or pertain to a business, product, service, commodity, event, activity, or purpose which either no longer exists, has been discontinued or has not been in use for 180 days or more shall be deemed to be an abandoned sign and shall be removed upon notice by the Administrator.
- (L) Obscenity. Signs, which contain obscene words, or words and pictures which offend the public.
- (M) Other signs not expressly permitted by this Ordinance.

SECTION 11.5 DISTRICT SIGNS *(Amended 10/8/2015)*

- (A) Residential District Signs (RA-20, R-10, R-7, R-5, R-75, R-15, R-5MH, and R-10MH). Residential districts contain developments that require signage. Such developments include, but are not limited to: Single-Family Subdivisions, Multi-Family Developments, Manufactured Home Parks, Churches, and Recreational Facilities. One (1) ground mounted or monument sign per entrance may be utilized providing it does not exceed twenty (20) square feet, and shall not exceed seven (7) feet in height. Additionally, Class A home occupations may install one non-lighted sign with an area of no greater than four (4) square feet. Home occupation signage shall be permanently fixed to the residence within which the home occupation resides. Class B home occupations may have one (1) freestanding non-lighted permanent sign not exceeding eight (8) square feet in area and three (3) feet in height. All home occupation signs must be removed if the business ceases to operate. Temporary signs not exceeding four (4) square feet in area, and three (3) feet in height if freestanding

ARTICLE 11. SIGN REGULATIONS

are allowed in all residential districts. The number of these signs is limited to one (1) per one hundred (100) feet, or fraction thereof, of lot frontage of all immediately adjacent public streets. In no event shall there be more than three (3) such signs allowed per lot. The temporary sign may be displayed up to fifteen (15) days prior to and/or following the specific event with which the sign is associated. *(Amended 12/8/2016)*

(B) Business District Signs (O-I, C-1, C-2, and CBO).

Permitted Sign Type(s)	Specific Applicability	Maximum Area ¹	Maximum Height	Maximum Number
BUILDING MOUNTED				
Wall ²	Front facades	1 sq ft for each linear foot of wall frontage <u>or</u> 5% of wall whichever is greater	N/A	N/A
Wall ²	Secondary to primary signage	½ sq ft for each linear foot of building facing side street	N/A	N/A
Window	Businesses	25% of first floor total building front facade window and/or door area	N/A	N/A
Projecting ^{3,4}	Businesses (excluding home occupations)	12 sq ft (total of 24 sq ft)	8 ft	1
Awning ^{3,4}	Businesses (excluding home occupations)	Copy area of the sign is limited to the drip flap. Logos may be placed on the awning itself.	---	1
ID Plaques	Identifies tenants in a building	4 sq ft	N/A	1
FREESTANDING				
Monument or Ground Mounted ⁵	Civic buildings, buildings with a setback greater than 20'	30 sq ft	6 ft	1
Small Wall Signage ⁵	Home occupation	4 sq ft	5 ft	1
Temporary ⁶	Message neutral	8 sq ft	6 ft	1

¹Combined square footage of all signs shall not exceed 200 square feet.

²Wall signs may project a maximum of 12" from the wall to which it is mounted.

³Sign may not protrude above soffit, parapet, or eave line of the building to which it is attached.

⁴Minimum 8 feet above ground; no portion of the sign may extend within 3 feet of street pavement.

⁵Sign must be placed no closer than 10' from property line. One ground mounted or monument sign is permitted provided the area of said sign and wall signage on the front of building, combined, shall not exceed square footage as defined above for the front facade only. However, in no event, can a ground mounted or monument sign exceed 30 square feet. In the event of a double-sided sign, only one side shall be used to figure the square footage.

⁶The temporary sign may be displayed up to fifteen (15) days prior to and/or following the specific event with which the sign is associated.

ARTICLE 11. SIGN REGULATIONS

(C) Commercial Planned Building Groups (O-I, C-1, C-2, and CBO).

Number of Outlets	Specific Applicability	Maximum Area	Maximum Height	Maximum Number
FREESTANDING				
Up to six outlets	Identifies development name and/or tenants in the planned building group	100 sq ft	15 ft	1 per street frontage
7-14 outlets	Identifies development name and/or tenants in the planned building group	125 sq ft	15 ft	1 per street frontage
15 or more outlets	Identifies development name and/or tenants in the planned building group	150 sq ft	15 ft	1 per street frontage
Temporary ¹	Message neutral	8 sq ft	8 ft	1
OUT PARCELS				
	Monument or ground mounted sign	30 sq ft	6 ft	1 per out parcel

¹The temporary sign may be displayed up to fifteen (15) days prior to and/or following the specific event with which the sign is associated.

Permitted Sign Type(s)	Specific Applicability	Maximum Area ¹	Maximum Height	Maximum Number
BUILDING MOUNTED				
Wall ²	Front facades	1 sq ft for each linear foot of wall frontage <u>or</u> 5% of wall whichever is greater	N/A	N/A
Wall ²	Secondary to primary signage	½ sq ft for each linear foot of building facing side street and/or interior area of a planned building group	N/A	N/A
Window	Businesses	25% of first floor total building front facade window and/or door area	N/A	N/A
Projecting ^{3,4}	Businesses (excluding home occupations)	12 sq ft (total of 24 sq ft)	8 ft	1
Awning ^{3,4}	Businesses (excluding home occupations)	Copy area of the sign is limited to the drip flap. Logos may be placed on the awning itself.	---	1
ID Plaques	Identifies tenants in a building	4 sq ft	N/A	1

¹Combined square footage of all signs shall not exceed 400 square feet.

²Wall signs may project a maximum of 12" from the wall to which it is mounted.

³Sign may not protrude above soffit, parapet, or eave line of the building to which it is attached.

⁴Minimum 8 feet above ground; no portion of the sign may extend within 3 feet of street pavement.

⁵Sign must be placed no closer than 10' from property line. One ground mounted or monument sign is permitted provided the area of said sign and wall signage on the front of building, combined, shall not exceed square footage as

ARTICLE 11. SIGN REGULATIONS

defined above for the front facade only. However, in no event, can a ground mounted or monument sign exceed 30 square feet. In the event of a double-sided sign, only one side shall be used to figure the square footage.

(D) Outdoor Advertising Signs (C-2 and M-I). *(Amended 10/8/2020)*

Permitted Sign Type(s)	Specific Applicability	Maximum Area*	Maximum Height	Maximum Number
FREESTANDING				
Billboards	Outdoor advertising signs along highways	200 square feet on federal and state roads; 100 square feet on local roads	20 feet	See 11.7(D)

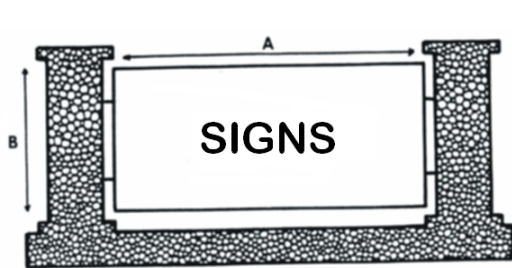
*In the event of a double-side sign, only one side shall be used to figure the square footage.

(E) Removal of Illegal Signs in Right-of-Way and Public Properties. The Administrator may remove and destroy or otherwise dispose of any sign placed on public property or within any public right-of-way. This shall only apply to signs in violation of this Ordinance. Penalties may be levied for each such sign as prescribed in this Article.

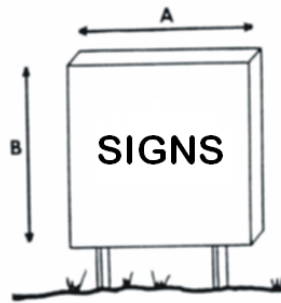
(F) Sign Area. The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle, or other regular geometric figure, including all of the elements of the display, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter. In the case of signs mounted back-to-back, only one side of the sign is to be included in the area. Otherwise, the surface area of each sign is to be separately computed. In the case of cylindrical signs, signs in the shape of cubes, or other signs, which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces, is included in computations of area.

In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material is to be computed as part of the total surface area of the sign. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence on which the sign face or letters are placed shall be calculated in the sign area.

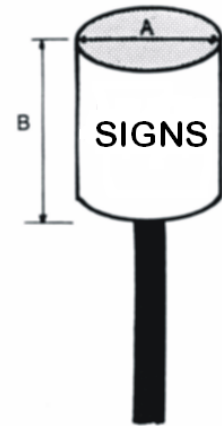
ARTICLE 11. SIGN REGULATIONS



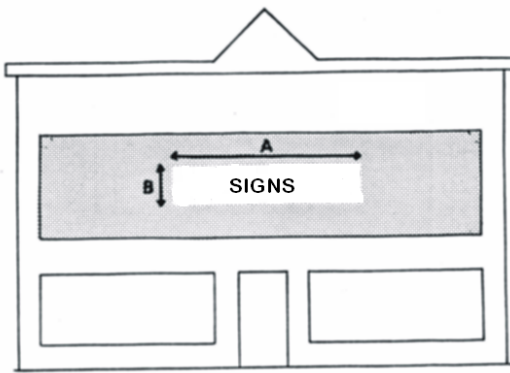
Sign Area = A (X) B



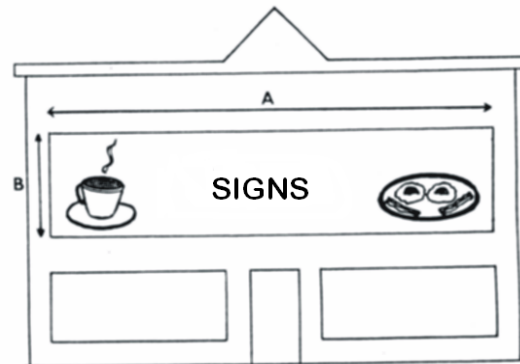
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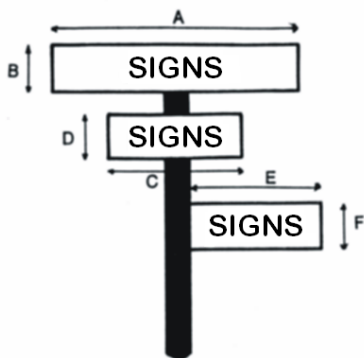
Sign Area = A (X) B



Sign Area = A (X) B



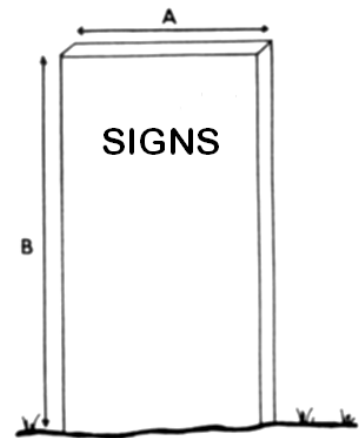
Sign Area = A (X) B



Sign Area = A (X) B + C (X) D + E (X) F



Sign Area = πR^2



Sign Area = A (X) B

ARTICLE 11. SIGN REGULATIONS

SECTION 11.6 SUPPLEMENTAL SIGN STANDARDS FOR THE O-I, C-1, C-2, AND CBO DISTRICTS (Amended 10/8/2015)

Sign standards for specific business operations are in addition to the general standards outlined in this Article and recognize the different types of traffic, use and need of signs for the assistance of the traveling public and the prosperity of business owners and employees through the attraction, retention, and furtherance of commerce throughout the town. Retail and restaurants establishments may avail themselves of the maximum signage allowable under Section 11.5 and additionally may supplement such maximum via the standards of this subsection.

- (A) Sandwich Board Sign. Limited to one sign per business. Signs shall be limited to a maximum height of four (4) feet and a maximum length of three (3) feet. Folding and double-faced signs shall be considered one (1) sign. Sandwich board signs shall not be located on any public right-of-way, except that where the edge of the right-of-way is the face of the building and where such building abuts a public sidewalk, such signage may be allowed as a right-of-way encroachment. Sign placement shall not impede movement on the sidewalk.
- (B) Banners. Limited to one banner per business. Banners shall be limited to a maximum height of six (6) feet and a maximum length of ten (10) feet. Banners shall contain the imprint or logo of the business in which the banner is intended. No additional logos, joint advertising or insignia shall be permitted.
- (C) Temporary Advertisement Flags. Limited to two flags per business, but no more than six (6) flags at one time per approved major or minor site plan. Commercial advertisement flags no greater than ten (10) feet in height and no greater than four (4) feet in width and, on a temporary basis, shall be permitted and shall contain the imprint or logo of the business in which the flag is intended, no additional logos, joint advertising, or insignia shall be permitted. In a Planned Unit Development, the location of commercial advertisement flags shall be on the premises of the business or in a common pedestrian ingress area immediately in-front or adjacent to the primary pedestrian entrance of the business, in no case shall the commercial advertisement flag be placed further than ten (10) feet from said primary pedestrian entrance. No commercial advertisement flag shall be placed in the vehicular zone including parking areas, driveways, or vehicular ways. Placement of flags shall not impede ingress/egress to the building.
- (D) Sale/Event/Holiday Signs. For no more than thirty (30) days annually, special signage for sales/events/holidays may be placed by a business on premises with the issuance of a permit. Such signs shall be of one of the categories above with the following supplemental standard: for each item in this subsection, the quantity of signs shall double.

ARTICLE 11. SIGN REGULATIONS

- (E) Daily Specials. Daily, restaurants and food service establishments may be permitted one (1) additional sandwich sign subject to the standards of subsection (A). The heading of such sign shall read in addition to any such text as deemed prudent by the business: Open for Business, Daily Specials.

SECTION 11.7 SPECIFICATIONS FOR SIGNS REQUIRING A PERMIT

The following are general specifications applicable to the various signs permitted. Additional specifications regarding size, number, location, and permitted types of signs are set forth in the individual zoning districts.

(A) Wall Signs.

- (1) No wall sign shall project more than 18 inches from the building wall. Further, no wall sign or its supporting structure shall cover any window or part of a window, nor shall it extend on the roofline, parapet, or mansard roof.
- (2) Canopy and awning signs may be substituted for part or all of the allowable wall signage per premises. Signs may be painted or printed onto a canopy or awning. In no instance shall a canopy or awning sign extend into a street right-of-way.
- (3) No wall sign shall be attached to any cupola, tower, or other architectural feature that is above the roofline.
- (4) Sign area may not exceed 200 square feet on any building wall.

(B) Freestanding Signs. *(Amended 7/9/2018)*

- (1) All freestanding signs shall be a minimum of ten (10) feet from the property line. Any such sign greater than three and one-half (3-1/2) feet in height as measured from the grade of the road upon which it fronts shall be located outside the required sight distance triangle.
- (2) Front yard monument signs for nonprofits as defined for tax exemption under 501(c)(3) of the US tax code may exceed the maximum size and height as specified under this article if the following conditions are complied with:
 - (a) There is an existing monument sign identifying a 501(c)(3) nonprofit organization located in the front yard of an adjacent parcel which exceeds the size and height limitations of this Ordinance.

ARTICLE 11. SIGN REGULATIONS

- (b) The proposed sign may not exceed the height and size of the existing sign located on the adjacent parcel.
- (c) The existing sign and the proposed sign must be located at least 200 linear feet apart as measured in a straight line.
- (d) Both signs must be located on the same side of the street which is adjacent to the front lot lines of the properties.
- (e) All other requirements of Article 11 of this Ordinance must be complied with.

(C) Projecting Signs.

(1) *All Projecting Signs.*

- (a) A projecting sign will not project more than four (4) feet from a building wall.
- (b) A projecting sign will not extend vertically above the roofline or parapet of a building.
- (c) The sign shall be a minimum of eight (8) feet from the bottom of the sign above the finished grade.

(2) *Projecting Sign in Planned Building Groups.* Projecting signs may be permitted for individual tenants of a planned building group without altering detached sign provisions. Such sign shall be permitted provided:

- (a) Subject to the same provisions of (1)(a), (b), (c), above.
- (b) A projecting sign shall not project into any required setback or yard.
- (c) The maximum area for the projecting sign shall be calculated as though it was a wall sign. The maximum area of a projecting sign shall be seventy-five (75) feet.
- (d) No more than one projecting sign per business entrance.

ARTICLE 11. SIGN REGULATIONS

- (D) Outdoor Advertising Signs Along Highways. All regulations outlined within this section shall only apply to the construction of outdoor advertising signs, also referred to as billboards. The Administrator may request additional information as he deems necessary to ensure compliance with this Article.
- (1) *Maximum Sign Area.* The maximum sign area of an outdoor advertising ground sign is limited, depending on location, as follows:
 - (a) On federal and state roads, the maximum sign area is 200 square feet.
 - (b) On local roads, the maximum sign size is 100 square feet.
 - (c) In the event of a double-sided sign, only one side shall be used to figure the square footage.
 - (2) *Spacing of Signs.* No outdoor advertising signs shall be located closer than one thousand five hundred (1,500) feet from any other outdoor advertising sign as measured along the same side of a road of highway.
 - (2) *Separation from Other Uses.* The minimum distance between outdoor advertising signs and existing churches, schools, or public institutions shall be no less than five hundred (500) feet. The minimum distance between outdoor advertising signs and existing residences shall be three hundred (300) feet, however, if written permission is obtained from the owner of affected residence(s) within the three hundred (300) foot minimum distance, allowing the outdoor advertising sign to be placed closer than three hundred (300) feet, then such permission to place the sign may be granted by the Town as long as all other requirements of this Ordinance have been met.
 - (3) *Number and Arrangement of Signs.* Outdoor advertising signs may be of single face, double-faced back-to-back, or V-type design. If signs on the same structure face opposite directions, they shall be considered one sign.
 - (4) *Obstructions.* Regardless of the requirements of this Ordinance, no outdoor advertising sign shall obscure or interfere with official traffic signs, signals, or devices or create a traffic hazard.
 - (5) *Structural Requirements.* All outdoor advertising signs shall meet the structural requirements of the North Carolina Building Code.

ARTICLE 11. SIGN REGULATIONS

- (6) *Distance from Centerline.* Free-standing signs must be located within 660 feet of the centerline of the adjoining roadway.
- (7) *Distance from Property Lines.* Signs must be setback a minimum of fifteen feet from any property line.
- (8) *Signs in Sight Distance Triangle.* No sign may be permitted in any NCDOT-defined sight distance triangle.
- (9) *Distance from Residential Zoning Districts.* Free-standing signs must be located 50 feet from any residentially zoned property.
- (10) *Existing Outdoor Advertising Structures.* Existing outdoor advertising signs shall be considered a legal nonconforming use and shall be allowed to remain, but may not be altered in any way.
- (11) *Limitations of Outdoor Advertising Devices.* No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of the right-of-way of the interstate or primary highway systems in this State so as to be visible from the main-traveled way thereof after the effective date of this Article as determined by G.S. 136-140, except the following:
 - (a) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline, or other installation.
 - (b) Outdoor advertising which advertises the sale or lease of property upon which it is located.
 - (c) Outdoor advertising which advertises the sale of any fruit or vegetable crop by the grower at a roadside stand or by having the purchaser pick the crop on the property on which the crop is grown provided: (i) the sign is no more than two feet long on any side; (ii) the sign is located on property owned or leased by the grower where the crop is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by the grower for no more than 30 days.

ARTICLE 11. SIGN REGULATIONS

- (d) Outdoor advertising which advertises activities conducted on the property upon which it is located.
 - (e) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in areas which are zoned industrial or commercial under authority of State law.
 - (f) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in unzoned commercial or industrial areas.
- (12) *Just Compensation.* The Town of Windsor will pay just compensation in accordance with NCGS 136-131.1 for required removal of billboards.

SECTION 11.8 SIGN ILLUMINATION

Unless otherwise prohibited by this section, signs may be illuminated if such illumination is in accordance with this section. All electric signs shall be in accordance with the Building and National Electric Code, and shall obtain all required building permits. All wiring to ground signs or to lighting equipment erected after the effective date of this section must be underground.

- (A) Signs Near Residential Premises. No sign within 150 feet of a residential premise may be illuminated between the hours of midnight and 6 a.m., unless there is no spillover of lighting or glare to the residential area beyond the boundaries of the lot where the lighting is located.
- (B) Shielding of Lights. External lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into or cause glare onto a public right-of-way or residential premises.
- (C) Flashing or Intermittent Lights. No sign shall contain or be illuminated by flashing or intermittent light or lights of changing degrees of intensity.
- (D) Seasonal lighting, time and temperature signs, public message displays using electronic switching, and electronic message boards are permitted.

ARTICLE 11. SIGN REGULATIONS

SECTION 11.9 ENFORCEMENT

- (A) Inspections and Investigations.
- (1) The Administrator will periodically inspect signs in order to determine whether there are any violations of this Ordinance.
 - (2) The Administrator shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in these regulations, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting signs. No person shall refuse entry or access to any authorized representative of the Administrator who requests entry for purposes of inspection, and who represents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out his official duties.
- (B) Citations. If, through inspection, it is determined that a person has failed to comply with the provisions of these regulations, the Administrator shall issue a warning citation to the violator. Violations shall be corrected within one month of the issuance of such citation. If the violation is not corrected within the specified time period, the violator is subject to Article 4, Part IV, Enforcement and Review of this Ordinance, which is incorporated by reference herein as if fully stated.

ARTICLE 12.
BUFFER STRIPS AND FENCES

Section 12.1 General Regulations [12-2](#)
Section 12.2 Developed Residential Area defined [12-3](#)

ARTICLE 12. BUFFER STRIPS AND FENCES

SECTION 12.1 GENERAL REGULATIONS *(Amended 10/8/2020)*

If any permitted use or special use of a lot or tract of land located within the C-1 Central Business District, C-2 Highway Commercial District, O-I Office and Institutional District, or M-I Manufacturing District is commenced after the 8th day of October, 1984, and the lot or tract of land upon which such use is commenced adjoins a developed residential area within one of the residential districts established by this Ordinance, the owner of the lot or tract of land upon which the use is commenced shall provide and continuously maintain a fence and a planted buffer strip as follows:

- (A) The fence shall be a solid fence or a wall (separate from any building) at least six (6) feet in height, which shall be constructed at least five (5) feet from the property lines of the developed residential area, shall be parallel to the property line or lines of the developed residential area for the entire length of such area, and shall be located within the side yard or rear yard (as those terms are defined in Appendix A) of the lot or tract upon which such permitted or special use is commenced, or within both the side and rear yards if the developed residential area adjoins both the side and rear property lines of the lot or tract of land upon which the use is commenced.
- (B) The planted buffer strip shall be located between the fence or wall and the property line or lines of the adjoining developed residential area and shall have a minimum width of five (5) feet. Said buffer strip shall be planted with at least one (1) row of trees, which may be deciduous trees, evergreen trees, or both, spaced not more than ten (10) feet apart, and with at least one (1) row of dense shrubs spaced not more than five (5) feet apart.
- (C) The Zoning Board of Adjustment is authorized to allow variances from the requirements of this section of fences and planted buffer strips as follows:

The Zoning Board of Adjustment may allow a variance dispensing with the requirements of a planted buffer strip in the area between a fence erected on a lot in the C-1 Central Business District, C-2 Highway Commercial District, O-I Office and Institutional District, or the M-I Manufacturing District, and a developed residential area. The area where the planted buffer strip is not required, if such a variance is allowed, shall commence at a point not less than 20 feet from the street right-of-way and continue for the depth of the front yard for a residential dwelling, continue along the side of the dwelling, and then continue for the depth of the rear yard. The depths of the front and rear yards for the dwelling shall conform to dimensional requirements for the zoning district in which the dwelling has been constructed. The Zoning Board of Adjustment may dispense with the requirement of a fence beyond the rear yard of the dwelling, but, where not fence is required, there shall, nevertheless, be a planted buffer strip.

ARTICLE 12. BUFFER STRIPS AND FENCES

SECTION 12.2 DEVELOPED RESIDENTIAL AREA DEFINED *(Amended 10/8/2020)*

A developed residential area as the term is used in this Article shall be one or more lots upon which a residence or residences have been constructed or will be under construction at the time a permitted or special use commences or a subdivision consisting of one or more residential lots shown on a plat recorded in the Office of the Register of Deeds of Bertie County prior to the commencement of such use or the issuance of a permit for construction of one or more buildings or structures to be utilized for the purpose of such permitted or special use.

ARTICLE 13.
TELECOMMUNICATION FACILITIES

Section 13.1 Purpose [13-2](#)
Section 13.2 Compliance with Federal Law [13-2](#)
Section 13.3 Facilities Permitted. [13-2](#)
Section 13.4 Telecommunications Facility Plans [13-7](#)
Section 13.5 Small Wireless Facilities [13-12](#)

ARTICLE 13. TELECOMMUNICATION FACILITIES

SECTION 13.1 PURPOSE

The purpose of this Article is to set forth the requirements for planning and construction of telecommunications facilities including cellular antennas, wireless communication towers, and principal communication towers for other uses.

SECTION 13.2 COMPLIANCE WITH FEDERAL LAW *(Amended 10/8/2020)*

- (A) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and that, consistent with section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 USC § 1455(a), creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures. Therefore, it is the policy of the State and the Town of Windsor to facilitate the placement of wireless communications support structures in all areas of the Town.
- (B) The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 USC § 332 as amended, section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 USC § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.
- (C) This Article shall not be construed to authorize the Town of Windsor to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth herein. *(Amended 9/14/2017)*

SECTION 13.3 FACILITIES PERMITTED

Telecommunications facilities, including cellular antennae and wireless communications towers and facilities, are permitted subject to the following conditions:

- (A) Location. The proposed tower, antenna, and accessory structure and equipment shall be placed in a location and in a manner that will minimize the visual impact on the surrounding area. Any tower, antenna, or accessory structure shall be approved by the Planning Board and Board of Commissioners for compliance with these requirements. Accessory structures and equipment must meet applicable sections of Section 7.7.2, Note 1. To ensure the safety of the public and other existing buildings, the telecommunications site shall:
 - (1) Be a minimum of two hundred fifty (250) feet from residentially zoned property;

ARTICLE 13. TELECOMMUNICATION FACILITIES

- (2) Be located such that all supporting cables and anchors are contained within the property of the applicant.
- (B) Collocation. Approval for a proposed tower within a radius of ten thousand five hundred (10,500) feet from an existing tower or other similar structure shall not be issued unless the applicant certifies that the existing tower or structure does not meet applicant's structural specifications or technical design requirements, or that a collocation agreement could not be obtained at a reasonable market rate and in a timely manner.
- (C) Height. The height of the tower shall not exceed one hundred sixty (160) feet as measured from existing grade at its base to the highest point of the tower or antennae. An additional one hundred twenty (120) feet of height may be approved if the tower is designed to accommodate twice the applicant's antennae requirements. Telecommunications antennae or equipment mounted on a building shall meet height requirements of Article 7.
- (D) Setback. Unless otherwise stated herein, each Wireless Support Structure shall be set back from all property lines a distance equal to its engineered fall zone.
- (E) Design.
- (1) Towers shall be designed to accommodate additional antennae equal in number to the applicant's present and future requirements for the life of the tower. The color of the tower and its antennae shall be one that will blend to the greatest extent possible with the natural surroundings and shall be approved by the Planning Board.
- (2) Concealed Wireless Facilities shall be designed to accommodate the Collocation of other Antennas whenever economically and technically feasible. Antennas must be enclosed, camouflaged, screened, obscured, and otherwise not readily apparent to a casual observer.
- (3) A Monopole or Replacement Pole shall be permitted within utility easements or rights-of-way, in accordance with the following requirements:
- (a) The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.
- (b) The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height.
- (c) The height of the Monopole or Replacement Pole may not exceed by more than thirty (30) feet the height of existing utility support structures.

ARTICLE 13. TELECOMMUNICATION FACILITIES

- (d) Monopoles and the Accessory Equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.
 - (e) Single carrier Monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by subsection (c) above.
 - (f) Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to twenty (20) feet above the height of the utility tower.
- (F) Lighting and Marking. Wireless Facilities or Wireless Support Structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
- (G) Signage. Signs located at the Wireless Facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Ordinance shall prohibit signage that is approved for other uses on property on which Wireless Facilities are located (i.e., approved signage at locations on which Concealed Facilities are located).
- (H) Accessory Equipment. Accessory equipment, including any buildings, cabinets, or shelters, shall be used only to house equipment and other supplies in support of the operation of the Wireless Facility or Wireless Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.
- (I) Fencing. Ground mounted Accessory Equipment and Wireless Support Structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the UDO Administrator. This requirement may be waived by the UDO Administrator if it is deemed that a fence is not appropriate or needed at the proposed location.
- (J) Maintenance or Service Structures. One unmanned maintenance or service structure of not more than twenty (20) feet in height and four hundred (400) square feet of floor space may accompany each tower. The tower and maintenance or service structure shall not be required to comply with development standards relating to lot size, setbacks, street frontage, and subdivision regulations, so long as the principal use complies with this Article.
- (K) Existing Towers. Existing towers may be replaced or modified providing that the existing height is not exceeded by more than twenty (20) feet and the new or modified tower meets all of the requirements of this Article except setback provisions.

ARTICLE 13. TELECOMMUNICATION FACILITIES

- (L) Replacement of Towers. Those towers that are located prior to May 12, 2011, in the districts as defined by Section 7.6 can be replaced to their current height if completely destroyed by natural causes and only if the applicant presents engineering data to the Planning Board and Board of Commissioners that the replacement poses no threat to the surrounding property owners.
- (M) Non-Conforming Towers. All non-conforming transmission towers existing as of the effective date of this Ordinance may be replaced if damaged by no more than fifty percent (50%). Those towers that are located prior to May 12, 2011, in the districts as defined by Section 7.6 can be replaced to their current height if completely destroyed by natural causes and only if the applicant presents engineering data to the Planning Board and Board of Commissioners that the replacement poses no threat to the surrounding property owners (refer to Article 5.3).
- (N) Leases of Property by the Town of Windsor for Communication Towers. *(Amended 10/8/2015)*
- (1) Any property owned by the town may be leased or rented for such terms and upon such conditions as the Board of Commissioners may determine, but not for longer than 10 years (except as otherwise provided in subsection (4) of this section) and only if the Board of Commissioners determines that the property will not be needed by the town for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included.
 - (2) Property may be rented or leased only pursuant to a resolution of the Board of Commissioners authorizing the execution of the lease or rental agreement adopted at a regular Board of Commissioners meeting upon 30 days public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the Board's intent to authorize the lease or rental at its next regular meeting.
 - (3) No public notice as required by subsection (2) of this section need be given for resolutions authorizing leases or rentals for terms of one year or less, and the Board of Commissioners may delegate to the Town Manager or some other town administrative officer authority to lease or rent town property for terms of one year or less.
 - (4) Leases for terms of more than 10 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.

ARTICLE 13. TELECOMMUNICATION FACILITIES

- (5) Notwithstanding subsection (4) of this section, the Board of Commissioners may approve a lease without treating that lease as a sale of property for any of the following reasons:
- (a) For the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to 25 years.
 - (b) For the siting and operation of a tower, as that term is defined in G.S. 146-29.2(a)(7), for communication purposes for a term up to 25 years.
- (O) Miscellaneous Provisions.
- (1) Abandonment and Removal. If a Wireless Support Structure is abandoned, and it remains abandoned for a period in excess of twelve (12) consecutive months, the Town of Windsor may require that such Wireless Support Structure be removed only after first providing written notice to the owner of the Wireless Support Structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the Wireless Support Structure within sixty (60) days of receipt of said written notice. In the event the owner of the Wireless Support Structure fails to reclaim the Wireless Support Structure within the sixty (60) day period, the owner of the Wireless Support Structure shall be required to remove the same within six (6) months thereafter. The Town of Windsor shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.
 - (2) Multiple Uses on a Single Parcel or Lot. Wireless Facilities and Wireless Support Structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

ARTICLE 13. TELECOMMUNICATION FACILITIES

SECTION 13.4 TELECOMMUNICATIONS FACILITY PLANS

(A) Approvals Required for Wireless Facilities and Wireless Support Structures.

- (1) Administrative Review and Approval. The following types of applications are subject to the review process as provided in Article 6. No other type of zoning or site plan review is necessary.
 - (a) Monopoles or Replacement Poles located on public property or within utility easements or rights-of-way, in any zoning district.
 - (b) COWs, in any zoning district, if the use of the COW is either not in response to a declaration of an emergency or disaster by the Governor, or will last in excess of one hundred twenty (120) days.
 - (c) Substantial modifications.
 - (d) Collocations.
- (2) Special Use Permit. Any application for Wireless Facilities and/or Wireless Support Structures not subject to Administrative Review and Approval pursuant to this Ordinance shall be permitted in any district upon the granting of a Special Use Permit in accordance with the standards for granting Special Use Permits set forth in Section 6.9. *(Amended 10/8/2020)*
- (3) Exempt from All Approval Processes. The following are exempt from all Town of Windsor UDO approval processes and requirements:
 - (a) Removal or replacement of transmission equipment on an existing wireless tower or base station that does not result in a substantial modification as defined in this Ordinance.
 - (b) Ordinary Maintenance of existing Wireless Facilities and Wireless Support Structures, as defined in this Ordinance. Nothing in this section requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities.
 - (c) Wireless Facilities placed on Utility Poles.

ARTICLE 13. TELECOMMUNICATION FACILITIES

- (d) COWs placed for a period of not more than one hundred twenty (120) days at any location within the Town of Windsor or after a declaration of an emergency or a disaster by the Governor.

(B) Administrative Review and Approval Process.

- (1) Content of Application Package. All Administrative Review application packages must contain the following in addition to those requirements outlined in Article 6:
 - (a) A fee determined by the Town's Fee Schedule.
 - (b) A written narrative of the development plan.
 - (c) Documentation that collocation on existing towers or structures within a radius of ten thousand five hundred (10,500) feet was attempted by the applicant, but found unfeasible with reasons noted.
 - (d) A notarized affidavit that states the applicant's willingness to allow location on the proposed tower, at a fair market price and in a timely manner, of any other service provided licensed by the Federal Communications Commission (FCC) for Major Trading Area 6 (Charlotte-Greensboro-Greenville-Raleigh).
 - (e) For collocations and substantial modifications, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas.
 - (f) For substantial modifications, drawings depicting the improvements along with their dimensions.
- (2) Approval Schedule. Within forty-five (45) days of the receipt of a complete application for a Collocation, a Monopole or Replacement Pole, a Non-Exempt COW, or a Substantial Modification, the UDO Administrator will:
 - (a) Review the application for conformity with this Ordinance (see Section 13.4 (D)). An application under this section is deemed to be complete unless the UDO Administrator provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The UDO Administrator may deem an application incomplete if

ARTICLE 13. TELECOMMUNICATION FACILITIES

there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, state, and local safety requirements. The UDO Administrator may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

- (b) Issue a written decision approval on an eligible facilities request application within forty-five (45) days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the UDO Administrator shall issue its written decision to approve or deny the application within forty-five (45) days of the application being deemed complete.
- (C) Special Use Permit Process. Any Wireless Facility or Wireless Support Structures not meeting the requirements of Section (A)(1) and (A)(3) above, may be permitted in all zoning districts upon the granting of a Special Use Permit, subject to the requirements of Section 6.10. *(Amended 10/8/2020)*
 - (1) Content of Special Use Permit Application Package. All special use permit application packages must contain the following in addition to those requirements contained in Sections 6.10 and 6.11. *(Amended 10/8/2020)*
 - (a) A fee determined by the Town's Fee Schedule.
 - (b) A written narrative of the development plan.
 - (c) The impact on the environment (trees, run-off, waste disposal, emissions, historic property impact, and impact on other properties).
 - (d) Documentation that collocation on existing towers or structures within a radius of ten thousand five hundred (10,500) feet was attempted by the applicant, but found unfeasible with reasons noted.
 - (e) A site plan and landscaping plan at a scale of one inch equals forty (40) feet by a North Carolina registered surveyor, showing location of all existing property lines and improvements within a five hundred (500) foot radius and any proposed tower, antenna, accessory structure, or equipment, and how the applicant proposes to screen any service structure, accessory structure, or equipment from view. Indigenous vegetation shall be used in all

ARTICLE 13. TELECOMMUNICATION FACILITIES

plantings. A permanent maintenance plan shall be provided for the plantings. In addition, the site plan must include a list of adjacent property owners and their addresses, zoning district, and the names of developer(s) and owner(s).

- (f) Copies of all county, state, and federal permits with the application building permit where prior local approval is not required.
 - (g) Elevation drawings of all towers, antennas, and accessory structures and equipment, indicating height, design, and colors.
 - (h) Certification that all antenna and equipment comply with FCC regulations for radio frequency radiation and all towers, antennae, and equipment meet Federal Aviation Administration (FAA) aviation and navigation requirements.
 - (i) A copy of approved National Environmental Policy Act of 1969 (NEPA) compliance report for all towers, antennae, accessory structures, or equipment proposed for the proposed site.
 - (j) Documentation signed and sealed by a North Carolina registered engineer that indicates any proposed tower meets the structural requirements of the Standard Building Code and the collocation requirements of this Article.
 - (k) Proof of liability insurance or financial ability to respond to claims up to \$1,000,000 (escalated each year by the Consumer Price Index) in the aggregate which may arise from operation of the facility during its life, at no cost to the Town of Windsor, in a form approved by the Town Attorney.
 - (l) Appropriate approvals, certifications, or recommendations required to allow review of approval criteria such as sight line analysis, aerial photographs, or other such tests as determined by the Administrator.
- (2) Approval Schedule. Within one hundred fifty (150) calendar days of the receipt of an application under this section, the Board of Commissioners upon recommendation of the Planning Board will:
- (a) Complete the process for reviewing the application for conformity with this Ordinance (see Section 13.4 (D)). An application under this section is deemed to be complete unless the UDO Administrator notifies the applicant in writing, within thirty (30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the

ARTICLE 13. TELECOMMUNICATION FACILITIES

application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take thirty (30) calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within thirty (30) calendar days, the application shall be reviewed and processed within one hundred fifty (150) calendar days from the initial date the application was received. If the applicant requires a period of time beyond thirty (30) calendar days to cure the specific deficiencies, the one hundred fifty (150) calendar days deadline for review shall be extended by the same period of time.

- (b) Make a final decision to approve or disapprove the application.
- (c) Advise the applicant in writing of its final decision. If the Board of Commissioners denies an application, it must provide written justification of the denial.
- (d) Failure to issue a written decision within one hundred fifty (150) calendar days shall constitute an approval of the application.

(D) Application Review.

- (1) The review of an application for the placement or construction of a new wireless support structure or substantial modification of a wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the Town may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. The Town may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. The Town may not require proprietary, confidential, or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the Town may review the following:
 - (a) Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

ARTICLE 13. TELECOMMUNICATION FACILITIES

- (b) Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new wireless support structure, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new wireless support structure or initial wireless facility placement or a proposed height increase of a substantially modified wireless support structure, or replacement wireless support structure is necessary to provide the applicant's designed service.
 - (c) The Town may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value. The Town may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.
- (2) The Town may engage a third-party consultant for technical consultation and review of applications. The fee imposed by the Town for the review of an application may not be used for either of the following:
- (a) Travel expenses incurred in a third-party's review of an application.
 - (b) Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement.

SECTION 13.5 SMALL WIRELESS FACILITIES *(Amended 9/14/2017)*

(A) Applicability.

- (1) The Town of Windsor shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any stadium or athletic facility. This subsection does not apply to a stadium or athletic facility owned or otherwise controlled by the Town. This subsection does not prohibit the enforcement of applicable codes.

ARTICLE 13. TELECOMMUNICATION FACILITIES

- (2) Nothing contained in this Article shall amend, modify, or otherwise affect any easement between private parties. Any and all rights for the use of a right-of-way are subject to the rights granted pursuant to an easement between private parties.
 - (3) Except as provided in this Article or otherwise specifically authorized by the General Statutes, the Town of Windsor may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way of State-maintained highways or Town rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or Town rights-of-way and may not regulate any communications services.
 - (4) Except as provided in this Article or specifically authorized by the General Statutes, the Town may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.
 - (5) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Article does not authorize the provision of any communications services or the installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility, in the right-of-way.
- (B) Permitting Process.
- (1) Small wireless facilities that meet the height requirements of Section 13.5(C)(1)(b) shall only be subject to administrative review and approval under subsection 13.5(B)(2) of this section if they are collocated (i) in a Town right-of-way within any zoning district or (ii) outside of Town rights-of-way on property other than single-family residential property.
 - (2) The Town of Windsor shall require an applicant to obtain a permit to collocate a small wireless facility. The Town shall receive applications for, process, and issue such permits subject to the following requirements:
 - (a) The Town may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. For purposes of this subdivision, "services unrelated to the collocation," includes in-kind contributions to the Town such as the reservation of fiber, conduit, or pole space for the Town.
 - (b) The wireless provider completes an application as specified in form and content by the Town. A wireless provider shall not be required to provide

ARTICLE 13. TELECOMMUNICATION FACILITIES

more information to obtain a permit than communications service providers that are not wireless providers.

- (c) A permit application shall be deemed complete unless the Town provides notice otherwise in writing to the applicant within thirty (30) days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.
- (d) The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the Town fails to approve or deny the application within forty-five (45) days from the time the application is deemed complete or a mutually agreed upon time frame between the Town and the applicant.
- (e) The Town may deny an application only on the basis that it does not meet any of the following: (i) the Town's applicable codes, (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment; or (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way. The Town must (i) document the basis for a denial, including the specific code provisions on which the denial was based and (ii) send the documentation to the applicant on or before the day the Town denies an application. The applicant may cure the deficiencies identified by the Town and resubmit the application within 30 days of the denial without paying an additional application fee. The Town shall approve or deny the revised application within 30 days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.
- (f) An application must include an attestation that the small wireless facilities shall be collocated on the utility pole, Town utility pole, or wireless support structure and that the small wireless facilities shall be activated for use by wireless services provider to provide service no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

ARTICLE 13. TELECOMMUNICATION FACILITIES

- (g) An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of the Town shall be allowed at the applicant discretion to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. The Town may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The Town may issue a separate permit for each collocation that is approved.
 - (h) The permit shall specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
- (3) The Town may charge an application fee that shall not exceed the lesser of (i) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities; (ii) the amount charged by the Town for permitting of any similar activity, or (iii) one hundred dollars (\$100.00) per facility for the first five small wireless facilities addressed in an application, plus fifty dollars (\$50.00) for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the Town has the burden of proving that the fee meets the requirements of this subsection.
- (4) The Town may impose a technical consulting fee for each application, not to exceed five hundred dollars (\$500.00), to offset the cost of reviewing and processing applications required by this section. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. The Town may engage an outside consultant for technical consultation and the review of an application. The fee imposed by the Town for the review of the application shall not be used for either of the following:
- (a) Travel expenses incurred in the review of a collocation application by an outside consultant or other third party.
 - (b) Direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement.

In any dispute concerning the appropriateness of a fee, the Town has the burden of proving that the fee meets the requirements of this subsection.

ARTICLE 13. TELECOMMUNICATION FACILITIES

- (5) The Town shall require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the Town shall cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the Town reasonable evidence that it is diligently working to place such wireless facility back in service.
 - (6) The Town shall not require an application or permit or charge fees for (i) routine maintenance; (ii) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller; or (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or Town utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the Town rights-of-way and who is remitting taxes under NCGS 105-164.4(a)(4c) or NCGS 105-164.4(a)(6).
 - (7) Nothing in this section shall prevent a Town from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the Town right-of-way.
- (C) Use of Town of Windsor Public Right-of-Way.
- (1) The Town shall not enter into an exclusive arrangement with any person for use of Town rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities.
 - (2) Subject to the requirements of Section 13.5(B), a wireless provider may collocate small wireless facilities along, across, upon, or under any Town right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, Town utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any Town right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and Town utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any Town right-of-way shall

ARTICLE 13. TELECOMMUNICATION FACILITIES

be subject only to review or approval under Section 13.5(B)(2) if the wireless provider meets all the following requirements:

- (a) Each new utility pole and each modified or replacement utility pole or Town utility pole installed in the right-of-way shall not exceed 50 feet above ground level.
- (b) Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, Town utility pole, or wireless support structure on which it is collocated.
- (3) In no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, Town utility pole, or wireless support structure exceed forty (40) feet above ground level, unless the Town grants a waiver or variance approving a taller utility pole, Town utility pole, or wireless support structure.
- (4) The Town may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider. The right-of-way charge shall not exceed \$50.00 per year.
- (5) Nothing in this section is intended to authorize a person to place, maintain, modify, operate, or replace a privately-owned utility pole or wireless support structure or to collocate small wireless facilities on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.
- (6) The Town shall require a wireless provider to repair all damage to a Town right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, Town utility poles, or utility poles and to return the right-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the Town within a reasonable time after written notice, the Town may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The Town shall maintain an action to recover the costs of the repairs.
- (7) A wireless provider may apply to the Town to place utility poles in the Town rights-of-way, or to replace or modify utility poles or Town utility poles in the public rights-of-way, to support the collocation of small wireless facilities. The Town shall accept and process the application in accordance with the provisions of Section

ARTICLE 13. TELECOMMUNICATION FACILITIES

13.5(B)(2), applicable codes, and other local codes governing the placement of utility poles or Town utility poles in the Town rights-of-way, including provisions or regulations that concern public safety, objective design standards for decorative utility poles or Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including those relating to screening or landscaping, or public safety and reasonable spacing requirements. The application may be submitted in conjunction with the associated small wireless facility application.

(D) Access to Town Utility Poles to Install Small Wireless Facilities.

- (1) The Town may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on Town utility poles. The Town shall allow any wireless provider to collocate small wireless facilities on its Town utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars (\$50.00) per Town utility pole per year.
- (2) A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the Town to be reimbursed by the wireless provider. In granting a request under this section, the Town shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.
- (3) Following receipt of the first request from a wireless provider to collocate on a Town utility pole, the Town shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the Town utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.
- (4) In any controversy concerning the appropriateness of a rate for a collocation attachment to a Town utility pole, the Town has the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period.
- (5) The Town shall provide a good-faith estimate for any make-ready work necessary to enable the Town utility pole to support the requested collocation, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For

ARTICLE 13. TELECOMMUNICATION FACILITIES

purposes of this section, the term "make-ready work" means any modification or replacement of a Town utility pole necessary for the Town utility pole to support a small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.

- (6) The Town shall not require more make-ready work than that required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultant fees or expenses.
- (7) Nothing in this Part shall be construed to apply to an entity whose poles, ducts, and conduits are subject to regulation under Section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended, or under NCGS 62-350.
- (8) This section shall not apply to an excluded entity. Nothing in this section shall be construed to affect the authority of an excluded entity to deny, limit, restrict, or determine the rates, fees, terms, and conditions for the use of or attachment to its utility poles, Town utility poles, or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of NCGS 62-350, and the rates, terms, or conditions for the use of poles, ducts, or conduits by communications service providers, as defined in NCGS 62-350, are governed solely by NCGS 62-350. For purposes of this section, "excluded entity" means (i) a Town that owns or operates a public enterprise pursuant to Article 16 of this Chapter consisting of an electric power generation, transmission, or distribution system or (ii) an electric membership corporation organized under Chapter 117 of the General Statutes that owns or controls poles, ducts, or conduits, but which is exempt from regulation under Section 224 of the Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended.

ARTICLE 14.

ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

Section 14.1	Purpose	14-2
Section 14.2	Application for Licenses	14-2
Section 14.3	Application Procedures	14-4
Section 14.4	Prohibited Acts and Conduct	14-10
Section 14.5	License, Posting and Display	14-11
Section 14.6	Inspections	14-11
Section 14.7	Suspension or Revocation of Licenses	14-12
Section 14.8	License Renewal	14-13
Section 14.9	Transfer of License	14-14
Section 14.10	Locational Restrictions	14-14
Section 14.11	Nonconforming Uses	14-15
Section 14.12	Additional Regulations for Adult Motels.	14-15
Section 14.13	Additional Regulations for Escort Agencies	14-16
Section 14.14	Additional Regulations for Nude Model Studios	14-16
Section 14.15	Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos, and Live Performances	14-16
Section 14.16	Exterior Portions of Sexually Oriented Businesses	14-18
Section 14.17	Signage.	14-19
Section 14.18	Parking	14-20
Section 14.19	Massages or Baths Administered by a Person of the Opposite Sex.	14-20
Section 14.20	Hours of Operation.	14-20
Section 14.21	Exemptions	14-21
Section 14.22	Notices	14-21

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

SECTION 14.1 PURPOSE

The purpose of this Article shall be to set forth the regulatory and licensing requirements for adult and sexually oriented establishments located within the Town of Windsor. Adult and sexually oriented establishments, because of their very nature, are recognized as having serious objectionable operational characteristics. Studies and experiences that are relevant to North Carolina have shown that lower property values and increased crime rates tend to accompany and are brought about by adult and sexually oriented business establishments. The Board of Commissioners finds that regulation of these uses is necessary to ensure that these adverse secondary effects do not contribute to the blighting of surrounding neighborhoods, and to regulate acts, omissions, or conditions detrimental to the health, safety, or welfare and the peace and dignity of the Town. Regulation to achieve these purposes can be accomplished by the procedures set forth hereinafter.

The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. This Article represents a balancing of the legitimate ends of the community by imposing an incidental, content neutral place, time, and manner regulation of sexually oriented businesses, without limiting alternative avenues of communication and at the same time, requiring the business to carry its share of financing administrative and enforcement activities.

SECTION 14.2 APPLICATION FOR LICENSES

(A) Adult Establishment License.

- (1) It shall be unlawful for any person to operate or maintain an adult establishment in the Town unless the owner or operator thereof has obtained an Adult Establishment License from the Town. It shall also be unlawful for any person to operate such business after such license has been revoked or suspended by the Town, or said license has expired.
- (2) It shall be unlawful for any entertainer to knowingly perform any work, service, or entertainment directly related to the operation of an unlicensed adult establishment within the Town.

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

- (3) It shall be prima facie evidence that any adult establishment that fails to have posted, in a manner required by this Article, an adult establishment license, or has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer who performs any service or entertainment in which an adult establishment license is not posted, in the manner required by this Article, had knowledge that such business was not licensed.
- (B) Entertainer License. It shall be unlawful for any person to work as an entertainer at an adult establishment without first obtaining a license to do so from the Town, or to work as an entertainer at an adult establishment after such person's license to do so has been revoked or suspended by the Town, or has expired.
- (C) License Classification and Fees.
- (1) The term of all licenses required under this Article shall be for a period of twelve (12) months, commencing on the date of issuance of the license. The application for a license shall be accompanied by payment in full of the fees referred to in this Article and established by the Board of Commissioners. Payment shall be made by certified or cashier's check or money order. No application shall be considered complete until all such fees are paid.
- (2) The license shall be issued for a specific location and/or person and shall be non-refundable or non-transferable.
- (3) The license fees shall be as set by the Board of Commissioners and be recorded in the Board of Commissioners Meeting Minutes at which they are set. The license fee for an adult establishment shall be one thousand (1,000) dollars per year. Additionally, there shall be an additional five hundred (500) dollar fee for each additional partner, if the applicant is a partnership; and if the applicant is a corporation, for each corporate officer, director, or any individual(s) having a ten percent (10%) or greater interest in the corporation.
- (4) The license fee for an adult entertainer license shall be five hundred (500) dollars per year.
- (5) Said license fees shall be listed on the official Schedule of Fees for the Town.

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

SECTION 14.3 APPLICATION PROCEDURES

- (A) Adult Establishment License. All persons desiring to secure a license to conduct, operate, or maintain an adult establishment under the provisions of this Article shall make a verified application to the Administrator. All applications shall require the following information and be submitted on a form supplied by the Town:
- (1) The applicant's full name and any aliases or other names by which the applicant is known or which the applicant has used at any time, and the residence address(es) for the past two years, the business and home telephone numbers, occupation, date and place of birth, social security number, driver's license number, and a recent photograph of the applicant.
 - (2)
 - (a) The name of the adult establishment, a full description of the adult entertainment to be performed on the licensed premises, the name of the owner of the premises where the adult establishment will be located, the business address and Bertie County parcel identification number on which the business resides.
 - (b) If the persons identified as the fee owner(s) of the tract of land in item 2(a) is/are not also the owner(s) of the establishment, then the lease, purchase contract, purchase option contract, lease option contract, or other document(s) evidencing the legally enforceable right of the owners or proposed owners of the adult establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the purpose of the operation of an adult establishment.
 - (c) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within one thousand (1,000) feet of the property to be certified; the property lines of any established religious institution/synagogue, school, library, or public park or recreation area within one thousand (1,000) feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
 - (d) Any of the criteria above shall not be required for a renewal application if the applicant states, in writing, that the documents previously furnished to the

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

Town with the original application or previous renewals thereof remain correct and current.

- (3) The names, residence address(es) for the past two years, social security numbers, and dates of birth of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same information for all corporate officers, directors, and individuals having a ten percent (10%) or greater interest in the corporation.
- (4) A written statement from the applicant, or from partner, or from each corporate officer, director, or ten percent (10%) or greater shareholder, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
 - (a) A felony criminal act within five (5) years immediately preceding the application, or
 - (b) A misdemeanor criminal act within two (2) years immediately preceding the application.

Where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the laws of the State of North Carolina or any other comparable violation of the laws of this state or the laws of any other state.

- (5) If the applicant is a corporation, a current certificate of existence issued by the State of North Carolina Secretary of State.
- (6) A written statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this Article regulating adult establishments.
- (7) All applicants shall submit to fingerprinting by a Town of Windsor Police Officer. The fingerprint cards shall be submitted to the North Carolina State Bureau of Investigation (SBI) for processing. Returned fingerprint cards and criminal histories shall be kept on file in the Town of Windsor Police Department.
- (8) A written statement signed under oath that the applicant(s) consent(s) to investigation of his/her background by the Town to include fingerprinting and that

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

the applicant(s) agrees to furnish within ten (10) days at his/her expense, a criminal history from the Clerk of Court of any county in which the applicant has resided during the five (5) preceding years.

- (9) Failure to provide the information and documentation required by this subsection shall constitute an incomplete application which shall not be processed until complete.
- (B) Adult Entertainer License. All persons desiring to secure a license under the provisions of this Article to be an entertainer shall make a verified application to the Town. All applications shall be made in person to the Administrator. All applications shall be submitted on a form supplied by the Town and shall require the following information:
- (1) The applicant's full name and any aliases or other names by which the applicant is known or which the applicant has used at any time, and the residence address(es) for the past two (2) years, the home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining.
 - (2) The name and address of the adult establishment where the applicant intends to work as an entertainer.
 - (3) A written statement from the applicant that the applicant has not been convicted of, released from confinement for conviction of, or diverted from prosecution of either:
 - (a) A felony criminal act within five (5) years immediately preceding the application, or
 - (b) A misdemeanor criminal act within two (2) years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the laws of the State of North Carolina or any other comparable violation of the laws of this state or the laws of any other state.
 - (4) Photographs shall be taken of the applicant by the Town, and the Administrator charged with the administration and enforcement of the provision of this Article shall have the photographs processed and retain the copies.

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

- (5) All applicants shall submit to fingerprinting by a Town of Windsor Police Officer. The fingerprint cards shall be submitted to the SBI for processing. Returned fingerprint cards and criminal histories shall be kept on file in the Town of Windsor Police Department.
 - (6) The applicant shall present, at the time the application is made documentation to the Town for copying that the applicant has attained the age of twenty-one (21) years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
 - (a) A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
 - (b) A state issued identification card bearing the applicant's photograph and date of birth;
 - (c) An official and valid passport issued by the United States of America;
 - (d) An immigration card issued by the United States of America (if applicable);
 - (e) Any other form of picture identification issued by a governmental entity that is deemed reliable by the Town; or
 - (f) Any other form of identification deemed reliable by the Town.
 - (7) A written statement signed under oath that the applicant consents to investigation of his/her background by the Town to include fingerprinting and that the applicant agrees to furnish within ten (10) days at his/her expense, a criminal history from the Clerk of Court of any county in which the applicant has resided during the five (5) preceding years.
 - (8) Failure to provide the information required by this subsection shall constitute an incomplete application and it shall not be processed until complete.
- (C) Application Processing. Upon receipt of a complete application for an Adult Business License or for an adult entertainer license, the Administrator shall immediately commence investigation of the application as follows:

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

- (1) In the case of an application for a license for an adult establishment, the Administrator shall:
 - (a) Transmit a copy of the application to the Board of Commissioners, the Planning Board, the Police Chief, the Fire Chief, and the Town Administrator.
 - (b) The Administrator shall notify the applicant within fifteen (15) working days after the receipt of the application by the Administrator whether or not a proposed adult establishment complies with the requirements of the Town's Unified Development Ordinance regarding location of the adult establishment building, fire, health, or similar State or local code(s).
 - (c) The Planning Board shall review the application to confirm compliance with Articles 6 and 14. If the Planning Board confirms compliance, then they may make recommendation to the Board of Commissioners that a Special Use shall be granted. The findings of the Planning Board shall be transmitted to the Board of Commissioners within thirty (30) working days of receipt of the application by the Planning Board. *(Amended 10/8/2020)*
 - (d) The Police Chief shall report to the Administrator no later than fifteen (15) working days after receipt of the application by the Police Chief the results of his/her investigation of the applicant.
 - (e) The Fire Chief shall report to the Administrator no later than fifteen (15) working days after receipt of the application by the Fire Chief the results of his/her investigation of the applicant.
 - (f) The Town Administrator shall maintain said copy of the application for public review. Notice of availability of said application shall be posted in a paper of general circulation indicating the following:
 - (1) Name of applicant
 - (2) Date of application
 - (3) Nature of application
- (f) Upon completion of the Administrator's investigation, payment of the applicable license fee, and upon receipt of the report of the Fire Chief, the Police Chief, and the Planning Board, the Board of Commissioners shall determine whether or not a license shall be issued. In no event shall the

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

time period for determination by the Board of Commissioners exceed forty-five (45) working days from the date the application is received by the Administrator, unless consented to by the applicant.

- (2) In the case of an application for a license for an entertainer, the Administrator shall:
 - (a) Transmit a copy of the application to the Police Chief.
 - (b) The Police Chief shall report to the Administrator no later than fifteen (15) working days after receipt of the application by the Police Chief the results of his/her investigation of the applicant.
 - (c) Upon completion of his/her investigation, payment of the appropriate license, and upon receipt of the report of the Police Chief, the Administrator shall determine whether or not a license shall be issued.

- (D) Reasons for Disapproval. The Administrator must deny the Adult Business License application if one or more of the following applies:
 - (1) The license application is incomplete. (All information required by the Article is not submitted).
 - (2) The applicant (including any partners, corporate officers, directors, and shareholders where applicable) has been convicted of a crime in the local, state, or federal court systems for any violations listed in this section.
 - (3) The applicant (including any partners, corporate officers, directors, and shareholders where applicable) has made a false or fraudulent statement in the application, evidence of which is disclosed by a Town background investigation or by any other lawful means.
 - (4) The application for an adult establishment business license does not meet the requirements of this Article.
 - (5) The applicant for an adult establishment has not received a Special Use Permit from the Board of Commissioners. *(Amended 10/8/2020)*

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

- (E) Notice of Approval or Disapproval.
- (1) Upon a determination by the Administrator of the disapproval or approval of the application, the Administrator shall notify the applicant by personal delivery or certified mail, return receipt requested, to the address of the applicant as shown on the application. In the event that the application is disapproved, the notification shall state the basis for such disapproval.
 - (2) In the event an application is disapproved, the applicant shall have thirty (30) days from the receipt of the notice of disapproval to appeal that determination to the Superior Court of Bertie County.
- (F) Changes to Application. All applicants shall notify the Administrator of any changes to the application within five (5) working days of the date the change occurs.

SECTION 14.4 PROHIBITED ACTS AND CONDUCT

- (A) No person under the age of twenty-one (21) years shall be permitted on the premises of any adult establishment.
- (B) No person under the age of twenty-one (21) years shall be granted a license for an Adult Establishment Business or as an entertainer.
- (C) No owner, operator, manager, employee, or entertainer, nor any customer or patron, shall appear "bottomless" or in a state of nudity while on the premises of the adult establishment.
- (D) No owner, operator, manager, employee, or entertainer, nor any customer or patron shall perform any specified sexual activities as defined in this Article, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial device or inanimate object to perform or depict any of the specified sexual activities, as defined in this Article, or participate in any act of prostitution while on the premises of the adult establishment.
- (E) No owner, operator, manager, employee, entertainer, customer, or patron of an adult establishment shall knowingly touch, fondle, or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle, or caress any specified anatomical area of his or hers, whether such specified anatomical areas are clothed, unclothed, covered, or exposed, while on the premises of the adult establishment.

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

- (F) There shall be a minimum separation of six (6) feet between any entertainer or performer and any patron or customer.
- (G) No owner, operator, manager, or employee shall mix, dispense, or serve any alcoholic beverage while in a state of nudity or semi-nudity.
- (H) No owner, operator, manager, or employee shall solicit, receive, or accept nor shall any customer or patron give, offer, or provide any gratuity, tip, payment, or any other form of compensation for entertainment for or while either or both is/are in a state of nudity or semi-nudity. This also pertains to the purchase of an unrelated item that includes a "free" dance, act, or service.
- (I) No owner, operator, manager, or other person in charge of the premises of an adult establishment premises shall knowingly allow or permit any person under the age of twenty-one (21) years of age to be in or upon the premises or knowingly allow or permit a violation of this Ordinance.

SECTION 14.5 LICENSE, POSTING AND DISPLAY

- (A) Every person, corporation, or partnership licensed under this Article as an adult establishment shall post such license in a conspicuous place and manner on the adult establishment premises.
- (B) Every person holding a license as an entertainer shall post his/her license in his or her work area on the adult establishment premises so it shall be readily available for inspection by the Town authorities responsible for enforcement of this Article.

SECTION 14.6 INSPECTIONS

- (A) All adult establishments shall permit representatives of the Police, Fire, Zoning, or other Town or state departments or agencies acting in their official capacity, to inspect the premises as necessary to ensure that the business is complying with all applicable regulations and laws.
- (B) The owner or operator of an adult establishment shall provide, on the first work day of each month, a comprehensive written list of all employees of said adult establishment to include any and all entertainers working on the premises to the Administrator for inspection.

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

SECTION 14.7 SUSPENSION OR REVOCATION OF LICENSES

- (A) The Administrator may temporarily suspend a license pending a public hearing. The Administrator shall conduct a hearing to determine whether or not a license should be suspended or revoked, with the hearing conducted within ten (10) working days of his/her knowledge that:
- (1) The owner or operator of an adult establishment or the holder of a license as an entertainer has violated, or knowingly allowed or permitted the violation of any of the provisions of this Article; or
 - (2) There have been recurring violations of provisions of this Article that have occurred under such circumstances that the owner or operator of an adult establishment knew or should have known that such violations were committed; or
 - (3) The license was obtained from false statements in the application for such license, or renewal thereof; or
 - (4) The license has been materially altered or defaced or is being or was used by a person other than the license holder or at a location other than that identified on the license or for a use or type other than that for which the license was issued; or
 - (5) The licensee failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or
 - (6) The owner or operator, or any partner, or any corporate officer or director holding an adult establishment license has become disqualified from having a license by a conviction as provided in this Article; or
 - (7) The holder of an entertainer license has become disqualified from having a license by a conviction as provided in this Article; or
 - (8) The owner or operator of the adult establishment fails to provide to the Administrator a comprehensive written list of all employees to include any and all entertainers working on the premises on the first working day of any given month.
- (B) At the hearing, the licensee shall have an opportunity to be heard, to present evidence, and to be represented by an attorney. Based on the evidence produced at the hearing, the

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

Administrator shall take, within five (5) working days after the hearing, any of the following actions:

- (1) Suspend the license for up to ninety (90) days; or
 - (2) Revoke the license; or
 - (3) Place the license holder on administrative probation for a period of up to one (1) year, on the condition that no further violations of this Article occur during the period of probation; or
 - (4) Take no action.
- (C) The Administrator shall provide written notice of his/her decision to the applicant by certified mail, return receipt requested. The notice shall be sent immediately after the Administrator determines what action to take, as described herein.
- (D) In the event of suspension or revocation of the license or the placement on administrative probation, the licensee shall have the right to appeal that determination to the Superior Court of Bertie County within thirty (30) days of receipt of the notice of suspension, revocation, or probation.

SECTION 14.8 LICENSE RENEWAL

- (A) A license may be renewed by making application to the Administrator on application forms provided for that purpose. Any license issued under this Article shall expire at the end of the twelve (12) month period from the date of its issuance, and renewal applications for such licenses shall be submitted no sooner than forty-five (45) days prior to expiration and no later than the Town business day immediately preceding the date of expiration of the license.
- (B) Upon timely and proper application for renewal and the payment in full of the license fee, the Administrator shall issue to the applicant a receipt showing the date of the renewal application and granting to the applicant a temporary extension of the license for a period of forty-five (45) days or until the application for renewal is approved or disapproved. Any license issued under the provisions of this Article may be renewed by issuance of a new license for an additional twelve (12) month period. All applications for renewal of license shall be processed in the manner provided for the issuance of the initial license as set forth within this Article.

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

SECTION 14.9 TRANSFER OF LICENSE

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

SECTION 14.10 LOCATIONAL RESTRICTIONS

Sexually oriented businesses may be permitted as a Special Use in a M-I zoning district provided that: *(Amended 10/8/2020)*

- (A) The sexually oriented business may not be located or operated within one thousand (1,000) feet of:
 - (1) A church, synagogue, or regular place of worship;
 - (2) A public or private elementary or secondary school;
 - (3) A public library;
 - (4) A boundary of any residential district;
 - (5) A publicly owned park, beach, beach access, or other recreation area or facility;
 - (6) A licensed day care center;
 - (7) An entertainment business that is oriented primarily towards children;
 - (8) Another sexually oriented business.

- (B) For the purpose of this Article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is to be conducted, to the nearest property line of the premises of any use listed in (A) above.

- (C) No more than one (1) adult or sexually oriented business establishment or massage business shall be located in the same building or structure or on the same lot. No person shall permit any building, premises, structure, or other facility that contains any adult establishment to contain any other kind of adult establishment. No person shall permit any building, premises, structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained to contain any adult establishment.

- (D) Adult and sexually oriented businesses shall be located as special use within the M-I Zoning district. *(Amended 10/8/2020)*

- (E) All minimum lot requirements and regulations of the M-I Zoning District shall be met.

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

- (F) No person shall permit any viewing booth in an adult mini motion picture theater to be occupied by more than one person at any time.

SECTION 14.11 NONCONFORMING USES

- (A) Any business lawfully operating on the effective date of this Ordinance that is in violation of the location and structural configuration requirements of this Ordinance shall be deemed a nonconforming use. The nonconforming requirements of this Ordinance shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operating at a particular location is the conforming use and the later established business(es) is nonconforming.
- (B) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, and does not apply when an application for a business license is submitted after a business license has expired or has been revoked.

SECTION 14.12 ADDITIONAL REGULATIONS FOR ADULT MOTELS

- (A) Evidence that a sleeping room in a hotel, motel, or similar commercial enterprise has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttal presumption that the enterprise is an adult motel as that term is defined in this Ordinance.
- (B) It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.
- (C) For the purpose of this Article, the terms "rent" and "subrent" mean the act of permitting a room to be occupied for any form of consideration.

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

SECTION 14.13 ADDITIONAL REGULATIONS FOR ESCORT AGENCIES

- (A) An escort agency shall not employ any person under the age of twenty-one (21) years.
- (B) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of twenty-one (21) years.

SECTION 14.14 ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS

- (A) A nude model studio shall not employ any person under the age of twenty-one (21) years.
- (B) A person under the age of twenty-one (21) years is in violation of this Article if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under twenty-one (21) years was in a restroom not open to the public view or visible by any other person.
- (C) It is a violation of this Article if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.
- (D) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

SECTION 14.15 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS, AND LIVE PERFORMANCES

- (A) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, other video reproduction, or live performance that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
 - (1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more managers' stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designed street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (6"). The Administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (2) The application shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Administrator.
- (4) It is the duty of the owner(s) and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designed, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (6) It shall be the duty of the owner(s) and operator, and it shall also be the duty of the agent(s) and employee(s) present in the premises, to ensure that the view area specified in subsection (5) remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1) above.
- (7) No viewing room may be occupied by more than one person at any time.

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

- (8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) footcandles as measured at the floor level.
 - (9) It shall be the duty of the owner(s) and operator, and it shall be the duty of any agent(s) and employee(s) present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
 - (10) No licensee shall allow an opening of any kind to exist between viewing rooms or booths.
 - (11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
 - (12) The operator of the sexually oriented business shall, during each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.
 - (13) The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
 - (14) The operator of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board, or other porous material shall be used within forty eight inches (48") of the floor.
- (B) A person having a duty under subsections (1) through (14) of this section is in violation of this Article if he/she knowingly fails to fulfill that duty.

SECTION 14.16 EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES

- (A) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
- (B) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words,

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this Article.

- (C) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single monochromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
- (1) The establishment is a part of a commercial multi-unit center; and
 - (2) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.
 - (3) Nothing in this Article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.
 - (4) A violation of any provision of this Section shall constitute a violation of this Article.

SECTION 14.17 SIGNAGE

- (A) Notwithstanding Article 14, it shall be unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.
- (B) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
- (1) Not contain any flashing lights;
 - (2) Be a flat plane, rectangular in shape;
 - (3) Not exceed sixty-four (64) square feet in area; and
 - (4) Not exceed eight (8) feet in height.
- (C) Primary signs shall contain no photographs, silhouettes, drawings, or pictorial representations in any manner, and may contain only the name of the enterprise.

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

- (D) Each letter forming a word on a primary sign shall be of a solid color, and each letter shall be the same print-type, size, and color. The background behind such lettering on display surface of a primary sign shall be of a uniform and solid color.
- (E) Secondary wall signs shall have only one (1) display surface. Such display surface shall:
 - (1) Be a flat plane, rectangular in shape;
 - (2) Not exceed six (6) square feet in area;
 - (3) Be at least seven (7) feet above grade;
 - (4) Be suspended from or attached to the underside of a canopy or marquee.
- (F) The provisions of item (1) of subsection (B) and subsection (C) and (D) shall also apply to secondary signs.
- (G) Setback, height, and any other provision of the Unified Development Ordinance that is not in conflict with this section shall apply.

SECTION 14.18 PARKING

Any adult establishment erected, altered, or converted for or to any other adult establishment shall be required to comply with the parking requirements as set forth within Article 10 of this Ordinance.

SECTION 14.19 MESSAGES OR BATHS ADMINISTERED BY A PERSON OF THE OPPOSITE SEX

It shall be unlawful for a sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor, or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex. Violation of this Section shall constitute a misdemeanor.

SECTION 14.20 HOURS OF OPERATION

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of twelve o'clock (12:00) AM and four o'clock (4:00) PM on weekdays, Saturdays, and Sundays.

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

SECTION 14.21 EXEMPTIONS

It is a defense to prosecution under this Article that a person appearing in a state of nudity did so in a modeling class operated:

- (A) By a proprietary school, licensed by the State of North Carolina, a college, junior college, or university supported entirely or partly by taxation;
- (B) By a private college or university that maintains and operates education programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

SECTION 14.22 NOTICES

- (A) Any notice required or permitted to be given by the Administrator or any other Town office, division, department, or other agency under this Article to any applicant, operator, or owner of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or any notice of address change that has been received by the Administrator. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Administrator or his designee shall cause it to be posted at the principal entrance to the establishment.
- (B) Any notice required or permitted to be given to the Administrator by any person under this Article shall not be deemed given until and unless it is received in the office of the Administrator.
- (C) It shall be the duty of each owner who is designated in the license application and each operator to furnish notice to the Administrator in writing of any change of residence or mailing address.
- (D) Notice of Violation and Penalty. When the Administrator of the Town determines that a person is in violation of the provisions as set forth in this Article, a written notice of violation shall be issued to the owner of the subject property. The notice of violation shall contain:
 - (1) The name and address of the person(s) in violation;

ARTICLE 14. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

- (2) The street address and a description of the building structure, or land upon which the violation has occurred;
 - (3) A statement specifying the nature of the violation;
 - (4) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
 - (5) A statement that the Town's determination of violations may be appealed to the Board of Adjustment by filing a written notice of appeal within thirty (30) days of service of said notice of violation.
 - (6) The notice of violation shall be served upon the person(s) to whom it is directed either personally, in the manner provided for personal service of notices by the Court of local jurisdiction, or by mailing a copy of the notice of violation by certified mail, postage prepaid, return receipt requested to such person at his or her last known address.
- (F) A notice of violation issued pursuant to this section constitutes a determination from which an administrative appeal may be taken to the Board of Adjustment.

ARTICLE 15.
FLOOD DAMAGE PREVENTION ORDINANCE

Section 15.1 Statutory Authorization, Findings of Fact, Purpose and Objectives [15-2](#)
Section 15.2 General Provisions [15-3](#)
Section 15.3 Administration [15-5](#)
Section 15.4 Provisions for Flood Hazard Reduction [15-18](#)
Section 15.5 Legal Status Provisions. [15-30](#)

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

SECTION 15.1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

- (A) Municipal. The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; 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 responsibility to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the Board of Commissioners of the Town of Windsor, North Carolina, does ordain as follows:
(Amended 10/8/2020)
- (B) Findings of Fact.
- (1) The flood prone areas within the jurisdiction of the Town of Windsor 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.
- (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.

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (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; *(Amended 10/8/2020)*
 - (7) Make flood insurance available to the community through the National Flood Insurance Program; *(Amended 10/8/2020)*
 - (8) Maintain the natural and beneficial functions of floodplains; *(Amended 10/8/2020)*
 - (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.

SECTION 15.2 GENERAL PROVISIONS

- (A) Lands to Which this Ordinance Applies. This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extraterritorial Jurisdictions (ETJs), as allowed by law, of the Town of Windsor. *(Amended 10/8/2020)*
- (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) dated February 4, 2009, for Bertie County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this Ordinance, and all revisions thereto after January 1, 2021. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Windsor

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

are also adopted by reference and declared a part of this Ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months. *(Amended 10/8/2020)*

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Bertie County Unincorporated Area, dated December 4, 1985; Town of Windsor, dated July 18, 1977. *(Amended 10/8/2020)*

- (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 Section 15.2(B) of this ordinance.
- (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.
- (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.
- (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.
- (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 Windsor 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.
- (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 Class 1

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

misdemeanor pursuant to NCGS § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 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 Windsor from taking such other lawful action as is necessary to prevent or remedy any violation. *(Amended 10/8/2020)*

SECTION 15.3 ADMINISTRATION

- (A) Designation of Floodplain Administrator. The UDO Administrator, hereinafter referred to as the "Floodplain Administrator," is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and Town's overall compliance with the National Flood Insurance Program and the provisions of this ordinance. *(Amended 10/8/2020)*
- (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 Section 15.2(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 Section 15.2(B);
 - (iv) the boundary of the floodway(s) or non-encroachment area(s) as determined in Section 15.2(B);

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (v) the Base Flood Elevation (BFE) where provided as set forth in Section 15.2(B), 15.3(C), or 15.4(D);
 - (vi) the old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - (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 NAVD 1988 of the proposed reference level (including basement) of all structures; *(Amended 10/8/2020)*
 - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zone A, AE, AH, AO or A99 will be flood-proofed; and *(Amended 10/8/2020)*
 - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed; *(Amended 10/8/2020)*
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures. *(Amended 10/8/2020)*
- (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);
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 15.4(B)(4)(c) when solid foundation perimeter walls are used in Zones A, AE, AH, AO and A99; *(Amended 10/8/2020)*
- (e) Usage details of any enclosed areas below the lowest floor.

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (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 Section 15.4(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 complete description of all the development to be permitted under the floodplain development permit (e.g., house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc. *(Amended 10/8/2020)*)
 - (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 15.2(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.

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (g) The flood openings requirements. *(Amended 10/8/2020)*
 - (h) Limitations of below BFE enclosure uses, if applicable (i.e., parking, building access and limited storage only). *(Amended 10/8/2020)*
 - (i) A statement that all materials below BFE/RFPE must be flood resistant materials. *(Amended 10/8/2020)*
- (3) *Certification Requirements.*
- (a) *Elevation Certificates. (Amended 10/8/2020)*
 - (i) An Elevation Certificate (FEMA Form 086-0-33) is 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 elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
 - (ii) An Elevation Certificate (FEMA Form 086-0-33) 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 NAVD 1988. 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.
 - (iii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) 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

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

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. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable.

(b) *Floodproofing Certificate. (Amended 10/8/2020)*

- (i) If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), 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 NAVD 1988. 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.

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (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, AE, AH, AO, or A99 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 Section 15.4 (B)(3)(b). *(Amended 10/8/2020)*
- (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, AE, AH, AO, or A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection: *(Amended 10/8/2020)*
 - (i) Recreational Vehicles meeting requirements of Section 15.4(B)(6)(a);
 - (ii) Temporary Structures meeting requirements of Section 15.4(B)(7);
and

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (iii) Accessory Structures less than 150 square feet meeting requirements of Section 15.4(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: *(Amended 10/8/2020)*
 - (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.
- (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, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. *(Amended 10/8/2020)*

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (3) Notify adjacent communities and the North Carolina Department of 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). *(Amended 10/8/2020)*
- (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 Section 15.4(F) are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with Section 15.3(B)(3). *(Amended 10/8/2020)*
- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 15.3(B)(3). *(Amended 10/8/2020)*
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Section 15.3(B)(3). *(Amended 10/8/2020)*
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 15.3(B)(3) and Section 15.4(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 Section 15.2(B), obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 15.4(D)(2)(b), in order to administer the provisions of this ordinance.

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (12) When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with Section 15.2(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) RESERVED.
- (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

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

department at any reasonable hour for the purposes of inspection or other enforcement action.

- (19) Follow through with corrective procedures of Section 15.3(D).
 - (20) Review, provide input, and make recommendations for variance requests.
 - (21) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with Section 15.2(B) of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs. *(Amended 10/8/2020)*
 - (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).
- (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.

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (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, they 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-eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they 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 Class 1 misdemeanor pursuant to NCGS § 143-215.58 and shall be punished at the discretion of the court. *(Amended 10/8/2020)*
- (E) Variance Procedures.
- (1) The Board of Commissioners of the Town of Windsor, 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 Appendix A of this ordinance, provided provisions of Section

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

15.3(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.

- (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 Appendix A 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

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (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 Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation 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;

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (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 Windsor has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance. *(Amended 10/8/2020)*

SECTION 15.4 PROVISIONS FOR FLOOD HAZARD REDUCTION *(Amended 10/8/2020)*

- (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 in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
 - (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. 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.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (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 Section 15.3(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

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

flood protection elevation and certified in accordance with the provisions of Section 15.3(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 a flood hazard risk zone with multiple base flood elevations, the provisions for the highest base flood elevation shall apply.
 - (16) Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.
- (B) Specific Standards. In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 15.2(B), or Section 15.4(D), the following provisions, in addition to the provisions of Section 15.4(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 Appendix A 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 Appendix A of this ordinance. Structures located in A, AE,

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

AH, AO, and A99 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 Section 15.4(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 Section 15.3(B)(3), along with the operational plan and the inspection and maintenance plans.

(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 Appendix A 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 Section 15.4(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.

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (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 not be temperature-controlled or conditioned;
 - (c) shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;
 - (d) shall include 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 higher of the interior or exterior 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

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (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, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements 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 consistent with the code and requirements for the original structure.
 - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. 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. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
 - (i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 - (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (6) *Recreational Vehicles.* Recreational vehicles shall either:
 - (a) Temporary Placement.
 - (i) Be on site for fewer than 180 consecutive days; or
 - (ii) 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);
 - (b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (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 Section 15.4(A)(1);

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Section 15.4(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 Section 15.4(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 Section 15.3(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 Section B (2) of this ordinance 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.

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (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 Section 15.4(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 Section 15.4(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 Section 15.4(F) of this ordinance.
- (d) Commercial storage facilities are not considered "limited storage" as noted in this ordinance, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

(C) Reserved.

(D) Standards for Floodplains Without Established Base Flood Elevations. Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 15.2(B), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 15.4(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

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

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 Section 15.4(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 Section 15.4 (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 Section 15.2(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 Appendix A. All other applicable provisions of Section 15.4(B) shall also apply.
- (E) Standards for Riverine Floodplains with BFE but without Established Floodways or Non-Encroachment Areas. Along rivers and streams where 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 Section 15.4(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

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

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.

- (F) Floodways and Non-encroachment Areas. Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 15.2(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 Section 15.4 (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 Section 15.4(F)(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
 - (3) Manufactured homes may be permitted, provided the following provisions are met:
 - (a) the anchoring and the elevation standards of Section 15.4(B)(3); and
 - (b) the non-encroachment standards of Section 15.4(F)(1).
- (G) Standards for Areas of Shallow Flooding (Zone AO). Located within the Special Flood Hazard Areas established in Section 15.2 (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 Section 15.4 (A) and (B), all new construction and substantial improvements shall meet the following requirements:

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (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 five (5) 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 Section 15.4 (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 Section 15.3 (B)(3).
 - (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- (H) Standards for Areas of Shallow Flooding (Zone AH). Located within the Special Flood Hazard Areas established in Section 15.2 (B), are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Section 15.4 (A) and (B), all new construction and substantial improvements shall meet the following requirements:
- (1) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION 15.5 LEGAL STATUS PROVISIONS

- (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 March 14, 1974, 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 Town of Windsor enacted on March 14, 1974, as amended, which are not reenacted herein are repealed.

The date of the initial flood damage prevention ordinance for Bertie County is December 4, 1985 and Town of Windsor is July 18, 1977. *(Amended 10/8/2020)*

ARTICLE 15. FLOOD DAMAGE PREVENTION ORDINANCE

- (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.
- (C) Effective Date. This ordinance shall become effective upon adoption of this Unified Development Ordinance.

ARTICLE 16.

SUBDIVISION REGULATIONS

PART I. DUTY OF THE REGISTER OF DEEDS/CLERK OF SUPERIOR COURT [16-2](#)

Section 16.1 Purpose [16-2](#)

Section 16.2 Register of Deeds [16-2](#)

Section 16.3 Clerk of Superior Court [16-2](#)

PART II. PROCEDURES FOR PLAT APPROVAL [16-2](#)

Section 16.4 General [16-2](#)

Section 16.5 Sketch Plan [16-3](#)

Section 16.6 Preliminary Plat [16-4](#)

Section 16.7 Final Plat [16-6](#)

Section 16.8 Information to be Contained in or Depicted on Preliminary and Final Plats . . . [16-8](#)

PART III. DESIGN STANDARDS. [16-10](#)

Section 16.9 General [16-10](#)

Section 16.10 Specifications [16-10](#)

PART IV. IMPROVEMENTS [16-14](#)

Section 16.11 General Provisions. [16-14](#)

Section 16.12 Guarantees [16-14](#)

Section 16.13 Improvements [16-17](#)

Section 16.14 Reimbursements [16-22](#)

Section 16.15 Transfer of Lots in Unapproved Subdivision Plats [16-22](#)

Section 16.16 Procedure for Plat Recordation [16-23](#)

Section 16.17 Issuance of Permits and Conveyance of Subdivision Lots [16-24](#)

Section 16.18 Effect of Plat Approval on Dedications [16-24](#)

PART V. ADMINISTRATION [16-24](#)

Section 16.19 Variances [16-24](#)

Section 16.20 No Service or Permit Until Final Plat Approval [16-25](#)

Section 16.21 Compliance with Official Plans [16-26](#)

Section 16.22 Appeals of Decisions on Subdivision Plats [16-26](#)

Section 16.23 Cemetery Subdivision Lot Size Exemption [16-26](#)

Section 16.24 Notice of New Subdivision Fees & Fee Increases; Public Comment Period. . [16-26](#)

Section 16.25 Certifications [16-27](#)

ARTICLE 16. SUBDIVISION REGULATIONS

PART I. DUTY OF THE REGISTER OF DEEDS/CLERK OF SUPERIOR COURT

SECTION 16.1 PURPOSE *(Amended 10/8/2020)*

This Article provides for the orderly growth and development of the Town of Windsor, for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and general welfare.

SECTION 16.2 REGISTER OF DEEDS

- (A) The Town of Windsor shall file this Ordinance with the Register of Deeds of Bertie County. The Register of Deeds shall not thereafter file or record a plat of any subdivision located within the jurisdiction, as defined in Article 1 of this Ordinance, of the Town of Windsor without the written approval of the legislative body of the Town of Windsor as required in this regulation.
- (B) The filing or recording of a plat of a subdivision without the approval of the municipal legislative body as required by this regulation shall be null and void.

SECTION 16.3 CLERK OF SUPERIOR COURT

The Clerk of Superior Court of Bertie County shall not order or direct the recording of a plat where such recording would be in conflict with this Article.

PART II. PROCEDURES FOR PLAT APPROVAL

SECTION 16.4 GENERAL *(Amended 10/8/2020)*

The subdivider shall follow the procedure set forth in this Article for securing approval of subdivision plats. Minor subdivisions, as defined in Appendix A, require submittal of a sketch plan to the UDO Administrator (see Section 16.5) and submittal of a final plat to the UDO Administrator. Both shall be reviewed and approved by the UDO Administrator. Major subdivisions, as defined in Appendix A, require submittal of a preliminary plat for approval by the Board of Commissioners upon recommendation of the Planning Board (see Sections 16.6 and 16.7). *(Amended 11/13/2014)*

ARTICLE 16. SUBDIVISION REGULATIONS

The Town will require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

- (A) The tract or parcel to be divided is not exempted under subsection (2) of the definition of a Subdivision (see Appendix A).
- (B) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- (C) The entire area of the tract or parcel to be divided is greater than five (5) acres.
- (D) After division, no more than three lots result from the division.
- (E) After division, all resultant lots comply with all of the following:
 - (1) All lot dimension size requirements of the applicable land use regulations, if any.
 - (2) The use of the lots is in conformity with the applicable zoning requirements, if any.
 - (3) A permanent means of ingress and egress is recorded for each lot.

SECTION 16.5 SKETCH PLAN

Before an application for approval of the preliminary plat is filed, the subdivider may submit to the Planning Board, at a regular meeting, a sketch design plan of the proposed subdivision.

- (A) The sketch design should be drawn at a scale of approximately one (1) inch to two hundred (200) feet.
- (B) The sketch design should show existing and tentative street layout, other rights-of-way and easements, lot arrangements, existing structures, water courses, sites dedicated or proposed to be dedicated for parks, schools, churches, or other public and semi-public uses.
- (C) Data should be given regarding acreage in total tract, minimum lot size, maximum lot size, average lot size, and acreage left in open space or other uses.
- (D) A sketch map showing the relationship between the subdivision and the surrounding area should also be submitted.
- (E) At this meeting, the subdivider shall discuss his ideas and concepts regarding the proposed subdivision. The Planning Board will make suggestions on layout to the subdivider.

ARTICLE 16. SUBDIVISION REGULATIONS

SECTION 16.6 PRELIMINARY PLAT

A request for consideration of the preliminary plat by the Planning Board shall be made by the subdivider in writing. The Planning Board Chairman shall schedule the date of consideration and notify the subdivider of such. The date of consideration shall not be less than thirty (30) days or greater than ninety (90) days from the date of receipt of the letter of request.

- (A) The subdivider shall submit five (5) copies of the preliminary plat and any supplementary material to the Chairman of the Planning Board at least 14 days prior to the scheduled Planning Board meeting at which said plat is to be considered.
- (B) The preliminary plat shall be prepared by a registered surveyor, an engineer, and/or a land planner and shall be drawn in pencil or ink at a scale no less than one (1) inch to one hundred (100) feet.
- (C) The preliminary plat shall show the information set forth in Section 16.8.
- (D) Duties of the UDO Administrator. The UDO Administrator shall review the plat with the other Town officials for compliance with Town Ordinances and Regulations. It shall be the duty of the UDO Administrator to ensure that the District Highway Engineer, the County Health Director, the County School Superintendent and such other agencies designated by the Planning Board and/or Board of Commissioners have an opportunity to review and make recommendations concerning the proposed subdivision plat. *(Amended 10/8/2020)*
- (E) Planning Board Review of Plat. The preliminary plat shall be reviewed by the Town Planning Board as set forth in this Article.
 - (1) The UDO Administrator shall report recommendations to the Planning Board received from other Town, County, and State agencies and officials reviewing the plat.
 - (2) The Planning Board shall discuss the plat with the subdivider, changes deemed advisable, if any, and the kind and extent of improvements to be made by the subdivider.
- (F) Planning Board Approval of Plat. The Planning Board shall approve, conditionally approve, disapprove the Preliminary Plat or defer action for a period not to exceed sixty (60) days.
 - (1) If approval is granted, the Planning Board shall transmit the Preliminary Plat to the Town Commissioners for review and action.

ARTICLE 16. SUBDIVISION REGULATIONS

- (2) If conditionally approved, the conditions and reasons thereof shall be noted in the minutes and a revised plat may be required of the subdivider.
 - (3) If the Preliminary Plat is conditionally approved and a revised plat is not required, the Planning Board shall transmit the Preliminary Plat with conditions attached to the Town Commissioners for review and action.
 - (4) If the Preliminary Plat is disapproved, the reasons for such action shall be noted in the minutes and recommendations made on the basis of which the proposed subdivision may be approved. A request for reconsideration may be made by the subdivider.
- (G) Approval by Town Commissioners. The Town Commissioners shall approve or disapprove the Preliminary Plat.
- (1) Approval of the plat constitutes the authorization to proceed with the construction of the required improvements.
 - (2) The disapproval of the plat shall be accompanied by the stated reasons for such action and recommendations made on the basis of which the proposed plat could be approved.
- (H) Time Limitation/Approval of Preliminary Plat. Preliminary plat approval shall be valid for two (2) years unless a greater time period is granted through a Vested Rights request or through a schedule for subdivision section development approved at the time of original subdivision plat approval or the start of construction has occurred. If final plat approval has not been obtained within said two (2) year period, or an extension as permitted in this section, preliminary plat approval shall become void. A new preliminary plat shall be required and such plat shall be in conformity with all current and applicable standards of this Ordinance. Notwithstanding, the developer may submit a request to the Administrator for a time extension for up to one (1) year for final plat submittal. Said request must be submitted to the Administrator prior to the original plat expiration date. No more than one (1) such extension may be granted by the Administrator per subdivision. The developer may submit a final plat for only a portion of the subdivision given preliminary plat approval. Said submission shall extend the expiration date for the remaining portion(s) of the subdivision for an additional two (2) years past the date of said final plat approval.

ARTICLE 16. SUBDIVISION REGULATIONS

SECTION 16.7 FINAL PLAT

Upon completion of the installation or an arrangement for the improvements shown in the approved preliminary plat for the whole or in a portion of the subdivision, a request for consideration of the Final Plat by the Planning Board shall be made by the subdivider in writing. The Planning Board secretary shall schedule the date of consideration and notify the subdivider of such. The date of consideration shall not be less than thirty (30) days or greater than ninety (90) days from the date of receipt of the letter of request.

- (A) At the time of the request for consideration of the Final Plat by the Planning Board, the subdivider shall also submit five (5) copies of the Final Plat to the Planning Board. One of these copies shall be drawn on mylar or other material acceptable to Bertie County.
- (B) The request for consideration and submission of final plat shall be made within twelve (12) months after approval of the Preliminary Plat by the Town Commissioners; otherwise such approval shall become null and void unless an extension of time is applied for and granted by the Planning Board.
- (C) The Final Plat shall conform substantially to the Preliminary Plat as approved by the Town Commissioners.
- (D) The Final Plat shall include only that portion of the approved Preliminary Plat which the subdivider proposes to record and develop, provided that such portion conforms to all requirements of the Ordinance.
- (E) The Final Plat shall be prepared by either a registered surveyor or an engineer, and shall be drawn on mylar or other material acceptable to Bertie County in ink at a scale no less than one (1) inch to one hundred (100) feet.
- (F) The Final Plat shall show the information set forth in Section 16.8.
- (G) Planning Board and Final Plat. The Planning Board shall review the Final Plat for compliance with the provisions of this Ordinance.
 - (1) The Planning Board may request reports from any person or agency directly affected by the proposed development. Such reports shall certify compliance with or note deviations from the approved Preliminary Plat and the requirements of this Ordinance.

ARTICLE 16. SUBDIVISION REGULATIONS

- (2) The Planning Board may appoint an engineer to check the Final Plat against the subdivision's actual layout for correctness; charging the cost to the subdivider if the plat is found to be seriously in error.
 - (3) If the Final Plat is found to be in compliance, the Planning Board Chairman shall transmit the Final Plat, together with recommendations, to the Town Commissioners for final action.
 - (4) If the Final Plat is found not to be in compliance or if changes have been made from the approved Preliminary Plat, the Planning Board shall review and transmit the Final Plat, together with the recommendations thereon, to the Town Commissioners for final action.
- (H) Town Commissioners and Final Plat.
- (1) Approval of the Final Plat by the Town Commissioners is authorization for the plat to be filed with the Register of Deeds within thirty (30) days.
 - (2) If the Town Commissioners should disapprove the Final Plat, or part thereof, the reasons for such action shall be noted in the minutes and recommendations made on the basis of which the proposed subdivision could be approved.
 - (3) The actions of the Town Commissioners shall be noted on the original mylar drawing and three (3) copies of the Final Plat. One copy shall be returned to the subdivider. One copy and the original drawing on mylar shall be transmitted to the Register of Deeds of Bertie County for recording if approval is granted and one copy shall be retained for the permanent files of the Planning Board.
 - (4) Upon receiving the Final Plat, the Register of Deeds shall comply with Section 160D-803 of the General Statutes of North Carolina. *(Amended 10/8/2020)*
 - (5) No Final Plat shall be approved until all improvements are properly installed to meet the requirements set forth in this Ordinance, all required fees have been paid, and the certificates required by this Ordinance to appear on the Final Plat have been properly filled out and signed.

ARTICLE 16. SUBDIVISION REGULATIONS

SECTION 16.8 INFORMATION TO BE CONTAINED IN OR DEPICTED ON PRELIMINARY AND FINAL PLATS

The preliminary and final plats shall depict or contain the information indicated in the following table. An "x" indicates that the information is required. *(Amended 11/13/2014)*

Information	Preliminary Plat	Final Plat
Title Block Containing:		
– Property Designation	x	x
– Name of Owner	x	x
– Location (including township, county, and state)	x	x
– Date or dates survey was conducted and plat prepared	x	x
– A scale of drawing in feet per inch listed in words or figures	x	x
– A bar graph	x	x
– Name, address, registration number, and seal of the Registered Land Surveyor	x	x
The name of the subdivider	x	x
A sketch vicinity map showing the relationship between the proposed subdivision and surrounding area. Scale: 1" = 400'	x	
Corporate limits, township boundaries, county lines if on the subdivision tract	x	x
The names, addresses, and telephone numbers of all owners, mortgagees, registered land surveyors, land planners, architects, landscape architects, and professional engineers responsible for the subdivision	x	x
The registration numbers and seals of the professional engineers	x	x
Date of plat preparation	x	x
North arrow and orientation	x	x
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown	x	
The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands		x
The names of owners of adjoining property	x	
The names of any adjoining subdivisions of record or proposed and under review	x	
Proposed minimum building setback lines	x	x
The zoning classifications of the tract to be subdivided and adjoining properties	x	
Existing property lines on the tract to be subdivided and on adjoining properties	x	
Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	x	
Proposed lot lines, lot and block numbers, and approximate dimensions	x	x
The average lot area and approximate number of lots	x	
The existing and proposed uses of land throughout the subdivision	x	
The lots numbered consecutively throughout the subdivision		x
Wooded areas, marshes, swamps, ponds or lakes, streams or streambeds, rivers, and any other natural features affecting the site	x	
The exact location of the flood hazard, floodway, and floodway fringe areas from the Bertie County Official Flood Insurance Map	x	x

ARTICLE 16. SUBDIVISION REGULATIONS

Information	Preliminary Plat	Final Plat
Proposed streets, street names, rights-of-way, pavement widths, and approximate grades	x	
Locations of proposed utility lines (storm and sanitary sewers, water, gas, electricity and telephone) showing connections to existing supply and disposal system or planned supply and disposal systems	x	
The location, widths, and purposes of other proposed rights-of-way or easements	x	
Proposed areas for parks, school sites, or public open spaces (if applicable)	x	
Site calculations including:		
– Acreage in total tract to be subdivided	x	
– Acreage in parks and recreation and open space areas and other nonresidential areas	x	
– Total number of parcels created	x	
– Acreage in the smallest lot in the subdivision	x	
– Acreage in the largest lot in the subdivision	x	
– Lineal feet in streets	x	
– Lineal feet in other easements	x	
Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center line of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute		x
The accurate locations and descriptions of all monuments, markers, and control points		x
Utility layouts for water, gas, sanitary sewer, storm drainage, electrical and telephone lines		x
A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private recreation areas or open space areas are established	x	x
Where land disturbing activity is an acre or more in size, a copy of the erosion control plan submitted to the appropriate office of the North Carolina Department of Environment and Natural Resources, which complies with NCGS 113A, Article 4 (Sedimentation Pollution Control Act of 1973). Evidence of approval must be provided prior to submittal of a final plat for approval	x	
Topographic maps with contour intervals of no greater than five (5) feet at a scale of no less than one (1) inch equals four hundred (400) feet	x	
404 wetland areas as determined by the Wilmington District office of the U.S. Army Corps of Engineers	x	x
All certifications required in Section 16.25		x
Any other information considered by either the subdivider, the Planning Board, or Board of Commissioners, to be pertinent to the review of the plat	x	x
All mapping shall comply with G.S. 47-30	x	x

ARTICLE 16. SUBDIVISION REGULATIONS

PART III. DESIGN STANDARDS

SECTION 16.9 GENERAL

Any land area within the jurisdiction of this Ordinance subject to flooding and other land deemed by the Planning Board to be uninhabitable shall be prohibited for residential occupancy, or for other use that may jeopardize the life, health, or property, or may increase the flood hazard. Lands of this nature shall be used only for such uses that will not be endangered by periodic or occasional flooding.

SECTION 16.10 SPECIFICATIONS

The following standards for design shall be minimum requirements; where other official engineering and public works, standards, and specifications are more stringent, such higher standards shall be used.

(A) Alleys.

- (1) Alleys shall be provided in commercial and industrial districts, except that the Planning Board may waive this requirement when other definite and assured provisions are made for service access, such as off-street loading, unloading, and parking consistent with and adequate for the uses proposed.
- (2) The width of an alley serving commercial and industrial areas shall not be less than thirty (30) feet. Dead-end alleys shall be provided with adequate turn-around facilities at the dead-end as determined by the Planning Board.
- (3) Alleys are not permitted in residential districts except when the Planning Board determines special conditions warrant a secondary means of access.

(B) Blocks.

- (1) Blocks shall be laid out with special attention given to the type of use contemplated.
- (2) Block lengths shall not exceed one thousand five hundred (1,500) feet or be less than four hundred (400) feet. Blocks shall not be more than one thousand (1,000) feet unless there is an approved pedestrian alley dividing the blocks.

ARTICLE 16. SUBDIVISION REGULATIONS

- (3) Blocks shall have a sufficient width to allow two (2) tiers of lots of minimum depth. Blocks may consist of single tier lots where such are required to separate residential development from through vehicular traffic or non-residential uses.
- (C) Buffer Strips. It is recommended that in residential districts a buffer strip of at least fifty (50) feet in depth, in addition to the normal lot depth required, be provided adjacent to all railroads, limited access highways, and commercial developments. This strip shall be part of the platted lots, but shall have the following restrictions lettered on the face of the plat: "This strip reserved for the planting of trees or shrubs by the owner; the building of structures hereon is prohibited."
- (D) Cul-De-Sacs. A cul-de-sac shall not exceed five hundred (500) feet in length measured from the entrance to the center of the turn-around. A street designed to be permanently closed shall be provided at the closed end with a turn-around having a minimum right-of-way diameter of one hundred (100) feet and a minimum travel surface diameter of eighty (80) feet or a circular driveway twenty (20) feet wide around an island improved with suitable landscaping. Adequate sewer and water line right-of-way should be reserved to eliminate waterline dead-ends and to provide sewerage outfalls.
- (E) Easements.
- (1) Easements shall be provided where a subdivision is traversed by a water course, drainage way, channel, or stream. There shall be provided a storm easement or drainage right-of-way substantially in conformity with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose.
- (2) Easements shall be provided when alleys are not provided, easements not less than ten (10) feet wide, centered on lot lines for both underground and above ground facilities, for use by both public and private utilities shall be provided along each rear lot line. A five (5) foot easement along side lot lines of individual lots may be required when necessary for use by public and private utilities.
- (F) Grades.
- (1) Street grades shall conform in general to the topography. The minimum slope on any street shall not be less than five-tenths (0.5) percent nor more than five (5) percent for major thoroughfares and collector streets nor more than eight (8) percent for other streets.
- (2) Grades approaching intersections shall not exceed five (5) percent for a distance of not less than one hundred (100) feet from the centerline of said intersection.

ARTICLE 16. SUBDIVISION REGULATIONS

- (3) Vertical curves shall have such lengths as necessary to provide safe sight distance and shall be approved by the Planning Board.
- (G) Curves. Where a centerline deflection angle of more than ten (10) degrees occurs, a circular curve shall be introduced, having a centerline radius of not less than the following:
- (1) Major Streets - 500 feet
 - (2) Collector Streets - 300 feet
 - (3) Local or Minor Streets - 150 feet
- A tangent of not less than one hundred (100) feet in length shall be provided between curves.
- (H) Intersections. Street intersections shall be laid out as follows:
- (1) Streets shall intersect as nearly as possible at right angles, and no street shall intersect at less than seventy-five (75) degrees.
 - (2) Intersections with a major street shall be at least eight hundred (800) feet apart measured from centerline to centerline.
 - (3) Property lines at street intersections shall be curved with a minimum radius of twenty (20) feet. Where a street intersects a highway maintained by the State Highway Commission, the design standards of the State Highway Commission shall apply.
 - (4) Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.
- (I) Lots. Lots shall be laid out as follows:
- (1) Lot sites, shapes, and locations shall be made with due regard to topographic conditions, contemplated use, and the surrounding area. Every lot shall front or abut, for a distance of at least fifty (50) feet, on a public street which has a minimum right-of-way width of sixty (60) feet. Minimum building setback line shall be no less than twenty-four (24) feet from street right-of-way line.
 - (2) Residential lots where not served by public sewer and water shall be at least twenty thousand (20,000) square feet in area, not less than one hundred (100) feet wide at the building line nor less than one hundred fifty (150) feet deep.

ARTICLE 16. SUBDIVISION REGULATIONS

- (3) Residential lots served by public water, but not public sewer, shall be at least fifteen thousand (15,000) square feet in area, not less than ninety (90) feet wide at the building line nor less than one hundred fifty (150) feet deep.
 - (4) Corner lots for residential use shall have an extra width of ten (10) feet to permit adequate building setback from side streets.
 - (5) Double frontage or reverse frontage lots shall be avoided except where necessary to separate residential development from through traffic or nonresidential uses.
 - (6) Side lot lines shall be substantially at right angles or radial to street lines.
 - (7) Lots are not required for commercial or industrial uses, but when provided they shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated. Adequacy shall be subject to the judgement of the Planning Board.
 - (8) In no instance shall the area of residential lot be less than the size determined to be adequate by the Bertie County Health Department after investigation of soil conditions, proposed individual disposal system, and depth of groundwater.
- (J) Walkways. The Planning Board may require pedestrian easements or walkways be provided through the interior of blocks having a length greater than one thousand (1,000) feet. Pedestrian easements shall be at least ten (10) feet wide and shall be laid out along property lines.
- (K) Rights-of-Way and Pavement. Minimum street rights-of-way and pavement width shall be in accordance with the Thoroughfare Plan and shall not be less than the following:

Street Types	Right-of-Way	Pavement Width
Major Town Thoroughfares	90 feet	24 feet
Minor Town Thoroughfares	70 feet	24 feet
Local Streets and Roads	60 feet	24 feet
Cul-de-Sac	100 feet at turn-around	24 feet
Alleys (Commercial and Industrial)	30 feet	20 feet
Other Alleys	20 feet	20 feet

ARTICLE 16. SUBDIVISION REGULATIONS

(L) Streets.

- (1) The arrangement, character, extent, width, grade, and location of all streets shall conform to all of the elements of official plans for the community and shall be designed in accordance with the provisions of this Ordinance.
- (2) Minor streets shall be laid out so that their use by through traffic will be discouraged.
- (3) There shall be no private streets platted in any subdivision. Every subdivided property shall be served from a publicly dedicated street.
- (4) Proposed streets which are obviously in alignment with other existing and named streets shall bear the assigned name of the existing streets. In no case shall the name for proposed streets duplicate or be phonetically similar to existing street names.
- (5) The street pattern shall be such as to cause no hardship in the subdividing of adjacent properties. The Planning Board may require the dedication of a street right-of-way to facilitate the development of adjoining properties.

PART IV. IMPROVEMENTS

SECTION 16.11 GENERAL PROVISIONS

Final plats for all subdivisions shall not be approved until all the required improvements listed in this Article have been installed or the subdivider has guaranteed to the satisfaction of the Town Commissioners that such improvements will be installed.

All improvements shall be made in conformity with the requirements and standards set forth in this Regulation and other specifications and policies of the Town of Windsor. All improvements shall be inspected and approved by the UDO Administrator as conforming to requirements of the Town. All improvement specifications of the Town of Windsor are on file in the office of the Town Clerk.

SECTION 16.12 GUARANTEES *(Amended 10/8/2015; 10/8/2020)*

- (A) Performance Guarantees. In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the Town of Windsor may enter into an agreement with the subdivider whereby the subdivider shall agree to complete any remaining required improvements as specified by the approved preliminary plat for that

ARTICLE 16. SUBDIVISION REGULATIONS

portion of the subdivision to be shown on the final plat within a mutually agreed upon specified time period. Once agreed upon by both parties and the security required herein is provided, the final plat may be approved by the Board of Commissioners, if all other requirements of this Ordinance are met. The town shall require a certified cost estimate from a licensed contractor or engineer for the cost of completion of such improvements.

- (1) Type. The subdivider shall provide one of the following Performance Guarantees, elected at the subdivider's discretion, in lieu of installation:
 - (a) Surety bond issued by any company authorized to do business in this State.
 - (b) Letter of credit issued by any financial institution licensed to do business in this State.
 - (c) Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- (2) Duration. The duration of the performance guarantee shall initially be one year, unless the subdivider determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the subdivider determines that the scope of work for the required improvements necessitates a longer duration.
- (3) Extension. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period; provided, however, that the extension shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (5) of this subsection and shall include the total cost of all incomplete improvements.
- (4) Release. The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgment by the town that the improvements for which the performance guarantee is being required are complete. The town shall return letters of credit or escrowed funds upon completion of the required improvements to the specifications of the town, or upon acceptance of the required improvements, if the required improvements are subject to town acceptance. When

ARTICLE 16. SUBDIVISION REGULATIONS

required improvements that are secured by a bond are completed to the specifications of the town, or are accepted by the town, if subject to town acceptance, upon request by the developer, the town shall timely provide written acknowledgment that the required improvements have been completed.

- (5) Amount. The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The town may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include 100% of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional 25% allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed 125% of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.
- (6) Timing. The town, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.
- (7) Coverage. The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.
- (8) Legal Responsibilities. No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:
 - (a) The Town to whom such performance guarantee is provided.
 - (b) The subdivider at whose request or for whose benefit such performance guarantee is given.
 - (c) The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.
- (9) The town may release a portion of any security posted as the improvements are completed and recommended for approval by the UDO Administrator. Within thirty (30) days after receiving the UDO Administrator's recommendation, the Board of

ARTICLE 16. SUBDIVISION REGULATIONS

Commissioners shall approve or not approve said improvements. If the Board of Commissioners approves said improvements, then it shall immediately release any security posted.

- (10) For subdivisions which are underwritten or constructed with federal funds and for which the specifications for facilities or improvements are equal to or of a higher standard than those required by the town, the bond-posting requirement may be waived and the final plat approved prior to completion of facilities or improvements.
- (11) Multiple Guarantees. The subdivider shall have the option to post one type of a performance guarantee as provided for in subdivision (1) of this subsection, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.
- (B) Defects Guarantees. The owner of the subdivision shall require the contractor constructing streets, curbs, gutters, sidewalks, drainage facilities, and/or water and sewer lines to give bond guaranteeing the work against defects.
- (C) Claims. No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this section or in the proceeds of any such performance guarantee other than the following:
- (1) The local government to whom such performance guarantee is provided.
 - (2) The developer at whose request or for whose benefit such performance guarantee is given.
 - (3) The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer. *(Amended 3/14/2019)*

SECTION 16.13 IMPROVEMENTS

- (A) Permanent Survey Reference Markers. Permanent survey reference markers shall be installed in all subdivisions in accordance with North Carolina General Statutes 160D and the following requirements. *(Amended 10/8/2020)*
- (B) Permanent Concrete Monuments. Permanent concrete monuments four (4) inches in diameter or square, three (3) feet long, shall be placed at not less than two (2) corners of the subdivision, provided that additional monuments shall be placed where necessary so

ARTICLE 16. SUBDIVISION REGULATIONS

that no point within the subdivision lies more than five hundred (500) feet from a monument. Two or more of the required monuments shall be designated as control corners. The top of each monument shall have an indented cross metal pin, or metal plate to identify the location of the point. All monuments shall be shown on the final plat.

- (C) Steel or Iron Markers. Steel or iron markers shall be set at all lot and property corners and at all other survey points not marked by monuments. Such markers shall be set at points of curve, points of tangency, reference points, and points of intersection. Survey markers shall be at least three-fourths (3/4) inches in diameter, and shall be sunk vertically into the ground until the top is approximately four (4) inches above the finished grade, except in sidewalks, streets, and other similar surfaces where the markers shall be flush with such surface.
- (D) Curbs and Gutters. Curb and gutters are recommended with permanent paving meeting the minimum requirements of the Town's standards. Curbs and gutters shall be a combination curb and gutters or such other construction the Town Engineer may approve.
- (E) Electrical and Telephone Service. All electrical, telephone, and telegraph utilities of an overhead service nature shall be restricted to the rear lots. All subdivisions shall be designed in order that all lots may be served from rear utility easements. Underground location of utilities is recommended in all new subdivisions.
- (F) Grading. The subdivider of any subdivision designed to be used for residential, commercial, industrial, or other purposes shall clear and grade all streets to their full right-of-way width so as to provide adequate shoulders and pedestrian walkways.
- (G) Paving. All paving shall be in accordance with paving specifications as established by the Town of Windsor. Paving cost shall be the responsibility of the developer/land owner. Prior to the issuance of building permits by the Town of Windsor, all streets or street sections which serve lots to be developed, must be paved. *(Amended 11/13/2014)*
- (H) Sewage Disposal. Subdividers shall connect, where possible, to the sewer system of the Town of Windsor in order to provide sewer service to every lot within the subdivision. Sewer connections shall comply with the regulations of the Town of Windsor and the State Board of Health.
- (I) Streets. Street construction in subdivisions shall be in conformity with the street paving policy of the Town of Windsor.
- (J) Street Name Markers. Street name markers shall be provided at all subdivision street intersections and at any other point within the subdivision as deemed necessary by the

ARTICLE 16. SUBDIVISION REGULATIONS

Town. The placement and construction of such signs shall conform to specifications of the Town of Windsor.

(K) Coordination and Continuation of Streets. The proposed street layout within a subdivision shall be coordinated with the existing street system of the surrounding area, and where possible, existing principal streets shall be extended.

(L) Street Trees.

(1) *Along Street Frontage.* As a requirement of subdivision approval, the subdivider shall plant trees along the frontage of both sides of all existing and proposed streets in the subdivision. In calculating the number of trees required per lot frontage, tree types have been assigned a value in linear feet based on the average mature canopy spread. The values are twenty-five (25) feet for large trees and fifteen (15) feet for small trees. Approved recreation/open space areas must have one (1) large tree per street frontage (value of 25 feet). This coverage must include a combination of trees to allow for mature canopies to cover 50% of lot width.

Example: Total lot width = 100 feet
 Required canopy coverage = 50% or 50 feet

 Two large trees = 50 feet of coverage
 One large tree + two small trees = 55 feet of coverage
 Four small trees = 60 feet of coverage

Upon installation, trees shall be spaced at least fifteen (15) feet apart, but preferably no greater than the spread of the canopy normally achieved by the tree species upon maturity. Street trees shall be planted within the required front yard setback. Selection and location of trees shall consider existing and future site conditions including, but not limited to, overhead and underground utility lines, vehicular access drives, the location and extent of existing vegetation, and soil suitability.

(2) *Tree Types/Plantings.* Trees to be planted shall be installed to reflect the natural growth patterns of materials selected. Tree species shall be planted, maintained, and spaced in a manner which permits full spread of the canopy upon maturity and shall be selected from a list of acceptable plant materials approved by the Town of Windsor Planning Board. The preliminary plat shall show the location and types of proposed or existing trees which satisfy the requirements of this section. Other suitable alternatives may be used if approved by the Administrator. Plantings as required by this Ordinance shall not be located in drainage, access, or utility easements or under overhead power lines.

ARTICLE 16. SUBDIVISION REGULATIONS

- (3) *Existing Vegetation.* Existing trees may be used to fulfill the requirements of this section, provided they meet the specifications outlined above.
- (M) Private Streets. Private streets within a subdivision will be prohibited.
- (N) Subdivision Street Disclosure Statement. All streets shown on the final plat shall be designated in accordance with GS 136-102.6, and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or the state system, before lots are sold, a statement explaining the status of the street shall be included with the final plat.
- (O) Half-Streets. The dedication of half streets of less than sixty (60) feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impractical, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the subdivider. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision. However, in circumstances where more than sixty (60) feet of right-of-way is required, a partial width right-of-way, not less than sixty (60) feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the subdivider; provided that the width of the partial dedication is such as to permit the installation of such facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.
- (P) Collector and Minor Streets. Collector and minor streets shall be so laid out that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, and other places of public assembly.
- (Q) Surface Water Drainage. No surface water drainage shall empty into a sanitary sewer. Where, in the opinion of the Planning Board, a public storm water drainage system is reasonably accessible, before a subdivision is approved and accepted, the subdivider shall connect with the public drainage system. He shall provide all grading and all structures necessary to carry the water to the storm drainage system. Drainage and construction of drainage structures shall conform to town specifications and standards. Where a storm drainage system is not accessible, before a subdivision is approved and accepted by the Town of Windsor, the subdivider shall do all grading and provide all drainage structures necessary to properly carry the water to locations which are acceptable to the Town of Windsor. Where drainage ditches exceed grades of four (4) percent, the ditches shall be paved in accordance with Town standards. Surface drainage courses shall have side slopes of at least two (2) feet of horizontal distance for each one (1) foot of vertical distance, and

ARTICLE 16. SUBDIVISION REGULATIONS

courses shall be of sufficient size to accommodate the drainage area without flooding. Watercourses shall be treated by the developer in one or more of the following ways:

- (1) *Enclosed in Subsurface Drains.* Subsurface drain material shall be of a type approved for use by NCDOT and shall be sized in accordance with calculations made by a registered professional engineer using the ten-year storm. A maintenance and utility easement shall be placed on the final plat approximately centered on the drain and the outside edge of the easement shall be no closer than five feet to the outer wall of the drain. In no case shall the maintenance and utility easement be less than 15 feet.
 - (2) *Open Channel in Dedicated Floodplain and Open Space.* This option shall only be available when the Town agrees to accept the dedication. The dedicated floodplain and open space shall include the drainage channel and the land between the channel and the natural 100-year flood contour, as determined by calculations made by a registered professional engineer, provided that in no case shall the average minimum width be less than 200 feet plus the width of the channel. The area to be dedicated shall be left in its natural condition by the subdivider unless the Planning Board approves some other treatment.
 - (3) *Open Channel on Private Property within a Drainage and Maintenance Easement.* The drainage maintenance and utility easement shall include the drainage channel and the land between the channel and the natural 100-year flood contour, as determined by the provisions of subsection (2) above. The Board of Commissioners upon recommendation of the UDO Administrator may permit modification of the drainage way by the subdivider, provided that the modification will carry the 100-year storm, and provided that all slopes are stabilized, and provided further that any slopes steeper than two to one are protected by masonry paving, riprap, or similar material. The total width of the drainage maintenance and utility easement shall be determined by the Town.
- (R) Water Supply. Every lot in every subdivision shall be provided with a water supply which is ample for the needs of the type of development proposed. Every lot in every subdivision shall be supplied with water from the Town of Windsor. The water system shall be worked out between each subdivider and the Town of Windsor according to the water service policies of the Town. Every lot in every subdivision within the Windsor Town Limits shall be located within five hundred (500) feet of a six (6) inch waterline and a fire hydrant.

ARTICLE 16. SUBDIVISION REGULATIONS

SECTION 16.14 REIMBURSEMENTS

- (A) Subdividers of subdivisions within the Town of Windsor for which final approval of the Town Commissioners is to be sought, shall grade all streets and alleys to Town specifications, install all required street name markers, install sewage disposal, water facilities, surface water drainage, and construct all culverts and bridges in accordance with Town standards.
- (B) The costs of the improvements in Subsection (A) and the costs of installing the recommended improvements of curbs, gutters, paving of streets, and water/sewer improvements may be reimbursed to the subdivider in accordance with Town policy.
- (C) No reimbursement shall be made after a period of fifteen (15) years from final plat approval has elapsed.

SECTION 16.15 TRANSFER OF LOTS IN UNAPPROVED SUBDIVISION PLATS *(Amended 10/8/2015; 10/8/2020)*

- (A) Any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of the town, thereafter subdivides his land in violation of the regulation or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such regulation and recorded in the office of the Bertie County Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance. Building permits required pursuant to NCGS 160D-1108 may be denied for lots that have been illegally subdivided. In addition to other remedies, the town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.
- (B) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision regulation or recorded with the Bertie County Register of Deeds, provided the contract does all of the following:
 - (1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.

ARTICLE 16. SUBDIVISION REGULATIONS

- (2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.
 - (3) Provides that if the approved and recorded final plat does to differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.
 - (4) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.
- (C) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulation or recorded with the Bertie County Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision regulation and recorded with the Bertie County Register of Deeds.

SECTION 16.16 PROCEDURE FOR PLAT RECORDATION *(Amended 10/8/2015)*

After the effective date of this Ordinance, no subdivision plat of land within the town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the appropriate agencies, and until this approval is entered in writing on the face of the plat by the chairperson or head of that agency. All publicly dedicated improvements must be accepted by the Board of Commissioners contingent upon final plat recordation or acceptance of an approved performance bond.

ARTICLE 16. SUBDIVISION REGULATIONS

A plat shall not be filed or recorded by the Bertie County Register of Deeds of any subdivision located within the town's jurisdiction that has not been approved in accordance with this Ordinance, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with the requirements of this Ordinance.

SECTION 16.17 ISSUANCE OF PERMITS AND CONVEYANCE OF SUBDIVISION LOTS *(Amended 10/8/2015)*

Zoning permits and building permits may be issued by the Town of Windsor for the erection of any building on any lot within a proposed subdivision prior to the final plat of said subdivision being approved in a manner as prescribed by this Ordinance and recorded at the Register of Deeds office, provided an improvements permit has been issued by the Bertie County Health Department, if required. **A certificate of occupancy may not be issued until the final plat has been approved and recorded.**

SECTION 16.18 EFFECT OF PLAT APPROVAL ON DEDICATIONS *(Amended 10/8/2020)*

The approval of a plat shall not be deemed to constitute the acceptance by the Town of Windsor of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the Town of Windsor may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its planning and development regulation jurisdiction. Acceptance of dedication of lands or facilities located within the planning and development regulation jurisdiction but outside the corporate limits of the Town shall not place on the Town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the Town shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits. Unless the Town shall have agreed to begin operation and maintenance of the water system or water system facilities within one year of the time of issuance of a certificate of occupancy for the first unit of housing in the subdivision, the Town shall not, as part of its subdivision regulation applied to facilities or land outside the corporate limits of the Town, require dedication of water systems or facilities as a condition for subdivision approval.

PART V. ADMINISTRATION

SECTION 16.19 VARIANCES *(Amended 10/8/2020)*

- (A) Subdivision Variances. This section shall be applicable to all subdivisions. The Town Board of Adjustment may authorize variances for subdivisions from any portion of this Ordinance when, in its opinion, undue hardship may result from strict compliance. The Board of Adjustment may add conditions to the variance that will preserve the overall purpose of the

ARTICLE 16. SUBDIVISION REGULATIONS

subdivision ordinance. In granting a variance, the Board of Adjustment shall hold a quasi-judicial public hearing and make the findings required herein, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No relief shall be granted unless it is found:

- (1) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of the land rather than a mere inconvenience; and
 - (2) That the relief is necessary for the preservation and enjoyment of a substantial property right of the petitioner; and
 - (3) That the circumstances giving rise to the need for the relief are peculiar to the subdivision and are not generally characteristic of other subdivisions in the jurisdiction of this Ordinance; and
 - (4) That the granting of the relief will not be detrimental to the public health, safety, and welfare or injurious to other property in the area in which said property is situated.
- (B) Applications Required. Application for any such variance shall be submitted to the Board of Adjustment in writing by the subdivider and at the time when the preliminary plat is filed. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner.

SECTION 16.20 NO SERVICE OR PERMIT UNTIL FINAL PLAT APPROVAL

No street shall be accepted and maintained by the Town, nor shall any street lighting, water, or sewer be extended to or connected with any subdivision of land nor shall any permit be issued by any administrative agency or department of the Town of Windsor, for the construction of any building or other improvements requiring a permit unless and until the requirements set forth in this Ordinance have been complied with and the same approved by the Town of Windsor.

ARTICLE 16. SUBDIVISION REGULATIONS

SECTION 16.21 COMPLIANCE WITH OFFICIAL PLANS

When a tract of land to be subdivided embraces any part of a proposed major or minor thoroughfare as designated in the Bertie County Comprehensive Transportation Plan Study, the proposed way shall be platted and dedicated by the subdivider in the location and at the width specified.

SECTION 16.22 APPEALS OF DECISIONS ON SUBDIVISION PLATS *(Amended 10/8/2020)*

A decision to approve or deny a preliminary or final subdivision plat is administrative, and that decision shall be subject to review by filing an action in superior court seeking appropriate declaratory or equitable relief within thirty (30) days from receipt of the written notice of the decision, which shall be made as provided in Section 4.42.

SECTION 16.23 CEMETERY SUBDIVISION LOT SIZE EXEMPTION *(Amended 11/13/2014)*

Cemeteries and individual cemetery plot(s) may be platted and approved as minor subdivisions and recorded that do not meet the minimum lot size of the zoning district; however, the cemetery shall comply with all other zoning district restrictions. Where there is not reasonable access to individual lots, an 18-foot easement for ingress and egress may be established.

SECTION 16.24 NOTICE OF NEW SUBDIVISION FEES & FEE INCREASES; PUBLIC COMMENT PERIOD *(Amended 10/8/2020)*

- (A) The Town of Windsor shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to this UDO at least seven (7) days prior to the first Board of Commissioners meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The Town shall employ at least two of the following means of communication in order to provide the notice required by this section:
- (1) Notice of the meeting in a prominent location on the Town of Windsor website.
 - (2) Notice of the meeting in a prominent physical location, including, but not limited to, any Town building, library, or courthouse within the planning and development regulation jurisdiction of the Town of Windsor.
 - (3) Notice of the meeting by electronic mail or other reasonable means to a list of interested parties that is created by the Town of Windsor for the purpose of notification as required by this section.

ARTICLE 16. SUBDIVISION REGULATIONS

- (B) During the consideration of the imposition of or increase in fees or charges as provided in subsection (A), the Town of Windsor shall permit a period of public comment.
- (C) This section shall not apply if the imposition or or increase in fees or charges is contained in a budget filed in accordance with the requirements of NCGS 159-12.

SECTION 16.25 CERTIFICATIONS

16.25.1 Preliminary Plat

- (A) CERTIFICATION OF APPROVAL OF PRELIMINARY PLAT BY THE TOWN OF WINDSOR BOARD OF COMMISSIONERS

The Town of Windsor Board of Commissioners hereby approves or approves conditionally the _____ Subdivision. If approved conditionally, the specific conditions shall be listed.

Mayor Date

16.25.2 Final Plat

- (A) CERTIFICATE OF OWNERSHIP AND DEDICATION

The undersigned hereby acknowledge(s) that (they) (he) (she) (is) (are) owners of the property shown on this plat having acquired title thereto by deed recorded in Book ___, Page ___ of the Bertie County Register and that (they) (he) (she) hereby dedicate(s), unless otherwise noted thereon, to public use as streets, playgrounds, parks, open space, and easements forever all areas so shown or indicated on this plat. The Town of Windsor is authorized to record this plat at the appropriate Register of Deeds.

Owner Date

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

Signature and Seal of Notary Public

ARTICLE 16. SUBDIVISION REGULATIONS

(B) CERTIFICATE OF SURVEY AND ACCURACY

I, _____, certify that this plat was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description in Book __, Page __, etc.) (other, specify); that the error of closure as calculated by latitudes and departures is 1:____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book __, Page __; that this plat was prepared in accordance with GS 47-30 as amended. Witness my hand and seal this ____ day of _____, A.D., 20____.

Surveyor

License or Registration #

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

Signature and Seal of Notary Public

(C) CERTIFICATION OF SUITABILITY FOR SEPTIC TANK SYSTEMS AND WATER SUPPLIES

I hereby certify that this subdivision, entitled _____, is generally suitable for individual septic tank systems and individual water supplies. However, this certification does not constitute "blanket issued subject to the approval of each individual lot by the Bertie County Health Department and the issuance of an improvements permit for each lot as required by the General Statutes of North Carolina." Any artificial drainage measures installed or proposed for installation in this subdivision to control water table must be properly maintained. Lots must be properly landscaped to control surface water in order to decrease the changes in septic tank system malfunctions.

Bertie County Health Director or
Authorized Representative

Date

APPENDIX A. DEFINITIONS

Section A.1 Purpose	A-2
Section A.2 Tense and Number	A-2
Section A.3 Interpretation	A-2
Section A.4 Definitions	A-3
A	A-3
B	A-8
C	A-11
D	A-14
E	A-18
F	A-20
G	A-24
H	A-25
I	A-27
J	A-27
K	A-27
L	A-28
M	A-31
N	A-35
O	A-37
P	A-38
Q	A-41
R	A-41
S	A-43
T	A-58
U	A-59
V	A-60
W	A-60
X	A-63
Y	A-63
Z	A-63

APPENDIX A. DEFINITIONS

SECTION A.1 PURPOSE

For the purposes of this Ordinance, certain words, concept, and ideas are defined herein. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

SECTION A.2 TENSE AND NUMBER

- (A) Words used in the singular in this Ordinance include the plural and words used in the plural include the singular.
- (B) Words used in the present tense include the future tense and the future tense includes the present tense.

SECTION A.3 INTERPRETATION

- (A) As used in this Ordinance, words importing the masculine gender include the feminine and neuter.
- (B) The word "person" includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.
- (C) The words "may" and "should" are permissive.
- (D) The words "shall" and "will" are always mandatory and not merely directive.
- (E) The word "used for" shall include the meaning "designed for."
- (F) The words "used" or "occupied" shall mean "intended, designed, and arranged to be used or occupied."
- (G) The word "lot" shall include the words "plot," "parcel," "site," and "premises."
- (H) The word "structure" shall include the word "building."
- (I) The word "street" includes the word "alley," "road," "cul-de-sac," "highway," or "thoroughfare."
- (J) The word "includes" shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

APPENDIX A. DEFINITIONS

- (K) The word "Commissioner" shall include "Board of Commissioners" of the Town of Windsor, North Carolina.
- (L) The word "director" shall mean the Planning Director or his designee.
- (M) The words "Zoning Board," "Zoning Commission," "Planning Commission," or "Planning Board" shall mean the "Town of Windsor Planning Board."
- (N) The words "town or city" shall mean the "Town of Windsor," a municipal corporation of the State of North Carolina.
- (O) The words "map," "zoning map," and "Windsor Zoning Map" shall mean the "Official Zoning Map for the Town of Windsor, North Carolina."
- (P) The words "Board of Adjustment" shall mean the "Town of Windsor Board of Adjustment."
- (Q) The words "Register of Deeds" shall mean the "Recorder of Deeds for Bertie County, North Carolina."

SECTION A.4 DEFINITIONS

A

Abutting

Having property or district lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street or alley.

Access

A way of approaching or entering a property. Access also includes ingress, the right to enter, and egress, the right to leave.

Accessory Building or Use

A building or use, not including signs, which:

- (1) Is conducted or located on the same zoning lot as the principal building or use served, except as may be specifically provided elsewhere in this Ordinance.
- (2) Is clearly incidental to, is subordinate in area and purpose to, and serves the principal use.

APPENDIX A. DEFINITIONS

- (3) Is either in the same ownership as the principal use or is clearly operated and maintained solely for the comfort, convenience, necessity or benefit of the occupants, employees, customers or visitors of or to the principal use.

Accessory Structure (Appurtenant Structure)

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)

An extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements for new construction, unless the addition, renovation, or reconstruction to any building that was constructed prior to the initial flood insurance study for that area, and the addition, renovation, or reconstruction does not equal 50% of the present market value of the structure. Where a fire wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.

Administrative Decision (Amended 10/8/2020)

Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in NCGS Chapter 160D or Town development regulations. Also referred to as ministerial decisions or administrative determinations.

Administrative Hearing (Amended 10/8/2020)

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

Adult Care Homes

An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes.

Adult Businesses/Establishment

See definition as per G.S. 14-202.10, as may be amended.

APPENDIX A. DEFINITIONS

Agriculture (Amended 3/14/2019)

For the purposes of this Ordinance, the terms "agriculture," "agricultural," and "farming" refer to all of the following:

- (1) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
- (2) The planting and production of trees and timber.
- (3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.
- (4) Aquaculture as defined in NCGS 106-758.
- (5) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
- (6) When performed on the farm, "agriculture," "agricultural," and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm, and similar activities incident to the operation of a farm.
- (7) A public or private grain warehouse or warehouse operation where grain is held ten (10) days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain.

Agritourism (Amended 3/14/2019)

Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

Alley

A minor right-of-way dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

APPENDIX A. DEFINITIONS

Alteration

A change in the size, configuration or location of a structure; or a change in the use of a structure or lot from a previously approved or legally existing size, configuration, location, or use.

Alteration of a Watercourse *(Amended 10/8/2020)*

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.

Antenna

Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications service.

Appeal

A request for a review of the UDO Administrator's interpretation of any provision of this Ordinance.

Applicable Codes *(Amended 9/14/2017)*

The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

Application, Telecommunication Facilities *(Amended 9/14/2017)*

A request submitted by an applicant to the Town for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, Town utility pole, or wireless support structure.

Apartment (Dwelling Unit)

A room or suite of rooms intended for use as a residence by a single household or family (i.e., dwelling unit). Such dwelling unit may be located in an apartment house, duplex, or as an accessory use in a single-family home or a commercial building.

Apartment House

See Dwelling, Multi-Family.

Approval Authority

The Board of Commissioners, Board of Adjustment, Planning Board or other board or official designated by Ordinance as being authorized to grant the specific zoning or land use permit or approval that constitutes a site-specific development plan.

APPENDIX A. DEFINITIONS

Area of Shallow Flooding (Amended 10/8/2020)

A designated Zone AO or AH 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

The land in the floodplain within a community subject to a 1% or greater chance of being flooded in any given year.

Area of Future-Conditions Flood Hazard (Amended 10/8/2020)

The land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

Arcade

A place or facility where pinball or other similar electronic games are played for amusement only. Shall not be construed so as to include bingo games, internet cafes, any form of computer gaming, nor shall it be construed so as to include gambling devices or any other devices prohibited by law.

Art, Work of (Amended 11/13/2014)

All forms of original creations of visual art including but not limited to: sculpture, in any material or combination of materials, whether in the round, bas-relief, high relief, mobile, fountain, kinetic, or electronic; painting, whether portable or permanently fixed, as in the case of murals; mosaics; photographs; crafts made from clay, fiber and textiles, wood, glass, metal, plastics, or any other material, or any combination thereof; calligraphy; mixed media composed of any combination of forms or media; unique architectural stylings or embellishments, including architectural crafts; environmental landscaping; or restoration and renovation of existing works of art of historical significance. Signs are not considered artwork.

Artisan's Workshop (Amended 11/13/2014)

An establishment, not exceeding 3,000 square feet of floor area, for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items. An artisan's workshop includes an establishment that is engaged in the low-impact manufacturing, assembly, or repair of works of art. Examples include low-impact clothing or textile manufacturing, commercial bakery, food service contractor, movie production facility, printing, publishing, lithography, sign-making, welding, woodworking, arts-based (culinary, dance, art, music, photography) classroom, and other similar uses.

APPENDIX A. DEFINITIONS

Assembly Hall (Amended 9/14/2017)

A building or portion of a building in which facilities are provided for civic, educational, political, religious, entertainment, or social purposes. Food preparation facilities to serve events at the assembly hall may be provided but not to function as a restaurant to serve the general public.

Assisted Living Residence

Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The Department may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of NC General Statutes 131E-102. Effective October 1, 1995, there are two types of assisted living residences: adult care homes and group homes for developmentally disabled adults. Effective July 1, 1996, there is a third type, multi-unit assisted housing with services.

Automobile Service Station (Gas Station)

Any building or land used for the dispensing, sale, or offering for sale at retail any automobile fuels along with accessories such as lubricants or tires. Car washing, mechanical and electrical repairs and tire repairs shall only be performed incidental to the conduct of the service station and are performed indoors. No fuel pumps shall be located within fifteen (15) feet of any property line or street right-of-way. Incidental activities shall not include tire retreading, major body work, major mechanical work or upholstery work.

B

Bakery

The use of a structure or building for the production of bakery products including, but not limited to, breads, cakes, pastries, and doughnuts. When identified in this Ordinance as a retail use, the bakery products produced is for the direct sale to the consumer with no wholesale production or sales. Wholesale bakeries, for the purpose of this Ordinance, are considered a manufacturing use.

Bank

See Financial Institution.

Base Flood

The flood have a 1% chance of being equaled or exceeded in any given year.

APPENDIX A. DEFINITIONS

Base Flood Elevation (BFE)

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 an "area of special flood hazard," it may be obtained from engineering studies available from a federal or state or other source using FEMA approved engineering methodologies. This elevation, when combined with the "freeboard," establishes the "regulatory flood protection elevation."

Base Station

A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

Basement

Any area of the building having its floor subgrade (below ground level) on all sides.

Battery Charging Station

An electrical component assembly or cluster or component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed federal, state, and/or local requirements.

Battery Exchange Station *(Amended 11/13/2014)*

A fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds federal, state, and/or local requirements.

Bed and Breakfast Home *(Amended 11/13/2014)*

A private home that offers bed and breakfast accommodations to eight or fewer persons per night, as defined by NCGS 130A-248 and that: (1) does not serve food or drink to the general public; (2) services only the breakfast meal, and that meal is served only to overnight guests of the business; (3) includes the price of breakfast in the room rate; and (4) is the permanent residence of the owner or the manager of the business. Also includes bed and breakfast homes that have a separate commercial kitchen allowing them to obtain a permit to operate as an "establishment that prepares or serves food to the public," as defined by NCGS 130A-247(5).

Block

A tract of land or a lot or group of lots bounded by streets, public parks, golf courses, railroad rights-of-way, watercourses, lakes, unsubdivided land, or a boundary line or lines of the county or its towns or any combination of the above.

Block Frontage

That portion of a block which abuts a single street.

APPENDIX A. DEFINITIONS

Boarding/Rooming House

A building other than a hotel or motel where, for compensation, meals are served and lodging is provided.

Board of Adjustment

The Board of Adjustment of Windsor, North Carolina. A local body, created by ordinance, whose responsibility is to hear appeals from decisions of the UDO Administrator and to consider requests for variances from the terms of this Ordinance. Board of Adjustment shall include the term "Appeal Board."

Bona Fide Farm Purposes (Amended 11/13/2014; 3/14/2019; 10/8/2020)

Agricultural activities as set forth in NCGS 160D-903. Sufficient evidence that the property is being used for bona fide farm purposes includes the following: (1) a farm sales tax exemption certificate issued by the Department of Revenue; (2) a copy of the property tax listing showing that the property is eligible for participation in the present-use-value program pursuant to NCGS 105-277.3; (3) a copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; or (4) a forestry management plan.

Buffer

A fence, wall, hedge, or other planted area or device used to enclose, screen, or separate one use or lot from another.

Buildable Area

This term shall mean or refer to that area of each lot or tract excluding any applicable buffer zones and setback areas in which structures, garages, septic tanks, nitrification lines, accessory buildings, and similar appurtenances may be located.

Building

Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, and including tents, lunch wagons, dining cars, trailers, mobile homes and attached or unattached carports consisting of a roof and supporting members, and similar structures, whether stationary or movable. "Building" shall include all structures, regardless of similarity to buildings.

Building, Height of

The vertical distance from the average sidewalk grade or street grade or finished grade at the building line, whichever is the highest, to the highest point of the building. In computing the height of a building, the height of a basement, if below the grade from which the height is measured, shall not be included. Church steeples, chimneys, belfries, water tanks or towers, fire towers, flag poles, spires, wireless and broadcasting towers, cupolas, domes, antennas (except satellite dish

APPENDIX A. DEFINITIONS

antennas), and similar structures and necessary mechanical appurtenances are not subject to the height limit regulations contained in this Ordinance.

Building Line

A line perpendicular to the lot depth which establishes the horizontal distance between the structure and the front property line excluding the outermost steps, uncovered porches, gutters and similar features.

Building Permit

A permit required prior to the initiation of construction of a structure. It verifies that the proposed building's plans comply with the state building code. Many cities and counties require verification of zoning compliance before a building permit is issued.

Building, Principal (Main)

A building in which the primary use of the lot on which the building is located is conducted.

Building, Setback Line

A line measured parallel to the front property line in front of which no structure shall be erected.

C

CAMA – Coastal Area Management Act

This act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through the North Carolina Department of Environment and Natural Resources' Division of Coastal Management (DCM).

Certificate of Occupancy

Official certification that a premises conforms to provisions of this Ordinance and the city building code and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use. Unless such a certificate is issued, a structure cannot be occupied.

Chemical Storage Facility

A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Child

An individual less than 18 years of age, who has not been emancipated under the provisions of Article 35 of Chapter 7B of the NC General Statutes.

APPENDIX A. DEFINITIONS

Church/House of Worship

A building or structure, or group of buildings or structures which by design and construction are primarily intended for conducting organized religious services whose site may include an accessory area for the interment of the dead. Certain customary accessory uses shall be allowed to take place on church premises. These include book shops, thrift shops and certain types of day care centers and schools. The overnight lodging of transient persons shall not be considered as a customary accessory use. The accessory uses shall be subject to any applicable supplemental regulations located elsewhere in this Ordinance.

Club or Lodge (Private, Nonprofit, Civic, or Fraternal)

A nonprofit association of persons who are bona fide members paying dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

Collocation (Amended 9/14/2017)

The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, Town utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term "collocation" does not include the installation of new utility poles, Town utility poles, or wireless support structures.

Commercial

Any activity or service performed with the exchange of money or barter, expected to generate a profit.

Common Area

All areas conveyed to an owners' association in a townhouse development, residential development, or owned on a proportional undivided basis in a condominium.

Common Open Space

Land and/or water areas within the site designated for a particular development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development, but not including any lands occupied by streets, street rights-of-way or off-street parking.

Common Open Space, Improved

Common open space which has been improved with recreational areas and amenities such as, but not limited to, ball fields, tennis courts, swimming pools, nature trails, clubhouses and the like.

APPENDIX A. DEFINITIONS

Common Wall

The wall between two distinct sections of a building, one-story and two-story sections of a residence, or between house and attached garage; also known as party wall.

Communications Facility (Amended 9/14/2017)

The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

Communications Service (Amended 9/14/2017)

Cable service as defined in 47 USC § 522(6), information service as defined in 47 USC § 153(24), telecommunications service as defined in 47 USC § 153(53), or wireless services.

Communications Service Provider (Amended 9/14/2017)

A cable operator as defined in 47 USC § 522(5); a provider of information service, as defined in 47 USC § 153(24); a telecommunications carrier, as defined in 47 USC § 153(51); or a wireless provider.

Community Center

A building used for recreational, social, educational and cultural activities, usually owned and operated by a public or nonprofit group or agency.

Comprehensive Plan (Amended 10/8/2020)

The comprehensive plan, land use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the Board of Commissioners.

Conditional Zoning (Amended 10/8/2020)

A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

Contiguous

Next to, abutting or touching and having a boundary, or portion thereof, which is contiguous, including properties traversed or separated by a road, stream, right-of-way or similar man-made or natural configuration. The term contiguous shall also mean abutting or adjacent.

Convenience Store

A one-story retail store containing less than 3,000 square feet of gross floor area that is designed and stocked to sell primarily food (packaged and/or prepared on-site), beverages and other household supplies to customers who purchase a relatively few items, in contrast to a food store. It is designed to attract and depends upon a large volume of stop-and-go traffic. The sale of food prepared on-site for consumption either off- or on-site is considered an accessory and incidental

APPENDIX A. DEFINITIONS

use. Fuel may also be sold at the facility. Any facility of this type shall be deemed a mini-mart which can accommodate more than four vehicles simultaneously for fueling.

Cul-de-sac

A street with a single common point of ingress and egress and with a turnaround at its end.

Curb Cut

A lowered, discontinued and/or cut-away opening in street curbing for the purposes of permitting ingress or egress to property abutting a street. The term curb cut shall be construed to include the term driveway cut.

D

Day Care Facilities

Any child care arrangement which provides day care on a regular basis for more than four hours per day for more than five children, wherever operated and whether or not operated for profit, except that the following are not included:

- Public schools;
- Nonpublic schools whether or not accredited by the NC State Department of Public Institution, which regularly and exclusively provide a course of grade school instruction to children who are of public school age;
- Summer camps having children in full-time residence;
- Summer day camps; and
- Bible schools normally conducted during vacation periods.

Day Care Facility (Adult)

The provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. The following are exempt from this definition: (1) those that care for three people or less; (2) those that care for two or more persons, all of whom are related by blood or marriage to the operator of the facility; and (3) those that are required by other statutes to be licensed by the Department of Health and Human Services.

Decision-Making Board *(Amended 10/8/2020)*

A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this UDO.

APPENDIX A. DEFINITIONS

Dedication

A gift, by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Design Flood (Amended 10/8/2020)

See Regulatory Flood Protection Elevation.

Determination (Amended 10/8/2020)

A written, final, and binding order, requirement, or determination regarding an administrative decision.

Developer (Amended 10/8/2020)

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

Development (Amended 10/8/2020)

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

- (1) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- (2) The excavation, grading, filling, clearing, or alteration of land.
- (3) The subdivision of land as defined in NCGS 160D-802.
- (4) The initiation or substantial change in the use of land or the intensity of use of land.

Development, Flood Damage Prevention Ordinance (Amended 10/8/2020)

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 (Amended 10/8/2020)

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.

APPENDIX A. DEFINITIONS

Development Approval (Amended 10/8/2020)

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

Development Plan

A detailed drawing(s) containing specific information regarding proposed development within the Town.

Development Regulation (Amended 10/8/2020)

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

Digital Flood Insurance Rate Map (DFIRM) (Amended 10/8/2020)

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

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 ground waters.

Distillery (Amended 11/13/2014)

A distillery as permitted by NCGS is an enterprise which engages in one or more of the following:

- (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor;
- (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations;

APPENDIX A. DEFINITIONS

- (3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.

District

Any section of the zoning jurisdiction in which zoning regulations are uniform.

Drug Store

A retail store which sells prescription drugs and which may also sell other items at the retail level. A pharmacy may have a maximum gross floor area of 15,000 square feet. Prescription drugs may also be sold in department stores, variety stores and food stores but these stores shall not be deemed to be a pharmacy.

Dry Cleaning and Commercial Laundry Facilities

A business which cleans clothing by the use of a process of nonflammable solvents. Additionally, such establishments may provide laundry services of washing, drying, folding, and packaging of clothing and linens. Laundry facilities shall not include self-service washer and dryer facilities or laundromats.

Dwelling (Amended 10/8/2020)

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. The term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

Dwelling, Attached

A dwelling unit attached side-by-side to two or more other dwelling units by common vertical walls. Each dwelling unit shall be located on a separately deeded lot.

Dwelling, Detached

A dwelling unit not attached to another dwelling unit that is developed with open yards on at least three sides.

Dwelling, Duplex

A building containing two (2) dwelling units, other than where a second dwelling unit is permitted as an accessory use.

Dwelling, Multi-Family

A building containing three (3) or more dwelling units, except where permitted as an accessory use.

APPENDIX A. DEFINITIONS

Dwelling, Single-Family

A single building containing one (1) dwelling unit only, but may include one (1) separate unit as an accessory use to be occupied only by employees or relatives of the household. Such separate unit shall not include kitchen facilities.

Dwelling Unit

A room or combination of rooms designed for year round habitation, containing self-sufficient bathroom and kitchen facilities, connected to all required utilities, and designed for or used as a residence by one family. Units located within motels or hotels or travel trailers shall not be included as dwelling units.

E

Easement

A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation or persons.

Effective Date of this Section

The effective date of the section as originally adopted, or by the effective date of the most recent amendment adopted.

Electric Vehicle (Amended 11/13/2014)

Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for energy purpose. Electric vehicle includes: (1) a battery powered electric vehicle; and (2) a plug-in hybrid electric vehicle.

Electric Vehicle Charging Station (Amended 11/13/2014)

A public or private parking space located together with a battery charging station which permits the transfer of electric energy (by conductive or inductive means) to a battery or other storage device in an electric vehicle. An electric vehicle charging station is permitted as an accessory use to any principal use.

Electric Vehicle Parking Space (Amended 11/13/2014)

Any marked parking space that identifies the use to be exclusively for an electric vehicle.

Electronic Game Promotions

Any enterprise (as a principal use or an accessory use) utilizing electronic machines, including computers, as game promotions. In a game promotion, a person may conduct a game of chance in connection with the sale of consumer products or services and/or for which the elements of

APPENDIX A. DEFINITIONS

chance and prize are present. This term includes, but is not limited to, sweepstakes or internet cafes. This does not include any lottery approved by the State of North Carolina.

Elevated Building

A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Eligible Facilities Request

A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Encroachment

The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Energy Generating Facility

A facility that uses a variety of sources and/or products for the production of power. Energy facilities may include, but are not limited to: petroleum; methane; ethanol; thermal; wind; solar; hydro-electric; and other energy generation facilities.

Equipment Compound

An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

Existing Building and Existing Structure *(Amended 10/8/2020)*

Any building and/or structure for which the "start of construction" commenced before the effective date of the floodplain management regulations adopted by a community.

Existing Manufactured Home Park or Manufactured Home Subdivision

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) was completed before the initial effective date of the floodplain management regulations adopted by the community.

Evidentiary Hearing *(Amended 10/8/2020)*

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

APPENDIX A. DEFINITIONS

Extraterritorial Jurisdiction

This is the authority of a City to apply its zoning ordinance outside of the City limits. Cities in North Carolina generally have the authority to do this in an area immediately adjacent to the City, with the size of the area varying up to three miles depending on the population of the City. This area is often referred to as the "ETJ."

F

Fall Zone

The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Family

One or more persons occupying a dwelling unit and living as a single household.

Family Care Home

An adult care home having two to six residents. The structure of a family care home may be no more than two stories high, and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two direct exterior ground-level accesses to the upper story.

Farm Animals

Farm animals shall include, but not be limited to, animals commonly raised or kept in an agricultural environment including horses, swine, mules, sheep, goats, cows, poultry or other similar birds.

Fence

A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material used as a boundary or means of protection or confinement, but not including a hedge or other natural growth.

Financial Institution

A commercial bank, mortgage bank, savings and loan association or credit union, any of which are licensed, insured and chartered by the United States of America or the state.

Flood or Flooding

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
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

APPENDIX A. DEFINITIONS

Flood Boundary and Floodway Map (FBFM)

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)

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

Flood Insurance

The insurance coverage provided under the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM) *(Amended 10/8/2020)*

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. See also DFIRM.

Flood Insurance Study (FIS)

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.

Floodplain or Floodprone Area

Any land area susceptible to being inundated by water from any source.

Floodplain Administrator *(Amended 10/8/2020)*

The individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit

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

The operation of an overall program of corrective and preventative 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.

APPENDIX A. DEFINITIONS

Floodplain Management Regulations (Amended 10/8/2020)

Article 15 of 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 (Amended 10/8/2020)

Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

Flood-Resistant Material (Amended 10/8/2020)

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 lumbers 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 (Amended 10/8/2020)

The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, 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 foot.

Floodway Encroachment Analysis (Amended 10/8/2020)

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 hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

Flood Zone

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.

APPENDIX A. DEFINITIONS

Floor

The top surface of an enclosed area in a building, including the basement, for example, the top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Floor Area

For determining off-street parking and loading requirements, means the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, "floor area" for the purposes of measurement for off-street parking spaces shall not include floor area devoted to primarily storage purposes (except as otherwise noted herein); floor area devoted to off-street parking or loading facilities, including aisles, ramps and maneuvering space; or basement floor other than area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

Floor Area, Gross

The total floor area enclosed within a building, measured from interior wall to interior wall.

Food Truck (Amended 5/11/2017; Effective 6/1/2017)

A licensed vehicle equipped with facilities for cooking and selling food which satisfies local and state regulations for health and sanitation standards.

Freeboard (Amended 10/8/2020)

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 or culvert openings, precipitation exceeding the base flood, and hydrological effect of urbanization of the watershed. The base flood elevation plus the freeboard establishes the regulatory flood protection elevation.

Frontage

The distance between the two (2) side lot lines as measured along the right-of-way line.

Fuel Station (Filling Station)

A fuel dispensing pump, which may contain more than one fuel nozzle, designed to accommodate one or two vehicles at a time. If two vehicles are accommodated at the same time, fuel nozzles serving the two vehicles shall be located on opposite sides of the fuel pump.

Functionally Dependent Facility (Amended 10/8/2020)

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

APPENDIX A. DEFINITIONS

passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

Funeral Home

A facility used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

G

Garage, Private

A building or space used as an accessory to or a part of the main building permitted on a lot in any residential district, and providing for the storage of motor vehicles and in which no business, occupation, or service for profit is in any way conducted.

Garage, Public

Any building or premises, except those described as a private or storage garage, used for the storage of cars or motor vehicles or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

Garage, Storage

Any building or premises, other than a private garage, used exclusively for the parking or storage of motor vehicles.

Golf Course

A tract of land for playing golf, improved with tees, fairways and hazards, and which may include clubhouses and shelters.

Governing Body *(Amended 10/8/2020)*

The Town or County Board of Commissioners. The term is interchangeable with the terms "board of aldermen" and "town/city council" and shall mean any governing board without regard to the terminology employed in charters, local acts, other portions of the NC General Statutes, or local customary usage.

Granny Pod *(Amended 11/13/2014; 10/8/2020)*

A temporary structure that will house a single "mentally or physically impaired person" in accordance with NCGS 160D-914. The statute defines these to be North Carolina residents who require assistance with two or more activities of daily living (bathing, dressing, personal hygiene, ambulation, transferring, toileting, and eating). The impairment must be certified in writing by a physician licensed in North Carolina.

APPENDIX A. DEFINITIONS

H

Handicapped Person

A person with a physical or mental impairment which substantially limits one or more of the person's major life activities; a person with a record of having an impairment of this kind; or a person who is regarded as having this impairment. This term does not include current, illegal use of or addiction to a controlled substance as defined in 21 USC 802.

Hazardous Waste Management Facility

A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.

Heliport (Amended 10/8/2020)

An area providing for the takeoff and landing of helicopters and fuel facilities (whether fixed or mobile) and accessory areas for parking, maintenance, and repair of helicopters.

Highest Adjacent Grade

The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic Structure

Any structure that is:

- (1) 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;
- (2) 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;
- (3) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
- (4) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."

CLG Programs are approved by the US Department of the Interior in cooperation with the NC 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.

Home Care Agencies

A private or public organization that provides home care services.

APPENDIX A. DEFINITIONS

Home Care Services

Any of the following services and directly related medical supplies and appliances, which are provided to an individual in a place of temporary or permanent residence used as an individual's home:

- (1) Nursing care provided by or under the supervision of a registered nurse.
- (2) Physical, occupational, or speech therapy, when provided to an individual who also is receiving nursing services, or any other of these therapy services, in a place of temporary or permanent residence used as the individual's home.
- (3) Medical social services.
- (4) In-home aide services that involve hands-on care to an individual.
- (5) Infusion nursing services.
- (6) Assistance with pulmonary care, pulmonary rehabilitation or ventilation.
- (7) In-home companion, sitter, and respite care services provided to an individual.
- (8) Homemaker services provided in combination with in-home companion, sitter, respite, or other home care services.

Home Occupation, Class A (Amended 12/8/2016)

Any service (non-commodities sale) occupation or profession carried on entirely within a dwelling or accessory structure by one (1) or more occupants thereof, providing that such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes.

Home Occupation, Class B (Amended 12/8/2016)

Any service (non-commodities sale) occupation or profession carried on entirely within a dwelling or accessory structure by one (1) or more occupants thereof and up to three (3) non-resident employees, providing that such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes.

Hospices

Any coordinated program of home care with provision for inpatient care for terminally ill patients and their families. This care is provided by a medically directed interdisciplinary team, directly or through an agreement under the direction of an identifiable hospice administration. A hospice program of care provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of patients and their families, which are experienced during the final stages of terminal illness and during dying and bereavement.

Hospital

Any facility which has an organized medical staff and which is designed, used, and operated to provide health care, diagnostic and therapeutic services, and continuous nursing care primarily to inpatients where such care and services are rendered under the supervision and direction of physicians licensed under Chapter 90 of the General Statutes, Article 1, to two or more persons over

APPENDIX A. DEFINITIONS

a period in excess of 24 hours. The term includes facilities for the diagnosis and treatment of disorders within the scope of specific health specialties. The term does not include private mental facilities licensed under Article 2 of Chapter 122C of the General Statutes, nursing homes licensed under G.S. 131E-102, adult care homes licensed under Part 1 of Article 1 of Chapter 131D of the General Statutes, and any outpatient department including a portion of a hospital operated as an outpatient department, on or off of the hospital's main campus, that is operated under the hospital's control or ownership and is classified as Business Occupancy by the Life Safety Code of the National Fire Protection Association as referenced under 42 C.F.R. § 482.41.

Hotels and Inns

A building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, where rooms are furnished for the accommodation of such guests; and may have one or more dining rooms, restaurants or cafes where meals are served.

I

Ice Cream Stand/Dairy Bars

A facility for the retail sale of frozen confections as a carry out purchase. May have outside seating capacity consistent with State Health Code requirements.

Impervious Cover or Surface

Any structure, material or ground cover consisting of, but not limited to, asphalt, concrete, stone, brick, terrazzo, roofing, ceramic tile or any other natural or man-made material that prevents the absorption of surface water into the soil.

Incompatible Use

A use or service which is unsuitable for direct association and/or contiguity with certain other uses because it is contradictory, incongruous or discordant.

J

Junk/Salvage Yard

Any area, in whole or in part, where waste or scrap materials are bought, sold, exchanged, stored, baled, packaged, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, vehicles, rubber tires, and bottles. A "junkyard" includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings.

K

None.

APPENDIX A. DEFINITIONS

L

Landowner (Amended 10/8/2020)

The holder of the title in fee simple. Absent evidence to the contrary, the Town may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase, to act as his or her agent or representative for the purpose of making applications for development approvals.

Large Scale Zoning Amendment (Amended 10/8/2020)

The rezoning of more than fifty (50) parcels.

Laundromat (Coin-Operated Laundry)

A self-service commercial establishment for the washing and preparation of clothes and other fabrics.

Legislative Decision (Amended 10/8/2020)

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

Legislative Hearing (Amended 10/8/2020)

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

Letter of Map Change (LOMC) (Amended 10/8/2020)

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:

- (1) 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.
- (2) 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.
- (3) 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

APPENDIX A. DEFINITIONS

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.

- (4) 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.

Licensable Facilities

A facility that provides services to individuals who are mentally ill, developmentally disabled, or substance abusers for one or more minors or for two or more adults. These services shall be day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential services provided for 24 consecutive hours or more. Facilities for individuals who are substance abusers include chemical dependency facilities.

Light Duty Truck *(Amended 10/8/2020)*

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:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

Loading Space, Off-Street

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expect to be used, and accessible to such vehicles. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot

A parcel of land occupied or intended for occupancy by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot area as required by this chapter, and having not less than the minimum required frontage upon a street, either shown on a plat of record, or considered as a unit of property and described by metes and bounds. For the purpose of this Ordinance, the word "lot" shall be taken to mean any number of contiguous

APPENDIX A. DEFINITIONS

lots or portions thereof, upon which one (1) or more main structures for a single use are erected or are to be erected. "Lot" shall include the words "parcel," "plot" and "tract."

Lot Area

The total horizontal area included within the lot lines.

Lot, Corner

A lot abutting the intersection of two (2) or more streets or a lot abutting on a curved street or streets if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot at the apex meet at any angle of less than one hundred thirty-five (135) degrees. In such a case the apex of the curve forming the corner lot shall be considered as the intersection of street lines for the purpose of this chapter, such as in corner visibility requirements.

Lot Coverage

That portion of a lot occupied by buildings, structures and/or improvements, including paving and/or surface treatment materials.

Lot Depth

The average distance between the front and back lot lines measured at right angles to its frontage and from corner to corner.

Lot, Interior

A lot other than a corner lot.

Lot Line

The line bounding a lot.

Lot Line, Front

The lot line separating a lot from a street right-of-way.

Lot Line, Interior

A lot line which does not have street frontage.

Lot Line, Rear

The lot line opposite and most distant from the front lot line.

Lot Line, Side

Any lot line abutting another lot and which is not a front or rear lot line.

APPENDIX A. DEFINITIONS

Lot of Record

A lot which is a part of a subdivision, a plat of which has been recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds by the owner or predecessor in title thereto.

Lot, Through (Double Frontage)

A continuous (through) lot of the same depth as the width of a block and which is accessible from both of the streets upon which it fronts.

Lot Width

The straight line distance between the points where the building setback line intersects the two (2) side lot lines.

Lowest Adjacent Grade (LAG)

The elevation of the ground, sidewalk, or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest Floor

The lowest floor of the lowest enclosed area, including the basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that the enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

M

Major Renovation

Any construction, reconstruction, structural alteration, expansion, enlargement, or remodeling conducted within any two-year period, the total cost of which exceeds 51% of the assessed value of the existing buildings on the property.

Manufactured Home *(Amended 10/8/2020)*

A structure or dwelling designed for living or sleeping purposes, 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. Sometimes called a mobile home.

- (A) *Class A Manufactured Home (Multi-Section/Double-Wide)*. A manufactured home that meets or exceeds the construction standards established by the US Department of Housing and Urban Renewal (HUD) that were in effect at the time of its manufacture and is a multi-section unit.

APPENDIX A. DEFINITIONS

- (B) *Class B Manufactured Home (Single-Wide)*. A manufactured home that meets or exceeds the construction standards established by HUD that were in effect at the time of its manufacture and is a single-wide unit.

Manufactured Home Park or Subdivision

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufactured Home Space

A plot of land within a manufactured home park used, designed to be used, or intended to be used for the placement of a single manufactured home.

Manufactured Home Stand

That portion of the manufactured home used, intended to be used, or designed to be used as the area occupied by the manufactured home itself.

Map Repository (Amended 10/8/2020)

The location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products carry the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

Market Value

The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building and quality of construction (actual cash value), or adjusted tax assessed values.

Mean Sea Level

The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this Ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Memorial Sign or Plaque

A sign designating names of buildings and/or date of erection and other items such as architect, contractor or others involved in a building's creation, cut into or attached to a building surface.

APPENDIX A. DEFINITIONS

Microbrewery *(Amended 11/13/2014)*

A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise.

Micro Wireless Facility *(Amended 9/14/2017)*

A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Mini-Storage

A structure containing separate storage spaces of varying sizes leased or rented on an individual basis. No outdoor storage shall be allowed in conjunction with the facility with the following exceptions: boats, cars; motorcycles; trailers; motor homes, pick-up trucks and similar-type and size vehicles; and building materials. All areas devoted for outdoor storage shall be screened in accordance with Article 12. Use of the leased storage spaces shall be for storage purposes only.

Mixed Use

A project which integrates a variety of land uses including residential, office, commercial, service, and employment and can result in measurable reductions in traffic impacts.

Mobile Home

See Manufactured Home.

Modular Home

A dwelling unit or building constructed in accordance with the standards set forth in the North Carolina Building Code and constructed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular unit may consist of two (2) or more sections transported to the site in a manner similar to a manufactured home (except that the modular unit meets the North Carolina State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

Motor Vehicle

An automobile, van or pickup truck used exclusively as a passenger vehicle and/or for hauling property of the owner. Pickup trucks may qualify as passenger vehicles only when used exclusively as passenger vehicles or for hauling property of the owner and not equipped as a camper or a commercial vehicle.

Motor Vehicle, Junked

A motor vehicle that does not display a current license plate and is one of the following:

- (1) Partially dismantled or wrecked;

APPENDIX A. DEFINITIONS

- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; and/or
- (3) More than five years old and appears to be worth less than \$100.

Multi-Family Development

A tract of land under single, individual, corporate, firm partnership, or association ownership, or under common control evidenced by duly recorded contracts or agreements; planned and developed as an integral unit in a single development operation or in a definitively programmed series of development operations. The development shall consist of two or more duplex buildings, or three or more dwelling units sharing one or more common walls. The development shall have a unified or coordinated design of buildings and a coordinated organization of service areas and common open space.

Multi-Phase Development *(Amended 3/14/2019)*

A development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

Multi-Unit Assisted Housing with Services

An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency, through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or their compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care. Multi-unit assisted housing with services programs are required to register with the Division of Facility Services and to provide a disclosure statement. The disclosure statement is required to be a part of the annual rental contract that includes a description of the following requirements:

- (1) Emergency response system;
- (2) Charges for services offered;
- (3) Limitations of tenancy;
- (4) Limitations of services;
- (5) Resident responsibilities;
- (6) Financial/legal relationship between housing management and home care or hospice agencies;

APPENDIX A. DEFINITIONS

- (7) A listing of all home care or hospice agencies and other community services in the area;
- (8) An appeals process; and
- (9) Procedures for required initial and annual resident screening and referrals for services.

Continuing care retirement communities, subject to regulation by the Department of Insurance under Chapter 58 of the General Statutes, are exempt from the regulatory requirements for multi-unit assisted housing with services programs.

N

National Geodetic Vertical Datum (NGVD)

As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.

New Construction

Structures for which the start of construction commenced on or after the effective date of this Ordinance, and includes any subsequent improvements to the structures.

Newsstand

An establishment which sells newspapers, magazines, candy, tobacco and sundry products at the retail level. A newsstand may not sell materials so as to conform with the term adult establishment, as defined in G.S. 14-202.10.

Nonconforming Building or Structure

A nonconforming situation that occurs when the height of a structure or the relationship between an existing building or buildings and other buildings or lot lines do not conform to the dimensional regulations applicable to the district in which the property is located.

Nonconforming Lots of Record

A lot existing at the effective date of this Ordinance or any amendment to it, and not created for the purpose of evading the restrictions of this chapter, that cannot meet minimum area and/or lot width requirements of the district in which the lot is located.

Nonconforming Situation

A situation that occurs when, on the effective date of this Ordinance or any amendment to it, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage

APPENDIX A. DEFINITIONS

requirements, because structures do not satisfy minimum yard requirements, because the relationship between existing buildings and the land, in matters such as density and setback requirements, is not in conformity with this Ordinance, or because land or buildings are used for purposes which are not in conformance with the list of permitted uses for the district in which the property is located.

Nonconforming Use

A nonconforming situation that occurs when property is used for a purpose or in a manner not permitted by the use regulations applicable to the district in which the property is located.

Non-encroachment Area (Amended 10/8/2020)

The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, 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.

Notice

The formal legal notification of a public hearing on a proposed zoning amendment or permit. A "published notice" is one required to be printed in a newspaper of general circulation. A "mailed notice" is one delivered to specified individuals (usually the applicant and immediate neighbors) by US Mail.

Nuisance

Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

Nursery

A commercial enterprise conducted on land where flowers, shrubs and similar horticultural products are raised and sold to the general public. Nurseries may include the use of greenhouses for growing purposes.

Nursing Facilities

A combination home, nursing home, or facility as defined below:

- (1) *Combination Home.* A nursing home offering one or more levels of care, including any combination of skilled nursing, intermediate care, and adult care home.
- (2) *Nursing Home.* A facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A "nursing home" is a home for chronic or convalescent patients, who, on admission, are not as a rule,

APPENDIX A. DEFINITIONS

acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A "nursing home" provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision.

- (3) *Facility.* A nursing home and a home for the aged or disabled licensed pursuant to G.S. 131E-102, and also means a nursing home operated by a hospital which is licensed under Article 5 of G.S. Chapter 131E.

Nursing Pools

Any person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in health care facilities for nursing personnel, including nurses, nursing assistants, nurses aides, and orderlies. "Nursing pool" does not include an individual who engages solely in providing his own services on a temporary basis to health care facilities.

O

Obstruction

Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard, or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Office

A room or group of rooms used for the conduct of a business, profession, service, industry or government where retail trade is not conducted.

Office Building

A building, a majority of which is used for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand. Retail uses serving the general public may also be located in these structures but shall not constitute a majority of the building's gross leasable area.

APPENDIX A. DEFINITIONS

Official Maps or Plans

Any maps or plans officially adopted by the Board of Commissioners as a guide for the development of the Town consisting of maps, charts, and texts.

Open Space

An area (land and/or water) generally lacking in man made structures and reserved for enjoyment in its unaltered state.

Ordinance

This Unified Development Ordinance, including any amendments. Whenever the effective date of the ordinance is referred to, the reference includes the effective date of any amendment to it.

Outparcel

A lot located within a planned multi-tenant development (e.g., a shopping center) which does not have access from a public road abutting the development. The lot may contain no more than one principal use and the outparcel lot may be exempt from the yard and bulk requirements of the underlying zoning district.

Overlay District

A zoning district that applies development standards in addition to the requirements of the basic (or "underlying" zoning district). For example, a floodplain overlay district may impose restrictions on development in flood hazard areas that are in addition to whatever requirements are imposed by the underlying residential or commercial zoning district.

Owner

A holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

P

Parapet

That portion of a building wall or false front that extends above the roof line.

Parking Lot

An area or plot of land used for the storage or parking of vehicles.

Parking Space

A plainly indicated area of not less than ten (10) feet in width and not less than twenty (20) feet in length for the parking of one (1) motor vehicle.

APPENDIX A. DEFINITIONS

Permitted Use

A use that is automatically approved in a zoning district. For example, a residential zoning district may list single-family homes, places of worship, and schools as permitted uses.

Person *(Amended 10/8/2020)*

Any individual, partnership, firm, association, joint venture, public or private corporation, trust estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

Photovoltaic Power

An active solar energy system that converts solar energy directly into electricity.

Planning and Development Regulation Jurisdiction

The geographic area

Planning Board

The Planning Board of Windsor, North Carolina. The public agency in a community usually empowered to prepare a comprehensive plan and to evaluate proposed changes in land use, either by public or private developers, for conformance with the plan.

Plat

A map showing the location, boundaries and ownership of individual properties.

Plat, Preliminary

A map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.

Plat, Final

A map of a land subdivision prepared in a form suitable for filing on record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas and other dimensions of land.

Post-Firm

Construction or other development for which the "start of construction" occurred on or after the effective date of the initial flood insurance rate map for the area.

Pre-Firm

Construction or other development for which the "start of construction" occurred before the effective date of the initial flood insurance rate map for the area.

APPENDIX A. DEFINITIONS

Premises

A single piece of property as conveyed in a deed or a lot or a number of adjacent lots on which is situated a land use, a building, or group of buildings designed as a unit or on which a building or group of buildings are to be constructed.

Principal Building

See Building, Principal.

Principal Use

The primary purpose or function that a lot serves or is intended to serve.

Principally Above Ground

At least fifty-one (51) percent of the actual cash value of the structure is above ground.

Private Driveway

A roadway serving two or fewer lots, building sites, or other division of land and not intended to be public ingress or egress.

Property *(Amended 10/8/2020)*

All real property subject to land use regulation by the Town. The term includes any improvements or structures customarily regarded as part of real property.

Protest Petition

A formal written objection to a zoning change filed by the property owners most directly affected by the proposed amendment. If a qualifying petition is filed at least two working days prior to the public hearing on a proposed zoning amendment, the amendment can only be adopted if approved by a three-fourths majority of the governing board.

Public Safety and/or Nuisance

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.

Public Sewer System

A system serving two (2) or more dwelling units and approved by the county division of the district health department and the state department of water and air resources.

APPENDIX A. DEFINITIONS

Public Water System

Any water supply furnishing potable water to ten (10) or more residence or businesses, or combination of residence or businesses. Approval by the sanitary engineering division, state board of health, department of human resources is required.

Q

Quasi-Judicial Decisions (Amended 10/8/2020)

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

R

Recreation Area or Park

An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various manmade features that accommodate such activities.

Recreational Vehicle (Amended 10/8/2020)

A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.
- (5) Is fully licensed and ready for highway use.

Recreational Vehicle Park

Any site or tract of land of at least one (1) acre upon which are located the minimum number of recreational vehicle spaces or land area required by this Ordinance, regardless of whether or not a change is made of such service.

APPENDIX A. DEFINITIONS

Recreational Vehicle Space

A plot of land within a recreational vehicle park designed for the accommodation of one (1) recreational vehicle. The plot shall contain a minimum of one thousand (1,000) square feet.

Reference Level *(Amended 10/8/2020)*

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 all Special Flood Hazard Areas.

Regulatory Flood Protection Elevation *(Amended 9/14/2017; 10/8/2020)*

The base flood elevation plus the freeboard. In special flood hazard areas where base flood elevations have been determined, this elevation shall be the BFE plus five (5) feet of freeboard. In special flood hazard areas where no BFE has been established, this elevation shall be at least four (4) feet above the highest adjacent grade. Duct work and other non-flood resistant materials are exempt from freeboard requirements but must still be above BFE.

Remedy a Violation

To bring the structure or other development into compliance with state or local 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 this Ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Repetitive Loss

Flood-related damages sustained by a structure on two (2) separate occasions during any ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

Restaurant

A building or part of a building used or designed for the serving of food for compensation on the premises, but not including a drive-in restaurant. An establishment requiring a sanitation grade, meaning and including restaurants, catering operations, coffee shops, cafeterias, short order cafes, luncheonettes, school lunchrooms, delicatessens, and all other establishments and operations where food is prepared, handled, and served at wholesale or retail for pay; as well as sandwich manufacturing establishments, kitchens, and all other places in which food is handled or prepared for sale elsewhere. Due to the lack of public health significance, the term does not include establishments which only serve such items as dip ice cream, popcorn, candied apples or cotton candy.

APPENDIX A. DEFINITIONS

Restaurant, Drive-In

An establishment where food products are sold in a form ready for consumption, and where consumption is designed to take place on-site outside the confines of a building. At drive-in restaurants, customers may order their food from individual outdoor calling stations rather than at a centrally located drive-in service window commonly found at drive-through or fast-food restaurants.

Restaurant, Drive-Through

An establishment whose principal business is the sale of precooked or rapidly prepared food directly to the customer in a ready-to-consume state for consumption on the restaurant premises or off-premises. Unlike a fast food restaurant, a drive-through restaurant does not contain any indoor customer dining areas. Unlike a drive-in restaurant, orders are taken from customers from centrally located drive-in windows rather than from individual calling stations.

Restaurant, Fast Food

An establishment whose principal business is the sale of precooked or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on the restaurant premises or off-premises. Orders for food may be placed either within the restaurant building or from a centrally located outdoor calling station. The restaurants may also have drive-in service windows for the pickup of food orders.

Rezoning

The amendment of a zoning map to move property from one zoning district to another district.

Riverine

Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Roof Line

The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

S

Salvage Yard *(Amended 10/8/2020)*

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.

School, Primary and Secondary

A public, private, or parochial school offering instruction approved and required to be taught in the public elementary, middle, and high schools of North Carolina by the NC Board of Education.

APPENDIX A. DEFINITIONS

School, Vocational

A secondary or higher education facility, to include training facilities, that teach usable skills that prepare students for jobs in a specific trade or vocation or to acquire certain skills that allow them to pass certain types of examinations upon graduation (e.g., auto mechanics, secretarial studies, machine repair, computer training facilities, Class 'C' driving schools and the like).

School for the Arts

A school where classes in the various arts (e.g., dance, painting, sculpting and singing) are taught to four or more persons at a time. As differentiated from a vocational school, the schools are usually attended by persons of all ages where professional placement after graduation is not of significant importance. A school giving martial arts instruction shall be considered a separate use.

Screening

A fence, wall, hedge, landscaping, earth berm, buffer area or any combination of these provided to create a visual and/or physical separation between certain land uses. Screening may be located on the property line or elsewhere on the site.

Search Ring

The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

Secondary Use

A use located on a parcel with a primary use, subordinate in scale/size to the primary use and not related to or in any way associated with the function of the primary use.

Service Station

See Automobile Service Station.

Setback

The required distance between every structure and the lot lines of the lot on which it is located.

Setback, Front

Any setback from a street or road.

Setback, Rear

Any setback other than a front setback which provides a usable outdoor space. Any lot having two or more front setbacks may not have to provide a rear setback.

Setback, Side

Any interior property line setback other than a rear setback.

APPENDIX A. DEFINITIONS

Shadow Flicker

The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.

Shopping Center

A group of two or more retail or service establishments constructed and developed in one or more phases with customer and employee parking and merchandise and other loading facilities provided on-site. A shopping center may be located and developed on one or more lots and may include one or more principal buildings. A shopping center differs from an office building in that the majority the gross leasable area in a shopping center is devoted to retail and service uses serving the general public, and the majority of gross leasable area in an office building is composed of office uses. Any uses located on outparcels which have points of ingress or egress from within the shopping center shall be considered as being part of that shopping center.

Shrub, Large

An ornamental plant that is at least two feet tall above the highest root at the time of planting, which can be expected to grow to a five- to six-foot height when mature.

Sign

Any object, device, or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. The term sign does not include flag or emblem of any nation, organization of nations, state, political subdivision thereof, or any fraternal, religious or civic organization; works of art which in no way identify a product or business; scoreboards located on athletic fields; or religious symbols.

Sign, Advertising

A sign, other than a directional sign, which directs attention to or communicates information about a business, commodity, service or event that exists or is conducted, sold, offered, maintained, or provided at a location other than the premises where the sign is located. Any advertising sign allowed under this chapter may display either a commercial or noncommercial copy.

Sign and Banner Shop

The manufactured and/or sales of banners, flags, and similar decorative sign objects on an individualized basis using computer graphic production equipment or silk screening.

Sign Area

The entire face of a sign including the advertising surface and any framing, trim, or molding, but not including the supporting structure. In computing area, only one side of a double-faced sign shall be considered.

APPENDIX A. DEFINITIONS

Sign, Business Identification

A sign that directs attention to a business, profession, or industry located upon the premises where the sign is displayed; to the type of products sold, manufactured or assembled; and/or to services or entertainment offered on the premises, but not a sign pertaining to the preceding if the activity is only minor and incidental to the principal use of the premises.

Sign, Campaign or Election

A sign that advertises a candidate or issue to be voted upon on a definite election day.

Sign, Canopy and Awning

A sign attached to or painted or printed on to a canopy or awning. For the purposes of this Ordinance, the permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.

Sign, Construction

A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier or others involved in the development of the project.

Sign, Directional

A sign fronting on a road containing only the name of the principal use, directional arrow and mileage to the principal use. The principal use shall not be visible to the motorist at the location at which the sign is placed.

Sign, Directory

A sign on which the names and location of occupants or the use of a building or property is identified.

Sign, Double-Sided

A sign with two display areas against each other or where the interior angle formed by the display areas is 45 degrees or less, where one face is designed to be seen from one direction and the other side from another direction.

Sign, Electronic Message Board

A sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means. A time and/or temperature sign shall not be considered an electronic graphics sign.

Sign Face

The surface of the sign where copy, messages, or advertisements are attached for display to the public, including any parts of the sign structure upon which such information is located.

APPENDIX A. DEFINITIONS

Sign, Flashing

Any illuminated sign on which the lights either blink on and off randomly or in sequence or have intermittent variation in intensity or color; provided, however, that seasonal lighting as permitted by local code, time and temperature signs, public message displays using electronic switching, or electronic message boards shall not be considered flashing signs.

Sign, Freestanding

Any sign permanently attached to the ground and not attached to any building which advertises a single business, its goods or services, and is located on a single parcel occupying an entire structure or building. Signs advertising multiple tenants, multiple uses, multiple buildings or multiple parcels are not freestanding signs.

Sign, Hanging

Any sign suspended from a brace, arm, ceiling or other overhead support.

Sign, Government

Any temporary or permanent sign erected and maintained for any government purposes.

Sign, Ground

Any sign which extends from the ground or which has supports which places the bottom thereof less than three and one-half feet from the ground directly beneath the sign.

Sign, Identification

A sign which displays only the name, address, and/or crest, or insignia, trademark, occupation of a professional or an occupant or the name of any building on the premises.

Sign, Illuminated

A sign either internally or externally illuminated.

Sign, Incidental

A sign used in conjunction with equipment or other functional elements for a use or operation. These shall include, but not be limited to, drive-through window menu boards, and signs on automatic teller machines, gas pumps, vending machines or newspaper delivery boxes.

Sign, Instructional

An on-premises sign designed to guide vehicular and/or pedestrian traffic by using words such as entrance, exit, parking, one-way, or similar directional instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

APPENDIX A. DEFINITIONS

Sign, Lighted

A sign illuminated only by light cast upon the sign from an external light source.

Sign, Luminous

A sign lighted by or exposed to artificial lighting either by lights on or in the sign.

Sign, Monument

Any sign permanently attached to the ground and not attached to any building advertising multiple tenants, multiple uses, multiple buildings or multiple parcels. The design of the monument sign is to advertise multiple offerings in the building, group of buildings, or development area. Individual business within multi-tenant facilities are not permitted freestanding signs and shall have their signage located on a monument sign.

Sign, Non-Conforming

A sign which was legally erected prior to the effective date of this Ordinance, but which does not conform to these regulations.

Sign, Off-Site/Off-Premises Advertising

A sign identifying, advertising, or directing the public to a business or commercial activity located on property other than where the sign is located.

Sign, Outdoor Advertising Sign

A sign, whether freestanding or painted on or attached to a building, which directs attention to a business, product, accommodate, service, event, or other activity which is conducted, sold, offered, or provided at a location other than the premises where the sign is located. Such signs are also known as billboards or off-premises signs. On-premises business identification signs, temporary political signs, directional signs twenty (20) square feet or less in size, official signs, or highway and historic markers shall not be considered outdoor advertising signs.

Sign Painting Shop

The painting and/or manufacture of signs normally which are displayed as pole signs, outdoor advertising signs, ground-mounted or monument signs or erected outdoors either on buildings or freestanding. This shall also include outdoor advertising sign company operations centers.

Sign, Pole

A detached sign erected and maintained on a free-standing frame, mast or pole and not attached to any building, but not including ground-mounted or monument signs. The bottom of the sign shall be greater than three and one-half feet from the ground directly beneath the sign.

APPENDIX A. DEFINITIONS

Sign, Portable

A sign designated or intended to be moved easily that is not permanently embedded in the ground or affixed to a building or other structure, including any sign that rests upon the ground, a frame, a building, or other structure. Including but not limited to the following signs: trailer signs (with or without wheels), menu and sandwich boards, hot air or gas-filled balloons or umbrellas used for advertising, signs mounted for advertising purposes on a vehicle that is parked and visible from the public right-of-way (except signs identifying the related business when the vehicle is being used in the normal day-to-day operation of that business), sidewalk or curb signs, and A-frame signs.

Sign, Projecting

Any sign, other than a wall, awning, canopy or marquee sign, which is affixed to a building and is supported only by the wall on which the sign is mounted.

Sign, Public Interest

A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as warning and no trespassing signs.

Sign, Real Estate

A sign that is used to offer for sale, lease or rent the premises upon which the sign is placed.

Sign, Roof

A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

Sign, Setback

The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of the sign or its supporting structure, whichever is nearest to the property line or right-of-way.

Sign, Snipe

A sign, constructed of such non-durable materials as corrugated plastic, cardboard, poster board, paper, plywood, etc., which is stapled, tacked, nailed, pasted, glued, slid onto or otherwise attached to trees, poles, stakes, fences, wire frames, or any other similar objects located in public rights-of-way and other public or private property.

Sign Structure

The supporting poles, braces, struts, trim, or border; or building or structure to which an outdoor advertising sign is attached.

Sign, Temporary

A sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the

APPENDIX A. DEFINITIONS

erection of such sign, or is intended to remain on the location where it is erected or placed for a period of not more than fifteen (15) calendar days prior to and/or following the associated circumstance, situation, or event.

Sign, V-Type

A sign structure constructed in the form of a "V" with an angle no greater than forty-five (45) degrees and at no point separated by a distance greater than five (5) feet.

Sign, Wall

Any sign which is placed against a building or other structure, which is attached to the exterior front, rear or side wall of such building or structure and which does not project above the highest part of the structure. A sign or mural painted on the surface of a structure shall be considered a wall sign and shall be permitted only if it meets the requirements of this section.

Sign, Window

Any sign appearing in, on or through a window of a structure and visible from outside. The term window sign shall not be used to define a window display.

Site Plan (Amended 10/8/2020)

A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

Site Plan, Major

A site specific plan for a building or addition of greater than 2,500 square feet or more than one (1) acre of disturbed land area. This does not include single-family detached residential areas.

Site Plan, Minor

A site specific plan for a building or addition of less than 2,500 square feet or less than one (1) acre of disturbed land area. This does not include single-family detached residential uses.

Site-Specific Development Plan (Amended 10/8/2020)

A plan of land development submitted to the city for purposes of obtaining one of the following zoning or land use permits or approvals: subdivision plat or special use permit.

APPENDIX A. DEFINITIONS

Small Wireless Facility (Amended 9/14/2017)

A wireless facility that meets both of the following qualifications:

- (1) Each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six (6) cubic feet.
- (2) All other wireless equipment associated with the facility has a cumulative volume of no more than twenty-eight (28) cubic feet. For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Solar Collector (Accessory)

Any solar device that absorbs and accumulates solar radiation for use as a source of energy. The device may be roof-mounted or ground-mounted as an accessory use.

Solar Energy

Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System

A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generating, or water heating. Solar Energy Systems may include, but not be limited to, solar farms and any of several devices that absorb and collect solar radiation for use as a source of energy as an accessory use.

Solar Farm

An area of land designated use for the sole purpose of deploying photovoltaic power and generating electric energy.

Solid Waste Disposal Facility

Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

Solid Waste Disposal Site (Amended 10/8/2020)

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.

APPENDIX A. DEFINITIONS

Special Flood Hazard Area (SFHA)

See Area of Special Flood Hazard.

Special Services Homes

A residence within a single dwelling unit for at least two (2) but not more than nine (9) persons who are physically, emotionally, or mentally handicapped or infirm, together with not more than two (2) persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment. Special services homes including: (1) homes for the handicapped or infirm; (2) nursing and intermediate care homes; (3) child care homes; and (4) halfway houses.

Special Use (Amended 10/8/2020)

A use permitted in a particular zoning district by the Board of Commissioners after having held a public hearing and determined that the use in a specified location complies with certain findings of fact as specified in this Ordinance.

Special Use Permit (Amended 10/8/2020)

A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

Spot Zoning (Amended 10/8/2015)

The zoning of a relatively small area of land differently from the way the majority of the surrounding land is zoned. Spot zoning is legal only if the government establishes that it is reasonable. Reasonableness is determined by considering the size of the area; any special conditions or factors regarding the area; the consistency of the zoning with the land use plan; the degree of change in the zoning; the degree it allows uses different from the surrounding area; and the relative benefits and detriments for the owner, the neighbors, and the surrounding community. The Town of Windsor should consider the following factors in deliberating any potential spot zoning:

- (1) *The Size and Nature of the Tract.* The larger the area of spot zoning the more likely it is to be reasonable. Singling out an individual lot for special zoning treatment is more suspect than creating a zoning district that involves multiple parcels and owners. Special site characteristics, such as topography, availability of utilities, or access to rail or highways, can be important in this analysis.
- (2) *Compatibility with Existing Plans.* If a clear public policy rationale for the different zoning treatment is set out in the local government's adopted plans, that evidences

APPENDIX A. DEFINITIONS

a public purpose for the zoning. By contrast, a zoning action that is inconsistent with a plan may indicate special treatment that is contrary to the public interest and thus be unreasonable.

- (3) *The Impact of the Zoning Decision on the Landowner, the Immediate Neighbors, and the Surrounding Community.* An action that is of great benefit to the owner and only a mild inconvenience for the neighbors may be reasonable, while a zoning decision that significantly harms the neighbors while only modestly benefitting the owner would be unreasonable.
- (4) *The Relationship between the Newly Allowed Uses in a Spot Rezoning and the Previously Allowed Uses.* The degree of difference in the existing surrounding land uses and the proposed new use is also important. The greater the difference in allowed uses, the more likely the rezoning will be found unreasonable. For example, in an area previously zoned for residential uses, allowing slightly higher residential density may be reasonable while allowing industrial uses would be unreasonable.
- (5) *Ownership.* In order to constitute spot zoning, a rezoned tract must be owned by a single person.

Stadium

A structure or facility designed, intended or used primarily for outside and/or inside athletic events or other performances and containing seating for spectators of those events, but not including a racetrack. The sale of beverages, snack foods and sundries geared to on-premise consumption or usage by spectators shall be permitted.

Standing

The following persons shall have standing to file an appeal:

- (1) Any person possessing any of the following criteria:
 - (a) An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restrictions, or covenant in the property that is the subject of the decision being appealed.
 - (b) An option or contract to purchase the property that is the subject of the decision being appealed.
 - (c) An applicant before the decision-making board whose decision is being appealed.

APPENDIX A. DEFINITIONS

- (2) Any other person who will suffer special damages as the result of the decision being appealed.
- (3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.
- (4) A local government whose decision-making board has made a decision that the Board of Commissioners believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by that Board.

Start of Construction, Building

Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means 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.

Start of Construction, Subdivision

A substantial change or alteration in the physical properties of a subdivision, or subdivision phase, and where the incorporation of labor and materials upon or within said subdivision, or subdivision phase, will incur liabilities for labor and materials. Construction shall be completed within twelve (12) months or other construction schedule approved at the time of preliminary plat approval.

Street Line

The line between the street and abutting property.

APPENDIX A. DEFINITIONS

Street Ownership

- (1) *Public Street.* A right-of-way for vehicular traffic dedicated and accepted by the North Carolina Department of Transportation for public use.
- (2) *Private Street.* A right-of-way for vehicular traffic which is constructed to acceptable public street standards as set forth by the North Carolina Department of Transportation and dedicated to a select portion of the public.

Street Right-of-Way

An area of land occupied or intended to be occupied by a public street or areas claimed by a municipality or the state for the purposes, or actually used for the purposes.

Streets

- (1) *Collectors.* Similar to minor thoroughfares but carrying less through traffic.
- (2) *Cul-De-Sac.* A short street having but one end open to traffic and the other end being permanently terminated, and a vehicular turnaround provided.
- (3) *Frontage Road.* A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.
- (4) *Local Street.* Any link that is not a higher-order urban system and serves primarily as a direct access to abutting land and access to higher systems. It offers the lowest level of mobility and through traffic is usually deliberately discouraged.
- (5) *Major Thoroughfares.* Interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.
- (6) *Minor Thoroughfares.* Important streets in the city system that perform the function of receiving traffic from collector and local access streets and carrying it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating a minor through traffic movement, and may also serve abutting property.

Structure (Amended 10/8/2020)

- (1) Anything constructed, placed, or erected, the use of which requires location on the land, or attachment to something having a permanent location on the land.
- (2) For floodplain management purposes, a walled and roofed building, a manufactured home, or a gas, liquid, or liquified gas storage tank, that are principally above ground.

APPENDIX A. DEFINITIONS

Structural Alterations

Any change, except for repair or replacement in the supporting members of the building, such as bearing walls, columns, beams, or girders.

Subdivider

Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision, as herein defined.

Subdivision (Amended 3/14/2019)

All divisions of a tract or parcel of land into two or more lots, building sites or other divisions when any one or more of those divisions is created for the purpose of sale or building development, (whether immediate or future) and includes all divisions of land involving the dedication of a new street or a change in existing streets. However, the following are not included within this definition and are not subject to any regulations enacted pursuant to this Ordinance.

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as shown in this Ordinance.
- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- (4) The division of a tract in single ownership whose entire area is not greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town, as shown in this Ordinance.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

Subdivision, Major (Amended 11/13/2019)

Any subdivision other than a minor subdivision.

Subdivision, Minor (Amended 11/13/2019)

A subdivision that does not involve any of the following: (i) the creation of more than a total of three (3) lots; (ii) the creation of any new public streets; (iii) the extension of a public water or sewer system; or (iv) the installation of drainage improvements through one (1) or more lots to serve one (1) or more other lots.

APPENDIX A. DEFINITIONS

Substantial Damage

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% of the market value of the structure before the damage occurred.

Substantial Improvement (Amended 10/8/2020)

Any combination of repairs, reconstruction, rehabilitation, addition or other improvement of a structure, taking place during any one-year period for which the cost of which equals or exceeds 50% 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:

- (1) any correction of existing violations of State of 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
- (2) 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 Section 4.27 of this Ordinance.

Substantial Modification (Amended 9/14/2017)

The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

- (1) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- (2) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- (3) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Substantially Different

(1) The proposed principal use is different than the use contained in the original application; or (2) the gross floor area of the proposed development is 50% or more smaller than contained in the original application.

APPENDIX A. DEFINITIONS

Substantially Improved Existing Manufactured Home Park or Subdivision

The repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads which equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

T

Technical Bulletin and Technical Fact Sheet (Amended 10/8/2020)

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.

Telecommunication Towers and Facilities

Structure or structures, including any accessory structures required to house transmitting or maintenance equipment, designed to support antennae used for transmitting or receiving commercial communications and/or telecommunications. This does not include ham radio operations.

Temporary Building/Structure

Any structure of an impermanent nature or which is designed for use for a limited time, including any tent or canopy.

Temperature Controlled (Amended 10/8/2020)

Having the temperature regulated by a heating and/or cooling system, built-in or appliance

Tiny Houses (Amended 3/14/2019)

A single-family detached home not exceeding 699 square feet in size (not including loft space) and complies with the North Carolina State Building Code, includes container homes. A tiny house on wheels for permanent occupancy (longer than 30 days) is considered a recreational vehicle.

Tourist Home

Any dwelling occupied by the owner or operator in which rooms are rented to guests for lodging of transients and travelers for compensation, and where food may be served.

APPENDIX A. DEFINITIONS

Townhouse

A dwelling unit in a row of at least three units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls.

Town Right-of-Way (Amended 9/14/2017)

A right-of-way owned, leased, or operated by the Town, including any public street or alley that is not a part of the State highway system.

Town Utility Pole (Amended 9/14/2017)

A pole owned by the Town in the Town right-of-way that provides lighting, traffic control, or a similar function.

Twenty-Four Hour Facilities

A facility that provides a structured living environment and services for a period of 24 consecutive hours or more and includes hospitals that are facilities under this Section.

U

UDO Administrator

A person, or his or her designee, appointed by the City Manager and/or Board of Commissioners to administer the regulations contained in this Ordinance.

Use

Any continuing or repetitive occupation or activity taking place upon a parcel of land or within a building, including, but not limited to, residential, manufacturing, retailing, office, public service, recreation and educational uses.

Use, Accessory

Any use which is clearly incidental, secondary and/or supportive or a principal use.

Use, Principal Permitted

Any use listed as a permitted use in any zoning district, except those which by definition or their nature are accessory uses.

Utility Pole (Amended 9/14/2017)

A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

APPENDIX A. DEFINITIONS

V

Vacant or Underdeveloped Lot

A lot existing within a platted subdivision or a lot of record as of the effective date of this Ordinance that is not built upon or where a principal use is not established.

Variance

A relaxation of the terms of this Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area and size of a structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Vested Right *(Amended 10/8/2020)*

The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS Chapter 160D-108 or under common law.

Violation

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 Article 11 is presumed to be in violation until a time as that documentation is provided.

W

Wall, Building

The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this Ordinance, the area of a wall will be calculated for a maximum of 50 feet in height of a building.

Warehouse

A building or group of buildings for the storage of goods or wares belonging either to the owner of the facility or to one or more lessees of space in the facility, or both, with access to contents only through management personnel.

APPENDIX A. DEFINITIONS

Wastewater Treatment Plant

A facility which operates a wastewater system and wastewater treatment facilities that collect, treat, and dispose of human waste.

Watercourse

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.

Water Surface Elevation (WSE) *(Amended 10/8/2020)*

The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Water Tower

A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

Wholesale Sales Operation

A place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional or professional business users; or to other wholesalers. The majority of all sales of the businesses shall be for resale purposes. The Administrator may require proof of this through sales tax reports. Wholesale clubs and similar membership warehouses, where membership is easily available to the consuming public, and similar businesses shall not be deemed wholesale sales operations, but rather shall be considered a retail sales operation.

Wind Farm

An electricity-generating facility whose main purpose is to supply electricity to the electrical grid, consisting of one or more wind turbines and other accessory structures and buildings including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and facilities, which has a rated capacity of greater than 100 kW.

Wind Energy Generator (Accessory)

A single system consisting of a single wind turbine, a tower, and associated control or conversion electronics designed to supplement other electricity sources as an accessory use to existing buildings or facilities, which has a rated capacity of not more than 100 kW.

Wind Power

Power that is generated in the form of electricity by converting the rotation of wind turbine blades into electrical current by means of an electrical generator.

APPENDIX A. DEFINITIONS

Wind Turbine

A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, and pad transformer.

Wind Turbine Height

The distance measured from grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Wireless Facility *(Amended 9/14/2017)*

Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

- (1) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- (2) Wireline backhaul facilities.
- (3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or Town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless Infrastructure Provider *(Amended 9/14/2017)*

Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless Provider *(Amended 9/14/2017)*

A wireless infrastructure provider or a wireless services provider.

Wireless Services *(Amended 9/14/2017)*

Any services, using licensed or unlicensed wireless spectrum, including the use of WI-FI, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless Services Provider *(Amended 9/14/2017)*

A person who provides wireless services.

Wireless Support Structure *(Amended 9/14/2017)*

A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a Town utility pole is not a wireless support structure.

APPENDIX A. DEFINITIONS

X

None.

Y

Yard

An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.

Yard, Front

A yard across the full width of the lot, extending from the front line of the building to the front line of the lot, including the areas of covered and uncovered porches but not including the area of steps and eaves.

Yard, Rear

A yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.

Yard, Side

An open unoccupied space on the same lot with a building between the building and the side line of the lot extending through from the front building line to the rear yard or, where no rear yard is required, to the rear line of the lot.

Z

Zoning *(Amended 10/8/2020)*

A police power measure, enacted primarily by general purpose units of local government, in which the community is divided into districts or zones within which permitted and special uses are established as are regulations governing lot size, building bulk, placement and other development standards. Requirements vary from district to district, but they must be uniform within districts. The ordinance consists of two (2) parts: a text and a map.

Zoning Compliance Certificate

A permit issued by the Town conferring the right to undertake and complete the development or the use of property.

APPENDIX A. DEFINITIONS

Zoning Compliance Certificate with Vested Rights

A permit authorized by the Board of Adjustment concerning the right to undertake and complete the development of and use of property under the terms and conditions of an approved site specific development plan.

Zoning Map, Town Zoning Map or Official Zoning Map

The official zoning map of Windsor, North Carolina.

Zoning Map Amendment or Rezoning *(Amended 10/8/2020)*

An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of the Town that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by the Town, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.