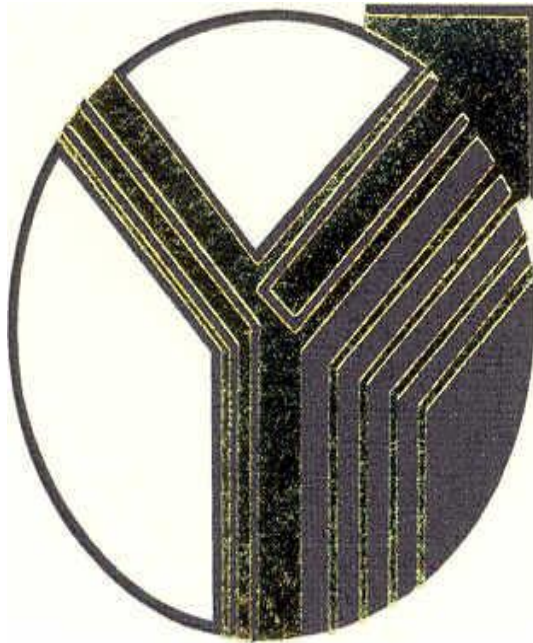


TOWN OF YANCEYVILLE
ZONING ORDINANCE



May 7, 2024 Readopted in Full

Yanceyville Zoning Ordinance Previous Actions

May 7, 2019 Readopted in Full

August 13, 2019 Amended

January 05, 2021 Amended

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CHAPTER 1. IN GENERAL and DEFINITIONS

Section 1-1. Title.

This chapter shall be known as the Zoning Ordinance of the Town of Yanceyville, North Carolina.

Section 1-2. Purpose

This chapter is designed to encourage the protection and development of the various physical elements of the Town and its jurisdiction in accordance with a comprehensive plan of land use and population density and for the purpose of promoting the public health, safety, general welfare; promoting the orderly growth, expansion and development of the town and surrounding areas; lessening congestion in the roads and streets; providing adequate light and air; securing safety from fire, panic and other dangers; preventing the overcrowding of land; and facilitating the adequate provision of transportation, water, sewer, schools, parks and other public requirements.

Section 1-3. Authority.

This chapter is adopted under the authority of North Carolina General Statutes 160D-702 et. seq.

Section 1-4. Interpretation, purpose and conflict.

In interpreting and applying the Zoning Ordinance the sections shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this Ordinance shall govern.

Section 1-5. Jurisdiction.

The regulations presented ion this Ordinance shall apply to all property within the corporate limits of the Town, as shown on the official zoning map of the Town.

Section 1-6. Incorporation of the Zoning Map

The Zoning map and all notations, references and other information shown on the map are hereby incorporated by reference and made a part of this Ordinance.

Section 1-7. Farm exemption.

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This chapter shall in no way regulate, restrict, prohibit or otherwise deter any bona fide farm and the related uses, except that any use of such property for nonfarm purposes shall be subject to such regulations.

Section 1-8. Uses.

No building or land shall be used or occupied, and no building or part thereof shall be erected, moved, or structurally altered except in conformity with the use and dimensional regulations of this Ordinance or amendments thereto for the district in which it is located.

Section 1-9 One main building per lot.

In all zoning districts, only one principal building and its customary accessory buildings may be erected on any lot, except for multifamily or planned business developments and except for bona fide rural farm use.

Section 1-10. Minimum yards and Open Space.

- (a) The minimum yards or other open spaces required by this Ordinance, including those provisions regulating intensity of use, for each and every building erected or structurally altered shall not be encroached upon or considered as meeting the yard or open space requirements of the intensity of use provisions for any other building.
- (b) No part of any yard, other open space, or off-street parking or loading space required for any building, structure, or other use shall be considered to be a part of a required yard, open space, off-street parking or loading space for any other buildings, structures or use except as provided in Chapter 8 Off-Street Parking and Loading.

Section 1-11 Minimum regulations.

Regulations set forth by this Ordinance shall be minimum regulations. If the district requirements set forth in this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standards shall govern. (Sections 1-1 through 1-11 Ordinance of 8-27-87)

Section 1-12 Effect of chapter on outstanding building permits.

Nothing contained in this ordinance shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the building inspector before the effective date of this ordinance; provided however, that when construction is not begun under such outstanding permit within a period of 60 days after the effective date of this ordinance or where it has not been completed within 18 months after the effective date of this ordinance, any further construction or use shall be in conformity with this ordinance.

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Section 1-13. Definitions.

Except where specifically defined in this section, all words used in this chapter shall carry their customary dictionary meanings. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a detached subordinate structure operated and maintained under the same ownership and located on the same lot as the main building. No such building may be inhabited or used by other than the owners, family members, lessees or tenants of the premises or their employees.

Accessory use means a use incidental to and customarily associated with the use by right and located on the same zone lot with the use by right and operated and maintained under the same ownership with the operation of the use by right.

Adult establishment means an adult bookstore, an adult motion picture theatre, adult mini motion picture theatre, adult live entertainment business, or massage business as defined in G.S. 14-202.10 as written or subsequently amended.

Adult gaming establishment means any establishment featuring one or more stand-alone electronic or conventional gaming units, skill-based or otherwise, or serving one or more patrons in such capacity at any one time, which also rewards patrons, or provides the possibility of rewards, with cash or other monetary payments, goods or certificates for services which are redeemable for cash or other monetary payment on or off premises and including on-line redemptions, as well as any rewards which cannot be legally obtained, consumed, or otherwise used by minors. Any use meeting this definition shall be considered a principal use regardless of association or location in conjunction with other permissible principal uses. This does not include any lottery approved by the State of North Carolina or any non-profit establishment that is otherwise lawful under State law (for example, church or civic organization fundraisers).

Alley means a public or private roadway which affords only a secondary means of access to abutting property.

Alter means to make any structural changes in the supporting or loadbearing members of a building, such as bearing walls, columns, beams, girders, floor joists.

Apartment means a dwelling unit within an apartment building consisting of a room or rooms intended, designed, or used as a rental residence. Apartment buildings and developments are multi-family residential.

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Assembly means a joining together of completely fabricated parts to create a finished product.

Assisted living – (Defined in GS 131D Inspection and Licensure of Facilities, Article I Adult Care Homes, 2.1. Definitions.) - Any group housing that provides residential care for aged or disabled persons whose principal need is a home with the shelter or personal care their age or disability requires.

Board of adjustment means the town council as authorized by G.S. 160D-406 to hear and decide requests for variances and appeals of decisions of administrative officials charged with enforcement of the Zoning Ordinance, the Minimum Housing Code., and ordinances governing standards for nonresidential buildings.

Brewery means establishment that sells beer brewed on the premises and often includes a restaurant.

Buffer strip means an approved wall, fence or planted strip at least five feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than ten feet apart, and not less than one row of dense shrubs, spaced not more than five feet apart.

Building means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery, or materials. The connection of two (2) or more buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall be deemed to make them one building. This term does not apply to camping trailers, motorized homes, pickup campers, travel trailers, or self-contained travel trailers.

Building, accessory means a use or structure customarily incidental and subordinate to the main or principal building and located on the same lot therewith, incidental and subordinate to the main principal building.

Building, Principal means a building in which is conducted the main or principal use of the lot on which said building is situated.

Building, height of means the vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

Building line means a line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost three feet of any uncovered porches, steps, gutters, and similar fixtures, and the right-of-way line of any street when measured

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perpendicular thereto.

Chapter means this chapter, including any amendments. Whenever the effective date of the ordinance from which this chapter derives is referred to, the reference includes the effective date of any amendment to it.

Child Care

Child Care Center means a program where three or more unrelated children less than 13 years old receive care on a regular basis at least once a week for more than four hours per day but less than 24 hours. Childcare centers must meet all state licensing requirements. (NC Department of Health and Human Services, Division of Child Development and Early Education, May 2023 as written or subsequently revised).

Family Child Care Home means a childcare arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care. A family child care home must meet state licensing requirements. (NC Department of Health and Human Services, Division of Child Development and Early Education, May 2023 as written or subsequently revised).

Condominium development means a building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional and undivided basis. Condominiums are governed by the North Carolina Condominium Act. A condominium is considered multi-family. All such projects shall conform to the density requirements of the district in which the development is located and shall be approved in accordance with special use provisions for condominiums in Chapter 5.

Congregate Care - A long-term care facility for elderly people who are able to get around on their own but who may need help with some daily activities and have staff on call. Includes assisted living and independent living.

Detached building means a building having no party or common wall with another building except an accessory building.

Development regulation, as defined in G.S. 160D-102, development means a zoning regulation, zoning map in conjunction with a zoning ordinance, subdivision regulation, erosion and sedimentation control regulation, unified development ordinance, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or

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any other regulation adopted pursuant to Chapter 160D, or a local act or charter that regulates land use or development.

District means any section of the town in which zoning regulations are uniform.

Dwelling means any building, or portion thereof, which is designed for living and sleeping purposes.

Dwelling, duplex means a building arranged or designed to contain two (2) dwelling units.

Dwelling, multi-family means a building or portion thereof, designed to contain three (3) or more dwelling units (see Apartment or Condominium)

Dwelling, single-family means a building arranged or designed to be occupied by one family, the structure having only one dwelling unit.

Dwelling, tiny house – See Tiny House.

Dwelling unit means a dwelling or that portion of a multiple dwelling used or designed as a residence for one family. In nursing homes, homes for the aged, convalescent homes and other such multiunit facilities, two resident persons shall be equivalent of one dwelling unit.

Erect means to build, construct, erect, rebuild, reconstruct or re-erect, as such terms are commonly defined.

Evidentiary hearing means the statutorily required process for a quasi-judicial decision (appeal, special use permit and variance) under this Ordinance. (See G.S. 160D-406, G.S. 1660D-705, and Section 11.3 of this Ordinance). The hearing must gather competent, material, and substantial evidence in order to make findings.

Fabrication means manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ones, lumber or rubber. Fabrication relates to stamping, cutting, or otherwise shaping the processed materials into useful objects.

Family care home as defined in G.S. 160D-907 means:

- a. A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities.
- b. Person with disabilities means a person with a temporary or permanent physical, emotional, or mental disability, including, but not limited to, an intellectual or other developmental disability, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments but not

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including persons with a mental illness who are dangerous to others as defined in G.S. 122C-3(11)b.

- c. A family care home is deemed a residential use of property for zoning purposes. It is a permissible use in all residential districts. No special requirement such as a special use permit or variance shall be required.
- d. A family care home is deemed a residential use of property for determining charges for services or assessments by local governments or businesses. This includes charges for water, sewer, power, telephone service, cable television, Internet service, garbage and trash collection, repairs or improvements to roads, streets, and sidewalks, and other services, utilities, and improvements.

Fine arts and crafts means individual art pieces not mass-produced, consisting of one or more of the following: paintings, drawings, etchings, sculptures, ceramics, inlays, needlework, knitting, weaving, and craftwork, leather, wood, metal or glass.

Flea market means buildings or open areas in which sales areas or stalls are set aside or rented and which are intended for use by one or more individuals or by educational, religious or charitable organizations to sell a variety of articles such as those that are either homemade, homegrown, handcrafted, old, obsolete or antique.

Frontage means all property abutting on one side of a street measured along the street line.

Gaming establishment means any establishment, excluding adult gaming establishments, whose principal use is to provide entertainment services to the general public in the form of electronic or conventional gaming units which provide either no reward to patrons or the possibility of rewards of limited value such as children's toys, games, or novelties when all rewards can be legally obtained and used by all ages and are not redeemable for cash or any other kind of compensation or services on or off premises, including on-line redemptions. Examples include, but are not limited to, traditional video game arcades and children's and family game centers, whether stand-alone or in conjunction with a restaurant or other permissible uses. This shall be considered a principal use when occupying more than fifty percent of the gross floor area of an establishment or being used by more than fifty percent of the patrons at any time or representing more than fifty percent of the total sales of the establishment.

Gaming establishment, adult means any establishment featuring one or more stand-alone electronic or conventional gaming units, skill-based or otherwise, or serving one or more patrons in such capacity at any one time, which also rewards patrons, or provides the possibility of rewards, with cash or other monetary payments, goods or certificates for services which are redeemable for cash or other monetary payment on or off premises and including on-line redemptions, as well as any rewards which cannot be legally obtained,

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consumed, or otherwise used by minors. Any use meeting this definition shall be considered a principal use regardless of association or location in conjunction with other permissible principal uses. This does not include any lottery approved by the State of North Carolina or any non-profit establishment that is otherwise lawful under State law (for example, church or civic organization fundraisers).

Garage, private means a building or space used as an accessory to or a part of the main building permitted in any residence 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 means any building or premises, except those described as a private or storage garage, used for the storage or care of motor vehicles for the public or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

Garage, storage means any building or premises, other than a private or public garage, used exclusively for the parking or storage of motor vehicles.

Group home – A home with support and supervisory personnel that provides the same services for the same clientele as a family care home, except that a Group Home may house six (6) to ten (10) residents.

Home occupation means any use conducted for gain within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof, and in connection with which there is no display; only one person not a resident on the premises shall be employed specifically in connection with the activity; no equipment shall be installed or used except such as is normally used for domestic or professional purposes; and not over 25 percent of the total floor space or 400 square feet of any structure, whichever is less, shall be used for home occupations.

Hotel means a building used as an abiding place of more than fourteen persons who for compensation are lodged with or without meals and in which no provision is made for cooking in any individual room or suite.

Junkyard means the use of more than 600 square feet of any lot or tract for the outdoor storage and sale of wastepaper, rags, scrap, metal or other junk, and including storage of motor vehicles and dismantling of such vehicles or machinery.

Legislative decision means a decision by the governing board to adopt, amend, or repeal a development ordinance; for example adopting a new unified development ordinance, amending the text of the Zoning Ordinance, rezoning a piece of property, adopting the

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comprehensive plan, or amending the standards in the subdivision ordinance. The procedure for adopting, amending or repealing development regulations is set forth in G.S.160D-601. See also Section 12.5 of this ordinance applicable to legislative hearings and decisions by the Town Council. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of G.S.160D.

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

Lot means a parcel of land occupied or to be occupied by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot area as are 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. The term "lot" includes the term "plot" or "parcel."

Lot, corner means a lot which occupies the interior angle at the intersection of two street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot, except where the two street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning permit.

Lot, depth of means the average horizontal distance between front and rear lot lines. *Lot line, rear* means:

- (1) If the lot has one front line, the boundary opposite that front line shall be the rear line;
- (2) If the lot has two front lines, the boundary opposite the shorter of the two front lines shall be the rear line, provided that if both front lines are of equal length, the rear line shall be fixed by the town manager, subject to review by the board of adjustment, on the basis of orientation of existing structures; and
- (3) If the lot has three or more front lines, there shall be no rear line.

Lot of record means a lot which is part of a subdivision, a plot of which has been recorded in the office of county register of deeds prior to the adoption of the ordinance from which this chapter derives or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of the ordinance from which this chapter derives.

Where the owner of a lot of official record in any residential district at the time of the adoption of the amendment to the ordinance from which this section derives (September 30, 1993) or his successor in title thereto does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this chapter, such a lot may be used as a residential building site, provided that a variance is obtained from the board of adjustment. Notwithstanding the foregoing, whenever two or more adjoining vacant lots of record are in single ownership at any time after adoption of the amendment to the

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ordinance from which this section derives (September 30, 1993) and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot of several lots which meet the minimum requirements of this chapter for the district in which such lots are located. However, nothing in this section shall require the combining of lots of record to meet the additional requirements of the watershed overlay districts.

Lot, width of means the average horizontal distance between side lot lines.

Manufactured home (also known as mobile home) means a structure: transportable in one or more sections; that exceeds 40 feet in height and 8 feet in width; which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein; and is constructed in accordance with the National Manufactured Construction and Safety Standards Act of 1974, as amended. A manufactured home is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings. Manufactured home does not include recreational vehicles. (See G.S. 143-145(7)).

Manufactured home, class A means a manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

1. The manufactured home has a length not exceeding four times its width (e.g., a doublewide unit);
2. The pitch of the manufactured home's roof has a minimum vertical rise of ~~2.2 feet~~ three feet for each 12 feet of horizontal run and the roof is finished with shingles;
3. All roof structures shall provide an eave projection of no less than six inches which may include a gutter;
4. The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding, wood or hardboard;
5. A continuous, permanent masonry curtain wall or foundation, unpierced except for ventilation and access, is installed under the manufactured home;
6. The manufactured home is set up according to standards set by the N.C. department of Insurance;
7. Stairs, porches, entrance platform, ramps and other means of entrance and exit shall be installed or constructed in accordance with NC Building Code standards, freestanding or attached firmly to the primary structure and anchored firmly to the ground.

Manufactured home, class B means a manufactured home constructed after July 1, 1976, that meets or exceeds the standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, and that does not meet the

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definition of a class A manufactured home. However, any stairs, porches, entrance platform, ramps and other means of entrance and exit shall be installed or constructed in accordance with NC Building Code standards, freestanding or attached firmly to the primary structure and anchored firmly to the ground.

Manufactured home, class C means a manufactured home that does not meet the definition of either a class A or a class B manufactured home.

Manufactured home park means land used or intended to be used, leased or rented for occupancy by three or more manufactured homes, anchored in place by a foundation or other stationary support, to be used for living purposes and accompanied by automobile parking spaces and incidental utility structures and facilities required and provided in connection therewith. This definition shall not include manufactured home sales lots on which the unoccupied manufactured homes are parked for purposes of inspection and sale.

Map or zoning map means the official zoning map of the town.

Motels or motor lodges means a building or a group of buildings containing sleeping rooms, designed for or used temporarily by automobile transients, with garage or parking space conveniently located to each unit.

Nonconforming lot means a lot existing at the effective date of the ordinance from which this chapter derives or any amendment to it, and not created for the purpose of evading the restrictions of this chapter, that cannot meet the minimum area or lot width requirements of the district in which the lot is located.

Nonconforming project means any structure, development or undertaking that is incomplete at the effective date of the ordinance from which this chapter derives and would be inconsistent with any regulations applicable to the district in which it is located if completed as proposed or planned.

Nonconforming situation means a situation that occurs when, on the effective date of the ordinance from which this chapter derives 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 requirements, because structures do not satisfy maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this chapter or because land or buildings are used for purposes made unlawful by this chapter.

Nonconforming use means a nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in

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which the property is located (for example, a commercial office building in a residential district may be a nonconforming use). The term also refers to the activity that constitutes the use made of the property (for example, all the activity associated with running a bakery in a residential zoned area is a nonconforming use).

Nonconformity, dimensional means a nonconforming situation that occurs when the height or size of a structure or the relationship between an existing building and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Nursing home (as defined in G.S.131E Health Care Facility Licensure Act, G.S.131E-101 Definitions) - A facility, however named, which is maintained for the 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 are not acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities.

Open storage means unroofed storage areas, whether fenced or not.

Parking space means the storage space for one automobile of not less space than prescribed by this chapter, plus the necessary access space. It shall always be located outside the dedicated street right-of-way.

Planned unit development (PUD) means a development which shall consist of a group of buildings on a single lot or tract or structures on a site where the developer may reduce the size of individual lots. A PUD must comply with the Special Use provisions of Section 5.3(o).

Planning board means a board appointed by the town council to study the town and its environs, to recommend plans and policies for the future and to advise the town council in matters pertaining to zoning, subdivision regulation, development and planning.

Preschool means a facility for the care and education of children of preschool age, including kindergartens and day care centers.

Processing means any operation changing the nature of materials, such as chemical composition or physical qualities. This definition does not include operations described as fabrication.

Retail trade means businesses which sell goods that are not for resale to the public and which are open on a regular basis for consumer shopping. At least 40 percent of the floor space of a retail business must be open to the public and devoted to the sale and display of goods on the premises.

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Rooming house means a building or portion thereof which contains guestrooms which are designed or intended to be used, let or hired out for occupancy by or which are occupied by four or more but not exceeding nine individuals for compensation, whether the compensation is paid directly or indirectly.

Service station means any building or land used for the dispensing, selling or offering for sale at retail of any automobile fuels, lubricants or tires, except that indoor car washing, minor motor adjustment and flat tire repair are only performed incidental to the conduct of the service station.

Shall is always mandatory.

Shelter, emergency means temporary lodging with minimal support services

Shelter, transitional (also referred to as “transitional housing”) means temporary lodging that usually includes supportive services.

Sign means any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design, trade names or trademarks by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or product, which are visible from any public way and used to attract attention. Specific types of signs are defined in Chapter 6 Signs.

Solar generation facility (utility scale) means an installation, sometimes called a solar farm, designed and used to capture and convert solar energy into electric or thermal energy for use off-site, such as transmission to the power grid. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems.

Special use means a use permitted in a zone district after recommendation by the planning board, conducting of a quasi-judicial evidentiary hearing and findings of fact by the Town Council, pursuant to G.S. 160D-102(30) and Chapter 5 of this ordinance.

Story means that portion of a building, other than the basement, included between the surface of any floor and the surface floor next above it or, if there is no floor above it, the space between the floor and the ceiling next above it.

Story, half means a space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which not more than two-thirds of the floor area is finished off for use.

Street means a public thoroughfare which affords the principal means access to abutting

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property, including avenue, place, way, drive, land, boulevard, highway, road and any other thoroughfare except an alley.

Street line means the dividing line between a street or road right-of-way and the contiguous property.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, including signs.

Tiny House means a dwelling between 200 and 800 square feet in size that complies with N.C. Building Code requirements for a dwelling including but not limited to:

- It must have at least one habitable room no smaller than 120 square feet.
- Any additional rooms (separate bedrooms, etc.) must be at least 70 square feet each.
- Each dwelling must have a bathroom that includes a toilet, sink and shower or tub, and minimum clearances for each of those fixtures must be met. For estimation purposes, it is unlikely a bathroom could be much smaller than 40 square feet.
- Each dwelling must include a kitchen area with sink, but that area can be part of one of the other rooms (i.e., a studio or great room).
- Minimum of one egress door 36" x 78" side-hinged
- Minimum ceiling height for habitable rooms is 7 feet with no obstructions (light fixtures, beams, etc.) below 6 feet, 8 inches.
- Minimum of one emergency egress window in each sleeping area must meet all of the following: sill height max. 44 inches, minimum net clear operable area of 4 square feet, the minimum net clear opening height shall be 22 inches. The minimum net clear opening width shall be 20 inches.
- Any interior doors providing egress from habitable rooms shall have minimum dimensions of 30 x 78 inches.

There is no minimum size for a dwelling in North Carolina, but given the requirements above, Yanceyville requires a 200 square foot minimum size for a tiny house.

Tourist home means a dwelling where lodging only is provided for compensation for not exceeding 14 persons and which is open to transients.

Townhouse development means a development of one or more structures containing a total of two or more units intended for owner occupancy, where ownership of the land beneath each unit runs with that unit, where units and the individually owned lands on which they rest do not meet conventional lot requirements for street frontage and yard sizes, and where walls between units are constructed in accordance with state building code requirements. All such projects shall conform to the density requirements of the district in which the development is located and shall be approved in accordance with special use provisions for

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townhouses in Chapter 5.

Trailer. As defined in G.S. 20-4.01:

House Trailer - Any trailer or semitrailer designed and equipped to provide living or sleeping facilities and drawn by a motor vehicle. This term shall not include a manufactured home as defined herein.

Recreational Vehicle/RV/Travel Trailer – A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.

Variance means a modification to the requirements of the existing zoning ordinance which is not contrary to the public interest, where strict enforcement of this Ordinance would cause undue hardship to the applicant because of circumstances unique to the individual property (not caused by the owner or applicant) on which the variance is granted.

Wholesale means sale for resale, not for direct consumption.

Yard means an open space on the same lot with a principal building unoccupied and unobstructed by any structure from the surface of the ground upward except for drives, sidewalks, lampposts, entrance steps, retaining walls, fences, landscaping and as otherwise provided in this chapter.

Yard, front means an open space on the same lot with a building, between the front line of the building, exclusive of steps, and the front property or street right-of-way line and extending the full width of the lot.

Yard, rear means an open space between the rear line of the principal building, exclusive of steps, and the rear line of the lot and extending the full width of the lot; may be used for accessory building.

Yard, side means an open, unoccupied space on the same lot with building between the side line of the building, exclusive of steps, and the side line of the lot and extending from the front yard line to the rear yard line.

Zoning enforcement officer means the official charged with the enforcement of this chapter.

Zoning permit means a statement, signed by the Zoning Enforcement Officer, stating that the plans for a building or structure to be constructed, or a new or changed use of land complies with this Ordinance and is a permitted use in the district as shown on the zoning map.

CHAPTER 2. ADMINISTRATON and ENFORCEMENT

Section 2-1. Zoning enforcement officer.

- (a) The Town Manager or the manager's designee is appointed the zoning enforcement officer with the duties of administering and enforcing this Ordinance.
- (b) Pursuant to G.S. 160D-403(3), the Zoning Enforcement Officer or designee may inspect work undertaken relating to any development approvals 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 local government 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.
- (c) If a ruling of the zoning enforcement officer is questioned, the aggrieved party may appeal such ruling to the Board of Adjustment.

Section 2-2. Administrative Conflicts of Interest

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

Section 2-3. Zoning Permits and Development Approvals

- (a) A zoning permit is required to use or to permit the use of any building or premises, or any part thereof, which may be hereafter created, erected, changed, or converted. The Zoning Enforcement Officer shall issue the permit, attesting that the proposed use conforms to the requirements of this Ordinance.
- (b) *Records:* The Zoning Enforcement Officer shall maintain a record of all zoning permits, and copies shall be furnished upon request to any interested person. Any zoning permits or other development approvals may be provided in writing (print or electronic), if electronic it must be password protected to prevent further editing.
- (c) *Denials:* If the zoning permit is denied, the applicant may appeal the action of the Zoning Enforcement Officer to the Board of Adjustment.

CHAPTER 2. ADMINISTRATON and ENFORCEMENT

- (d) *Who Can Apply*: Applications for a zoning permit or development approval must be submitted by the landowner or someone with a contract to purchase the property.
- (e) *Applicability*: Development approvals run with the land, any revocation of development approvals or permits must follow the same process for approval pursuant to NCGS 160D-403.

Section 2-4. Building permit required.

Under this Ordinance, no building or other structure shall be erected, moved, extended or enlarged, or structurally altered not shall any excavation or filling of any lot for the construction of any building be commenced until the designated building inspector issues a building permit for such work.

Section 2-5. Application for building permit.

Each application to the Town for a building permit shall be accompanied by plot plans in duplicate showing:

- (1) The actual dimensions of the lot to be built upon;
- (2) The size of the building to be erected;
- (3) The location of the building on the lot;
- (4) The location of existing structure on the lot, if any;
- (5) The number of dwelling units the building is designed to accommodate;
- (6) The approximate setback lines of buildings on adjoining lots; and
- (7) Such other information as may be essential for determining whether this Ordinance is being observed.

Section 2-6. Building permit fees.

When making application for a building permit under this Ordinance, a fee set by the Town Council shall be charged.

Section 2-7. Certificate of occupancy required.

- (a) A certificate of occupancy issued by the building inspector is required in advance of occupancy or use of the following:
 - (1) A building erected, altered or moved.

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CHAPTER 2. ADMINISTRATON and ENFORCEMENT

(2) A change of use of any building or land.

(b) Application for a certificate of occupancy either for the whole or a part of a building shall be made at the same time as the application for a building permit and shall be issued within ten days after the erected or structural alterations of such building or part shall have been completed in conformity with this Ordinance. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable sections of this Ordinance. If the certificate of occupancy is denie4d, the building inspector shall state in writing the reasons for refusal, and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the building inspector.

Section 2-8. Enforcement Procedure.

(a) Enforcement procedures

1. Initial Notification - Upon discovery of the existence of a violation of this Ordinance, the Zoning Enforcement Officer shall notify the owner or occupant of the nature of the violation. Notice shall be by first-class mail, email, or personal service. It shall notify the owner or occupant of the property of the nature of the violation, provide a citation of the Section(s) of the Ordinance violated, and describe the measures necessary to remedy the violation.
2. Order of Compliance and Service - If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the Zoning Enforcement Officer shall serve the owner or occupant and to any party who sought the determination a written order of compliance. Pursuant to G.S. 160D-403, the order shall be served by personal delivery, email or by first class mail. The notice shall state:
 - a. that the land, building, sign, structure, or use is in violation of this Ordinance;
 - b. the nature of the violation, and citation of the Section of this Ordinance violated; and
 - c. the measures necessary to remedy the violation.

(b) Appeal - Any owner or occupant who has received a Notice of Violation and Order of Compliance may appeal, in writing as a person aggrieved, the final decision of the Zoning Enforcement Officer to the Board of Adjustment, in accordance with Section 11-3 within thirty (30) days following the date of receipt.

Section 2-9. Remedies.

As authorized by NCGS 160D-404, and NCGS 160A-175, any one or all of the following procedures may be used to enforce the provisions of this Ordinance.

1. Civil Penalty - Any act constituting a violation of this Ordinance shall subject the offender to a civil penalty of \$100.00. If the offender fails to pay the penalty within ten days of

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receiving final written notice of a violation, the penalty may be recovered by the Town in a civil action in the nature of a debt. A civil penalty may not be appealed to the Board of Adjustment if the offender received a final written notice of violation and did not appeal to the Board of Adjustment within thirty (30) days after the decision was rendered as provided by the time limit prescribed in Section 11 .3 of this Ordinance.

Each day that any violation continues after receipt of the final written notice of violation shall constitute a separate violation for purposes of the penalties and remedies specified in this Section.

2. Injunction, abatement - Any violation of this Ordinance or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.
3. Denial of Permit or Certificate - The Zoning Enforcement Officer may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate or other authorization previously granted.
4. Revocation of Permits – In addition to initiation of any of the above enforcement actions under G.S. 160D-404, development approvals may also be revoked, as authorized by G.S.160D-403(f), by notifying the holder in writing stating the reason for the revocation. 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 local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. A development approval mistakenly issued in violation of an applicable State law or local ordinance may also be revoked. 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 a revocation of that approval. Revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by the town pursuant to G.S. 160D, the provisions of G.S. 160D-405(e) regarding stays apply.

CHAPTER 3. DISTRICTS, INTENT and USES

DIVISION 1 DISTRICTS ESTABLISHED AND INTENT

See. 3-1. Scope of Chapter.

Regulations for the various classes of zoning districts shall be as set forth in this chapter. (Ord. of 8-27-87, art. V)

Section 3-2 District Names and Intent

(a) For the purpose of this ordinance the Town of Yanceyville is hereby divided into zoning districts with the designations and intent as listed below.

(b) Additionally, for each zoning district established herein, a conditional zoning district bearing the designation CD is hereby established. as a parallel district. All regulations which apply to a general use zoning district also apply to the companion conditional district. All other regulations which may be offered by the property owner and approved by the Town as a part of the rezoning process also apply. The review process established in Section 3.5 provides for reclassification of property into a conditional district, subject to specific conditions, which ensure compatibility of the use with the neighboring properties. All regulations that apply to a General Zoning district also apply to the parallel Conditional district.

(c) Districts

R-A residential agricultural district. This district is defined as low-density residential areas of single-family dwellings, some agricultural uses and open areas where low-density residential development will likely occur. This district is generally found in outlying areas not served by sewer service. Requests for proposed development will be adequately provided with approved water and sewer service.

R-A CD residential agricultural conditional district. Identical to the R-A district except that conditional rezoning is required as a prerequisite to any use or development, as provided for in this chapter.

R-12 residential suburban district. This district is defined as low-density single-family areas plus open areas where similar development will likely occur. Water and sewer systems must be provided and approved by appropriate authorities.

R-12 CD residential suburban conditional district. Identical to the R-12 district except that conditional rezoning is required as a prerequisite to any use or development, as provided for in this chapter.

RR-8 restricted residential (medium density) district. This district is defined as medium-density

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CHAPTER 3. DISTRICTS, INTENT and USES

single-family areas with water and sewer, plus open areas where similar development will likely occur.

RR-8 CD residential restricted conditional district. Identical to the RR-8 district except that conditional rezoning is required as a prerequisite to any use or development, as provided for in this chapter.

R-8 residential medium density district. This district is defined as medium-density areas for mixed residential uses, primarily single-family and multifamily developments with water and sewer, as well as certain classes of manufactured housing on individual lots.

R-8 CD residential medium density conditional district. Identical to the R-8 district except that conditional rezoning is required as a prerequisite to any use or development, as provided for in this chapter.

R-MH manufactured home park district. This district is a planned district for the location of manufactured home parks as defined and described in division 4 of article III of this chapter. Other residential uses including single and multifamily are permitted. The regulations of this district are designed to encourage planned development and to discourage over-concentration and congestion.

R-MH CD manufactured home park conditional district. Identical to the R-MH district except that conditional rezoning is required as a prerequisite to any use or development, as provided for in this chapter.

OI office and institutional district. This district is established primarily for professional, office, service occupations, institutional and government uses including public parks. It often provides a transition between residential and commercial districts.

OI CD office and institutional conditional district. Identical to the OI district except that conditional rezoning is required as a prerequisite to any use or development, as provided for in this chapter.

B-1 central business district. This district is defined as the centrally located commercial, office and service area of the community. Regulations for this district are designed to encourage continued use of land for trade and business, professional and financial services and to permit a concentrated development of permitted uses, while discouraging over-intensive development and congestion.

B-1 CD central business conditional district. Identical to the B-1 district except that conditional rezoning is required as a prerequisite to any use or development, as provided for in this chapter.

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H-B highway business district. This district is defined as certain areas along major highways where commercial and service establishments are located to serve industrial areas, residents of the community and travelers. The variety of services and businesses in this district is greater than in the business, office and institutional district.

H-B CD highway business conditional district. Identical to the H-B District except that conditional rezoning is required as a prerequisite to any use or development, as provided for in this chapter.

M-1 restricted manufacturing district. This district is defined as certain areas more suited for industrial use than residential use but situated where residential development or prospective development is in close proximity on one or more sides of the district. The uses which are permitted in this district are those characterized by low traffic density, low land coverage, buffers and landscaping and absence of objectionable external effects. Landscaping in keeping with residential area is encouraged.

M-1 CD restricted manufacturing conditional district. Identical to the M-1 district except that conditional rezoning is required as a prerequisite to any use or development, as provided for in this chapter.

M-2 manufacturing district. This district is defined as certain lands so situated as to be suitable for industrial development, usually along railroad sidings or major thoroughfares, but where certain operations could adversely affect nearby properties. The purpose of this district is to permit the normal operations of almost all industries except those that would be detrimental to adjoining properties. Selected business uses are also appropriate in this district.

M-2 CD manufacturing conditional district. Identical to the R-A district except that conditional rezoning is required as a prerequisite to any use or development, as provided for in this chapter.

Secs. 3.3 – 3.4 Reserved.

DVISION 2 CONDITIONAL DISTRICTS INTENT AND PROCESS

Section 3-5. Conditional Districts

- (a) Purpose of Conditional Zoning Districts. Conditional zoning districts are zoning districts in which the property owner proposes development and use of property subject to standards and conditions submitted by the owner. The conditional district itself, like a rezoning, is created by means of a legislative decision.

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CHAPTER 3. DISTRICTS, INTENT and USES

A conditional zoning district can be beneficial because, unlike a general use district, it allows a particular use or uses to be established with specific standards and conditions that will enhance the compatibility of the use with the area and adjacent property.

- (b) Review Process. Review and approval of a petition for conditional zoning, although more detailed, shall follow the same legislative process as outlined for a general use rezoning.
1. Submissions - The owner(s) of the property proposed for the use shall submit a petition for all of the property requested to be rezoned to a Conditional Zoning District. The petition shall include
 - a. a to scale preliminary site plan
 - b. supporting information that specifies the proposed use or uses
 - c. any conditions or regulations that, in addition to the ordinance requirements for the general use district, will govern the development and use of the property
 - d. a boundary survey showing the property's gross acreage, current zoning classification(s), the location of adjacent public streets and any other rights-of-way
 - e. proposed use of all land and structures, including the number and type if residential units
 - f. all setbacks, buffers, screening, and landscaping required by the town and proposed by the owner
 - g. existing and proposed access points to public streets and traffic signals
 - h. a statement analyzing the reasonableness of the proposed conditional zoning that includes: (a) the conditional zoning's compatibility with the surrounding area and any town plans; (b) the benefits and detriments of conditional zoning for the subject property, neighboring properties and the surrounding community; and (c) the conditional zoning's compatibility with the existing land uses on adjacent and neighboring tracts.

The Town Manager shall have the authority to waive any application requirements where the type of use or scale of the proposal makes providing that information unnecessary or impractical.

In the course of evaluating a petition for conditional zoning for a proposed use or development, the Town may request additional information from the petitioner such as location of structures, signage and screening.

2. Required Community Meeting Before Public Hearing - The Town shall sponsor an Information Meeting involving the developer, Planning Board, and adjacent property owners. The purpose of the informal meeting is to provide a time for adjoining property owners to meet with the developer and the Town staff to review preliminary proposals before they are presented at a public hearing conducted by the Town Council. Notices of this Information Meeting shall be sent by First Class mail at a minimum to all adjoining property owners.
3. Planning Board Review - The Planning Board shall review the proposal for consistency

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CHAPTER 3. DISTRICTS, INTENT and USES

with all applicable standards in this Ordinance as it would for a general rezoning (see Section 12.3) .

- (c) Applying for Rezoning. The applicant shall follow procedures set forth in this ordinance in Chapter 12 Amendments.
- (d) Conditions to Approval of Petition. - In approving a petition for reclassification to a Conditional Zoning District, the petitioner may agree to additional reasonable conditions recommended by the Planning Board or requested by the Town Council. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions proposed by the Town before final action by the Town Council.
- (e) Effect of Approval - If the conditional zoning petition is approved, the use of the property shall be governed by zoning requirements for the underlying district, the approved site plan for the Conditional Zoning District and any other approved conditions. These conditions shall be binding on the property as an amendment to the zoning map. The subject property shall be identified on the official Zoning map with the underlying general district followed by the letters "CD" (example "M1 CD").
- (f) Alterations to Approval
- 1) Except as provided in subsection 2) below, changes to an approved Conditional Zoning District shall be treated the same as an amendment to the zoning map.
 - 2) Administrative amendments - The Town Manager shall have delegated authority to approve an administrative amendment to an approved site plan. The standard to be applied is that the change does not have a significant impact on abutting properties or significantly alter the site plan or its adopted conditions. An administrative amendment must be in writing and shall not be subject to a protest petition. The following limitations apply to administrative amendments:
 - Density increases are limited to: nonresidential development 10% of the approved requirement or 1000 square feet whichever is less; residential development 10% or no more than 5 dwelling units whichever is less.
 - Any amendments that propose adjusting a buffer or screening are limited to type and quantity of plant material such that the change in material or screening design shall be equal to or greater than that which was approved.

Secs. 3-6 – 3-9. Reserved.

DIVISION 3. DISTRICT BOUNDARIES

Section 3-10 Locations and Boundaries

- (a) The locations and boundaries of each of the zoning districts shall be shown on the map accompanying this Ordinance and made a part hereof, entitled "Official Zoning Map of the Town of Yanceyville, North Carolina," and adopted by the Town Council.

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- (b) The official zoning map and all the notations, references and amendments thereto and other information shown thereon are made a part of this Ordinance. The official zoning map shall be kept in file in the office of the town clerk and shall be available for inspection for the public.
- (c) The official zoning map and any amendments shall be identified by the signature of the town clerk and shall bear the seal of the town, under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of the Town of Yanceyville, North Carolina," together with the date of the adoption of the ordinance from which this chapter derives. (Ord. of 8-27-87, art. IV, § 2)

Section 3-11. Rules governing boundaries.

When uncertainty exists with respect to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

1. District boundary lines are intended to be along or parallel to property lines or lot lines of a platted addition and to the centerlines of streets, alleys, railroads, easements, other rights-of-way and creeks, streams or other water channels.
2. In the absence of specified distances on the map, dimensions or distances shall be determined by the use of the scale shown on the official zoning map.
3. The board of adjustment shall interpret the intent of the map as to the location of district boundaries upon appeal from decision of the zoning officer.
4. Where the district boundary of the FCLWS-CA district is indicated as being a one-half mile measured distance, such boundary shall be one-half mile measured from the normal pool elevation of Fullers Creek Lake. The normal pool elevation is 463.4 feet above mean sea level. In addition, in the Fullers Creek Lake watershed, the zoning enforcement officer shall adjust the exterior boundary of the watershed when he finds, based upon topographic evidence, that all or part of a piece of property actually lies outside the drainage area of the watershed. In performing this function, the zoning enforcement officer may require the owner to produce such information as the officer may deem necessary to make such finding. (Ord. of 8-27-87, art. IV, § 3; Ord. of 9-30-93, art. IV, § 3.4)

Sections 3-12 – 3-14 Reserved.

DIVISION 4. WATERSHED OVERLAY DISTRICTS

Section 3-15. Watershed overlay districts.

Watershed overlay districts are established to provide protection of the Fullers Creek Lake water supply consistent with the WS-II Critical Area and Balance of Watershed management rules as adopted

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by the state environmental management commission. (Ord. of 8-27-87, art. V, § 1; Ord. of 9-30-93, art. V, § 1.10)

Section 3-16. Definitions applicable to watershed overlay districts.

The following supplemental special definitions apply to the watershed overlay district regulations:

Balance of watershed (BW) means the remainder of a watershed outside the critical area.

Best management practices (BMP) means a structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Buffer means an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Built-upon area includes that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, drives and parking areas, recreation facilities (e.g., tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

Critical area means the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridgeline of the watershed, whichever comes first; or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river); or the ridgeline of the watershed, whichever comes first. Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

Development means any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Section 3-17. General provisions applicable to both districts.

- (a) The construction of new roads and bridges and nonresidential development should minimize built-upon area, divert stormwater away from surface water supply waters as much as possible, and employ best management practices (BMPs) to minimize water quality impacts in the watershed

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overlay districts. To the extent practicable, the construction of new roads in the critical area should be avoided. The department of transportation BMPs as outlined in its document entitled "Best Management Practices for the Protection of Surface Waters" shall be used in all road and bridge construction projects in the watershed overlay districts.

- (b) All development activities within watershed overlay districts, in addition to those activities specifically regulated by this chapter, are subject to the standards, usage conditions and other regulations contained in the rules and requirements of the surface water supply protection rules adopted by the state environmental management commission.
- (c) A minimum 30-foot vegetative buffer for development activities is required along all perennial waters, including streams, rivers and impoundments, indicated on the most recent versions of the United States Geodetic Survey (USGS) 1:24,000 scale topographic maps, provided that a 100-foot buffer shall be required along Fullers Creek Lake. Nothing in this subsection shall prevent artificial streambank or shoreline stabilization. No new structures and public works projects such as road crossings and greenways may be allowed where no practicable alternative exists. These activities shall minimize built-upon surface area, shall direct runoff away from the surface water and shall maximize the utilization of BMPs.
- (d) Existing development, as defined in this chapter, is not subject to the requirements of the overlay provisions. Expansions to structures, other than single-family, classified as existing development must meet the requirements of these provisions; provided, however, the built-upon area of the existing development is not required to be included in the density calculations. In determining expansions to existing development, the maximum permitted additional built-upon area is derived by multiplying the area of the portion of the property that is not built upon by the appropriate percent built-upon limitation for the overlay district in which the property is located.
- (e) A preexisting lot created prior to the effective date of the ordinance from which this section derives, regardless of whether or not a vested right has been established, may be developed or redeveloped for single-family residential purposes without being subject to the restrictions of these overlay provisions.
- (f) Any existing building or built-upon area not in conformance with the limitations of these provisions that has been damaged or removed for any reason may be repaired and reconstructed, provided:
 - 1) Repair or reconstruction is initiated within 12 months and completed within two years of such damage or removal.
 - 2) The total amount of space devoted to built-upon area may not be increased.
 - 3) The repair or reconstruction is otherwise permitted under this chapter.
- (g) Clustering of development, if permitted by the underlying use district, is allowed on a project-by-project basis as follows: overall density of the project meets associated density or stormwater

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control requirements; built-upon areas are designed and sited to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow; remainder of tract to remain in vegetated or natural state.

- (h) No activity, situation, structure or land use shall be permitted or allowed to operate within a watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewer systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff, or any other situation found to pose a threat to water quality.
- (i) The zoning enforcement officer may require such information of subdivision, zoning permit and development plan applications, including density/built-upon area calculations, as he may deem necessary to determine compliance with watershed overlay district provisions. Preliminary and final subdivision plat approval and other such plan approvals may be required to note density/built-upon limitations on the plat. For example, plats may be required to show such information as total area of the development, the amount and percent of impervious area in other public improvements, and the amount and percent of impervious area that is allocated to the various lots for future development. Such information shall be displayed in such a manner that the zoning enforcement officer can readily determine compliance with these provisions on a project-by-project basis.
- (j) The zoning enforcement officer may, prior to the issuance of any permit in a watershed overlay district, require evidence of a valid sedimentation control permit issued by the state or evidence satisfactory to the officer that no permit is required.
- (k) The zoning enforcement officer shall maintain records of the administration of the watershed overlay district regulations and shall submit any modifications of the regulations and map to the division of environmental management, division of environmental health and division of community assistance. The zoning enforcement officer shall also maintain a record of variances issued and shall submit an annual report of each project receiving a variance and the reason for the variance to the division of environmental management. (Ord. of 9-30-93, art. V, § 1.11)

Section 3-18. Fullers Creek Lake watershed critical area (FCLWS-CA).

- (a) *General development standards.* General development standards for the Fullers Creek Lake watershed critical area (FCLWS-CA) shall be as follows:
 - 1) No new sites for land application of sludge/residual or petroleum contaminated soils are allowed.
 - 2) No new landfills are allowed.
 - 3) Existing nonresidential development shall maintain an inventory of *all* toxic and hazardous materials and *shall* implement a spill/failure containment plan approved by the

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fire chief or his designated agent.

- 4) No new use which uses, stores or manufactures hazardous or toxic materials on the premises shall be allowed.
- 5) No new use which is first permitted in either the M-1 or M-2 manufacturing district shall be allowed.
- 6) No new underground fuel or chemical storage tanks are allowed.

(b) *Density/built-upon limitations.* Density/built-upon limitations shall be as follows:

- 1) Residential development *shall* not exceed one dwelling unit per two acres or, optionally, six percent built-upon area on a project-by-project basis.
- 2) Nonresidential development *shall* not exceed six percent built-upon area on a project-by-project basis. (Ord. of 9-30-93, art. V, § 1.12)

Section 3-19. Fullers Creek Lake watershed balance of watershed (FCLWS-BW).

(a) *General development standards.* General development standards for Fullers Creek Lake watershed balance of watershed (FCLWS-BW) shall be as follows:

- 1) No new discharging landfills are allowed.
- 2) Existing nonresidential development shall maintain an inventory of all toxic and hazardous materials and shall implement a spill/failure containment plan approved by the fire chief or his designated agent.

(b) *Density/built-upon limitations.* Density/built-upon limitations shall be as follows:

- 1) Residential development shall not exceed one dwelling unit per acre or, optionally, 12 percent built-upon area, on a project-by-project basis.
- 2) Nonresidential development shall not exceed 12 percent built-upon area, on a project-by-project basis.
- 3) Notwithstanding the limitations of subsection (b)(2) of this section, five percent (26 acres) of the FCLWS-BW area (520 acres) may be developed with new nonresidential development projects of up to 70 percent built-upon area as special nonresidential intensity allocations (SNIAs). SNIAs shall be allocated and developed in accordance with the following:
 - a. SNIAs shall be allocated by the zoning enforcement officer through the zoning permit/development plan process. The zoning enforcement officer shall maintain a record of the total acreage in the FCLWS-BW area eligible for SNIAs, the acreage that has been allocated and the acreage that has been used as of the latest date. In no case shall allocated acreage exceed the acreage eligible for allocation.
 - b. SNIAs shall be allocated on a first come, first served basis upon the approval and issuance of the appropriate permit, provided that no SNIA shall be allocated to a development unless it is served by or is to be served by town water and sewer service.
 - c. The right to develop a SNIA shall terminate with the loss of the right to develop due to the expiration of a zoning permit, zoning permit with vested right or building permit. In such a case, the allocated acreage or unused allocated acreage shall be returned to the unallocated total acreage eligible for allocation.

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- d. All SNIA development shall be located so that all stormwater from the development drains into an engineered stormwater control facility designed and constructed in accordance with all the requirements of section 3-20. (Ord. of 9-30-93, art. V, § 1.13)

Section 3-20. Exceeding basic density/built-upon limitations; permit to exceed.

(a) *Conditions for compliance.* Development in the watershed overlay districts may exceed the basic density/built-upon limitations established in sections 3-18 and 3-19 upon the receipt of a permit to exceed from the zoning enforcement officer. No permit to exceed shall be issued except for development which is in conformance with the conditions and limitations in this section.

(b) *Built-upon limitations.* In no case shall the built-upon area of any development, on a project-by-project basis, exceed the following limitations, and all development shall be calculated on a built-upon area basis only:

- 1) FCLWS-CA, 24 percent built-upon area.
- 2) FCLWS-BW, 30 percent built-upon area.

Nothing in this section, however, shall permit any development to exceed the maximum permissible lot coverage limitations for principal and accessory buildings as set forth in this chapter for use districts.

(c) *Buffer.* A minimum 100-foot vegetative buffer is required for any new development activity which exceeds the basic density/built-upon limitations along all perennial waters indicated on the most recent versions of USGS 1:24,000 scale topographic maps. Nothing in this subsection shall prevent artificial streambank or shoreline stabilization. No new development is allowed in the buffer, except that water-dependent structures and public works projects such as road crossings, utilities and greenways may be allowed where no practicable alternatives exist. These activities shall minimize built-upon surface area, direct runoff away from surface water and maximize the use of BMPs.

(d) *Development location.* All development which exceeds the basic density/built-upon limitations shall be located so that all stormwater from the development drains into an engineered stormwater control facility (referred to in this section as "facility") designed and constructed in conformance with the requirements of this section.

(e) *Facility approval.* No permit to exceed shall be issued for any development until such facility is fully constructed and approved by the zoning enforcement officer or his agent to be capable of functioning in accordance with the requirements of this section, Prior to inspection by the zoning enforcement officer or his agent to determine compliance, the developer shall furnish a certification sealed by an engineer or landscape architect stating that the facility is complete and consistent with the approved plans and specifications.

(f) *Facility requirements.* Engineered stormwater control facilities intended to serve development

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which exceed the basic density/built-upon limitations of this chapter shall conform with the following:

- 1) *Developer responsible for costs.* The developer or his designee shall be responsible for all costs associated with the construction, operation, maintenance and repair of any such facility.
- 2) *Plans required.* No construction shall begin on any such facility until the construction, operation and maintenance and related plans have been submitted to and approved by the zoning enforcement officer. The maintenance and operation plan shall specify the facility ownership plan and the entity to be responsible for maintenance, operation and repair. The plan shall designate sufficient area and access to perform inspections, maintenance, repairs and reconstruction. The plan shall also provide a cost estimate for routine and non-routine maintenance over a 20-year period. At the time the plans are submitted, the developer shall pay to the town a plan review and construction inspection fee as set by the town council.
- 3) *Design standards.* All stormwater control facilities shall use wet detention ponds as a primary treatment system. Wet detention ponds shall be designed for specific pollutant removal according to modeling techniques approved by the state division of environmental management. Specific requirements for these systems shall be in accordance with the following design criteria:
 - a. Wet detention ponds shall be designed to remove 85 percent of total suspended solids in the permanent pool and store runoff from a one-inch rainfall from the watershed above the permanent pool, assuming maximum permitted development.
 - b. The designed runoff storage volume shall be above the permanent pool.
 - c. The discharge rate from these systems following the one-inch rainfall design storm shall be such that the runoff does not draw down to the permanent pool level in less than two days and that the pond is drawn down to the permanent pool level within at least five days.
 - d. The mean permanent pool depth shall be a minimum of three feet.
 - e. The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features.
 - f. Vegetative filters shall be constructed for the overflow and discharge of all stormwater wet detention ponds and shall be at least 30 feet in length. The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow through the filter for a ten-year, 24-hour storm with a ten-year, one-hour intensity with a slope of five percent or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics.
 - g. In addition to the vegetative filters required in subsection (f)(3)f of this section, all disturbed land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within 30 days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the maintenance and operations plan.

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(g) *Financial guarantee and maintenance agreement.*

- (1) Before the zoning enforcement officer shall approve the completed facility and issue any permit to exceed, the developer or maintaining entity shall furnish the town with a financial guarantee ensuring future maintenance, operation and repair of the facility. The financial guarantee *shall* be in the form of cash, an irrevocable letter of credit or other instrument readily convertible to cash at face value and shall be deposited and made payable to the town. The amount of the deposit *shall* be equal to 40 percent of the total cost of constructing the facility. The initial cost estimates shall be the responsibility of the developer, but the approval of the final cost estimate shall be made by the zoning enforcement officer or his agent. At this time the developer or maintaining entity shall also pay to the town a fee as set by the town council to cover annual inspections by the town for 20 years.
- (2) The initial duration of the financial guarantee shall be for 20 years. At the end of that period the town may, at its own option, require extension of the guarantee for an additional period of up to 20 years based upon future maintenance cost or may take whatever lawful action it may deem appropriate at that time. The financial guarantee may be dissolved at any time in its lifetime by mutual agreement when the need for such guarantee no longer exists.
- (3) The agreement shall pledge the financial guarantee in support of the agreement, but also shall acknowledge that default does not release the entity from liability/ responsibility for operation, maintenance and repair/reconstruction. The agreement shall provide that for default by the operating entity, the town, at any time after default, may on its own motion assume actual maintenance and operation of the facility and convert for its use in maintenance and operation any and all funds remaining in the financial guarantee. The agreement shall be recorded with the appropriate county register of deeds by the zoning enforcement officer after it is executed by both parties. No changes to the agreement or its terms including ownership and responsible entity shall be made except upon agreement of the parties.
- (4) As part of the financial guarantee, the developer or maintaining entity shall enter into a binding operation and maintenance agreement in a form acceptable to and enforceable by the town. Such agreement shall require the responsible entity to maintain, repair and, if necessary, reconstruct the facility in accordance with the approved operation and maintenance plan.

(h) *Inspections.* The zoning enforcement officer or his agent shall inspect all facilities at least on an annual basis to determine whether the controls are performing as designed or intended and whether maintenance is being performed as required. Records of inspections shall be maintained on forms approved or supplied by the state division of environmental management. The first annual inspection shall be made during the 12 months following the date of certification.

(i) *Failure to perform.* If the zoning enforcement officer should find that the facility is not performing as designed or intended or that maintenance and repairs are not being made as

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required or that any action is being done or not done that is in violation of this division or the agreement related to the facility, the zoning enforcement officer shall notify the responsible entity who shall be given a reasonable time to correct the defect. If the responsible entity fails to act, fails to act in a timely manner or otherwise fails to correct the defect, the zoning enforcement officer shall institute appropriate action to obtain compliance, including criminal or civil penalties or both. In addition, the town may declare the responsible entity in default of the agreement and financial guarantee and use part of all of the proceeds of the guarantee to correct the defect and may assume actual operation and maintenance. Default in the agreement does not release the responsible entity from liability/responsibility for the defect or release the entity from the agreement. Likewise, default in the agreement does not prevent the town from taking criminal or civil action or both. (Ord. of 9-30-93)

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CHAPTER 4. TABLE OF PERMITTED USES

In the following table, zoning districts in which particular uses are permitted as a use by right are indicated by an “X.” Districts in which particular uses are permitted as a use by right with certain conditions by an “X” with a reference to a note to this table in Section 4-21 Notes to Table of Permitted Uses. Districts in which particular uses are permitted by a Special Use Permit in accordance with Chapter 5 are indicated by an “S.” Districts in which particular uses are prohibited are indicated by a blank.

<i>Permitted Uses</i>	<i>R-A</i>	<i>R-12</i>	<i>RR-8</i>	<i>R-8</i>	<i>R-MH</i>	<i>OI</i>	<i>B-1</i>	<i>H-B</i>	<i>M-1</i>	<i>M-2</i>	<i>Notes</i>
Accessory building, including but not limited to toolsheds, and garages	X	X	X	X	X	X	X	X			See Note 1
Accessory building, tiny house	S	S	S	S							
Adult establishments								S			
Agencies, including but not limited to travel brokers, insurance, loan, employment						X	X	X			
Agricultural uses	X										
Airport											
Antiques and gift retail sales							X	X			
Animals and livestock (horses, cows, sheep and goats), as an accessory use on 1 or more acres	X										
Animals and livestock as Accessory Use limited to chickens and bees	X	X	X	X							
Arts and craft and supply retail sales							X	X			
Assembling of electrical appliances, electronic instruments and. devices, radios and phonographs, including electroplating; and the manufacturing of small parts only such as coils, capacitors, transformers, crystal holders and the like								X			

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<i>Permitted Uses</i>	<i>R-A</i>	<i>R-12</i>	<i>RR-8</i>	<i>R-8</i>	<i>R-MH</i>	<i>OI</i>	<i>B-1</i>	<i>H-B</i>	<i>M-1</i>	<i>M-2</i>	<i>Notes</i>
Assisted living, nursing homes	S							S			
Athletic fields, recreational buildings, playgrounds (not for commercial gain); no automobile or motorcycle racing	X	X	X	X				X	X		
Auditoriums, indoor theaters, assembly halls						X	X	X	X		
Automobile accessories sales							X	X	X	X	
Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire retreading or recapping, and similar uses										X	
Automobile repair shops including body and fender work conducted within a completely enclosed building								X	X	X	
Automobile sales, new and used								X	X	X	
Automobile carwash, part of retail service station							X	X	X	X	
Automobile carwash, freestanding							X	X	X	X	
Automobile parking lot serving uses permitted in district in which lot is located	X	X	X	X	X	X	X	X	X		
Automobile parking lot, commercial						X	X	X	X	X	
Automobile service station, not including outside storage of used, wrecked, inoperable or dismantled automobiles							X	X	X	X	
Bakeries selling at retail products produced on premises							X	X	X	X	
Bakeries (commercial), bottling works								X	X	X	

TOWN OF YANCEYVILLE ZONING ORDINANCE

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<i>Permitted Uses</i>	<i>R-A</i>	<i>R-12</i>	<i>RR-8</i>	<i>R-8</i>	<i>R-MH</i>	<i>OI</i>	<i>B-1</i>	<i>H-B</i>	<i>M-1</i>	<i>M-2</i>	<i>Notes</i>
Banks, savings and loan and similar financial institutions						X	X	X	X		
Bicycle and motorbike sales and repair								X	X		
Book and stationery stores							X	X			
Broadcasting studios, radio, TV							X	X	X	X	
Boardinghouse, rooming house, bed and breakfast	X			X		X	X	X			
Building supply sales with outdoor storage								X	X	X	See Note 8
Campgrounds and RV parks	S										
Child Care Center	S	S	S	S		X	X	X			
Child Care, Family Child Care Home in a residence	X	X	X	X							Note 4
Churches, synagogues, temples and other places of worship, rectories, Sunday schools	X	X	X	X	X	X	X	X	X		
Cleaners and dyers							X	X	X	X	
Cleaners, self-service							X	X	X	X	
Clothing sales							X				
Clubs and lodges, private, nonprofit	S	S	S	S		X	X	X	X		
Coal, coke, wood lots									X	X	See Note 7
Community buildings, not for commercial gain	S	S	S	S	S	X	X	X	X	X	
Condominiums (business)						S	S	S	S	S	
Contractor offices including outdoor storage								X	X	X	
Craft studios (not a home occupation)							X	X			
Detention facility									X		
Drive-through restaurants, banks,								X	X	X	

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<i>Permitted Uses</i>	<i>R-A</i>	<i>R-12</i>	<i>RR-8</i>	<i>R-8</i>	<i>R-MH</i>	<i>OI</i>	<i>B-1</i>	<i>H-B</i>	<i>M-1</i>	<i>M-2</i>	<i>Notes</i>
cleaners, etc.											
Dwellings, condominiums				S							
Dwellings, duplex				X	X						
Dwellings, multifamily				X							
Dwellings, planned unit developments (PUD)	S	S	S	S							
Dwellings, single-family detached	X	X	X	X	X	X					
Dwellings, tiny house principal use, built to NC Residential Building Code	X	X	X	X							See Note 2
Dwellings, tiny house accessory use	S	S	S	S							
Dwellings, townhouses				S							
Electrical shops								X	X	X	
Fairgrounds, carousels, roller coasters, Ferris wheels, super slides and the like								S	S	S	
Family care home (no more than 6 residents with disabilities; no closer than ½ mile from an existing family care home)	X	X	X	X							See Note 3
Fences and walls	X	X	X	X	X	X	X	X	X	X	
Fitness centers							X	X	X		
Food trucks	X	X	X	X	X	X	X	X	X	X	
Foundry casting, lightweight, nonferrous metal not causing noxious fumes, noise or odors									X	X	
Funeral homes						X	X	X			
Furniture, retail sales							X	X			
Gaming establishment							X	X			See Note 5
Gaming establishment, adult							X	X			See Note 6
Garbage landfills, incinerators	S									S	
Golf courses	X	X									

TOWN OF YANCEYVILLE ZONING ORDINANCE
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<i>Permitted Uses</i>	<i>R-A</i>	<i>R-12</i>	<i>RR-8</i>	<i>R-8</i>	<i>R-MH</i>	<i>OI</i>	<i>B-1</i>	<i>H-B</i>	<i>M-1</i>	<i>M-2</i>	<i>Notes</i>
Golf, miniature								X	X		
Group home (6-10 residents with disabilities)	S			S			S				In B-1 only if in existing structure
Hardware and building materials, sales							X	X	X	X	
Home occupations	X	X	X	X	X	X					See Note 7
Hospitals	S					S		S			
Hotels, motels							X	X			
Junkyards											S
Laboratories, medical, research							X	X	X		
Laundries							X	X	X		
Laundries, self-service					X		X	X	X		
Locksmiths and gunsmith							X	X	X	X	
Machine shops									X	X	
Manufactured home, agricultural implements, heavy machinery sale, repair, rental or storage								X	X	X	
Manufactured home parks					S						
Manufactured housing on individual lot											
Class A	X	X	X	X	X						
Class B	X			X	X						
Manufacturing, packaging and assembly of goods; compounding, or treatment of articles or products with no emissions of fumes, smoke or chemicals and no violations of noise standards. Commercial gasoline stations, including major service & repair shops										X	

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<i>Permitted Uses</i>	<i>R-A</i>	<i>R-12</i>	<i>RR-8</i>	<i>R-8</i>	<i>R-MH</i>	<i>OI</i>	<i>B-1</i>	<i>H-B</i>	<i>M-1</i>	<i>M-2</i>	<i>Notes</i>
Medical, dental, paramedical, chiropractor offices						X	X	X			
Metal shops involving fabrication of sheet-metal only									X	X	
Modular commercial buildings, certified as to construction and use by building inspector								X	X	X	See Note 8
Monument works, stone works									X	X	
Motels, hotels							X	X			
Movie studios	X										
Nightclubs							X	X			
Nurseries, greenhouses	X							X	X		
Nursing homes, assisted living	S							S			
Offices						X	X	X	X	X	
Open air sales; farmers' markets	X						X	X	X	X	
Outdoor sales, display, and service of vehicles, boats, heavy equipment and manufactured homes									X	X	
Outdoor storage, including outdoor storage of contractor and building material as accessory or principal use								X	X	X	See Note 9
Parking lots as a principal use in residential districts where the lot is for use by a facility that is a permitted use in the district. The primary use and the parking lot may have different zoning designations as long as they are residential.	X	X	X	X							
Photographic developing, processing							X	X	X	X	

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<i>Permitted Uses</i>	<i>R-A</i>	<i>R-12</i>	<i>RR-8</i>	<i>R-8</i>	<i>R-MH</i>	<i>OI</i>	<i>B-1</i>	<i>H-B</i>	<i>M-1</i>	<i>M-2</i>	<i>Notes</i>
Planing mills or sawmills										X	
Planned business developments (commercial)						S		S	S	S	
Planned unit developments	S	S	S	S							
Plant, horticultural sales indoor and outdoor								X	X	X	
Printing or binding shop								X	X	X	
Public buildings, libraries, fire stations, police stations	S	S	S	S	S	S	S	S	S	S	
Public parks, recreational facilities	X	X	X	X	X	X	X	X	X		
Public utility stations, water and sewer facilities, radio and television towers and transmitting or relay stations	S	S	S	S	S	S	S	S	S	S	
Recreational vehicles (RV's) parked on residential lot with current motor vehicle registration and license and not occupied as a residence	X	X	X	X							
Rehabilitation homes, such as halfway houses	S					S					
Repair and servicing of office and household equipment							X	X	X	X	
Restaurants							X	X			
Retail business, not otherwise listed							X	X			
RV Park; campgrounds	S										
Schools (academic), public or private	S	S	S	S		S		S			
Schools (nonacademic) commercial, vocational, public or private, to include music and dance studios						X	X	X	X		
Service establishments, including but							X	X			

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<i>Permitted Uses</i>	<i>R-A</i>	<i>R-12</i>	<i>RR-8</i>	<i>R-8</i>	<i>R-MH</i>	<i>OI</i>	<i>B-1</i>	<i>H-B</i>	<i>M-1</i>	<i>M-2</i>	<i>Notes</i>
not limited to barbershops, small item repair, rental shops, custom fabrication, tailor shops, hair and nail salons											
Sheetmetal, roofing shops								X	X	X	
<i>Shelter</i> , emergency for up to 10 persons				X		X					
Shelter, transitional for up to 10 persons			X	X		X					
Shoe repair							X	X			
Shooting ranges, indoor commercial								S	S	S	
Signs	X	X	X	X	X	X	X	X	X	X	See Chapt. 6 Signs
Solar generating facilities									S		
Storage, outdoor as a principal use (not including junkyards)								X	X	X	See Note 9
Storage, self-storage units for individual storage of residential & commercial goods								X	X	X	
Stores or shops, retail, not otherwise listed; but not automobile sales or repair							X	X			
Temporary buildings incidental to a construction project	X	X	X	X	X	X	X	X	X	X	See Note 10
Tobacco processing and storage									X	x	
Townhouses (business)						S	S	S	S		
Transportation terminals, freight								X	X	X	
Transportation terminals, passenger								X	X	X	
Upholstery, wallpaper, decorator shops							X	X	X		
Veterinary establishments						X		X	X	X	
Warehouses, temporary storage								X	X	X	

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NOTES TO TABLE OF PERMITTED USES

Sec 4-21. Notes to table of permitted uses.

The notes in this section provide regulations and conditions for certain uses which are unusual in their nature or complexity or are potentially incompatible with their surroundings unless special protective restrictions are applied. Each use listed shall comply with the regulations of the district in which it is located, with the requirements specified in this section, and conditions for uses requiring special use permits.

Note 1. Accessory Buildings and Structures – Accessory buildings and structures shall be located in a rear yard.

- a. Setbacks shall be: not less than five (5) feet from the rear lot line, and the same as side yard setbacks for the district where located.
- b. A dwelling unit may be located on a second or third story of an accessory building, such as a garage apartment, provided the structure complies with the applicable maximum height limitations in the district where located.
- c. Structures except for utility substations or similar structures shall not be located within any easement.

Note 2. Dwellings, tiny house as principal use - The house may be between 200 and 800 square feet in size. It must comply with N.C. Building Code requirements for a dwelling including but not limited to:

- a. It must have at least one habitable room no smaller than 120 square feet.
- b. Any additional rooms (separate bedrooms, etc.) must be at least 70 square feet each.
- c. Each dwelling must have a bathroom that includes a toilet, sink and shower or tub, and minimum clearances for each of those fixtures must be met. For estimation purposes, it is unlikely a bathroom could be much smaller than 40 square feet.
- d. Each dwelling must include a kitchen area with sink, but that area can be part of one of the other rooms (i.e., a studio or great room).
- e. Minimum of one egress door 36" x 78" side-hinged
- f. Minimum ceiling height for habitable rooms is 7 feet with no obstructions (light fixtures, beams, etc.) below 6 feet, 8 inches.
- g. Minimum of one emergency egress window in each sleeping area must meet all of the following: sill height max. 44 inches, minimum net clear operable area of 4 square feet, the minimum net clear opening height shall be 22 inches. The minimum net clear opening width shall be 20 inches.
- h. Any interior doors providing egress from habitable rooms shall have minimum dimensions of 30 x 78 inches.

There is no minimum size for a dwelling in North Carolina, but given the requirements above, Yanceyville requires a 200 square foot minimum size for a tiny house.

Any tiny house shall meet the town's water and sewer requirements.

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NOTES TO TABLE OF PERMITTED USES

Note 3. *Family care home* – As authorized by G.S.160D-907(c), this ordinance provides that no family care home may be located within a one-half mile radius of an existing family care home.

Note 4. *Family childcare home (2 to 8 children in home of owner-occupant)*

- a. The operation must be licensed by the N. C. Department of Health and Human Resources.
- b. A childcare home shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling. All building and lot standards for residential dwellings shall be maintained.
- c. Not permitted in Duplexes, Condominiums, Townhomes, or Apartment Units.
- d. The childcare home operation shall be located within a Single-family House and shall be occupied by the operator of the service.
- e. Outdoor play space shall be located in the rear yard and fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space. The area of the play space must meet state licensing standards or be not less than seventy-five (75) square feet per child outdoors and twenty-five (25) square feet per child indoors play area for each child, whichever is greater.

Note 5. *Gaming establishments* - A gaming establishment may operate as a principle use when its primary use is to provide entertainment services to the general public in the form of electronic or conventional gaming units which provide either no reward to patrons or the possibility of rewards of limited value such as children's toys, games, or novelties when all rewards can be legally obtained and used by all ages and are not redeemable for cash or any other kind of compensation or services on or off premises, including on-line redemptions. Examples include, but are not limited to, traditional video game arcades and children's and family game centers, whether stand-alone or in conjunction with a restaurant or other permissible uses. This shall be considered a principal use when occupying more than fifty percent of the gross floor area of an establishment or being used by more than fifty percent of the patrons at any time or representing more than fifty percent of the total sales of the establishment.

Note 6. *Gaming establishments, adult*

- a. Adult gaming establishments may operate from 9:00am until 12:00am, Mondays through Saturdays, and 1pm until 12:00am on Sundays.
- b. Adult gaming establishments shall not be located in the same building or on the same property where any public or private education facility, church, synagogue, temple or any other religious building, bar, child care center, all residential dwellings, any general gaming establishment as a principal use, or any other existing adult gaming establishment is located. Adult gaming establishments shall also not be placed on

TOWN OF YANCEYVILLE ZONING ORDINANCE

NOTES TO TABLE OF PERMITTED USES

properties within 200 feet of any of the aforementioned uses, measured from the closest point between the building housing the adult gaming establishment and the building housing the use from which the establishment must be distanced. (Amended Aug. 13, 2019)

- c. Adult gaming establishments are prohibited in or as a part of any check cashing facility.
- d. All alcohol sales and consumption of alcohol is prohibited.
- e. No adult gaming establishment shall permit any person under the age of 18 to conduct games in the establishment or to supervise games in the establishment.
- f. The maximum number of terminals/computers/machines/gaming terminals and the maximum number of patrons using the electronic machines at one time shall be 20.
- g. The parking requirements for Indoor commercial recreation shall apply to all adult gaming establishments

Note 7. Home Occupations.

(1) A home occupation is permitted only as an incidental use inside of the home and is limited to the following:

- a. The office or studio of an artist, musician, lawyer, teacher or other like professional person residing on the premises, provided no chattels or goods, wares or merchandise are commercially created, displayed, exchanged or sold.
- b. Workshops.
- c. Customary home occupations such as millinery, dressmaking, laundering or pressing and tailoring, conducted by a person residing on the premises.
- d. Rooming or boarding of not more than two persons.
- e. Single operator beauty shops and barbershops.

(2) Home occupations listed in subsection (c)(1) of this section shall be permitted subject to the following limitations:

- a. No display of products shall be visible from the street.
- b. No mechanical or electronic equipment shall be installed or used except such as is normally used for domestic or professional purposes and which does not cause noises or other interference in radio and television reception.
 - a. C. No accessory buildings or outside storage shall be used in connection with the home occupation.
- c. Not over 25 percent of the total actual floor area or 400 square feet, whichever is less, shall be used for a home occupation.
- d. Only residents of the dwelling may be engaged in the home occupation.
- e. No odors, noise, dust or other objectionable effects shall be emitted to the outside of the building.

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Note 8. Modular Commercial Building – Must be certified by building inspector as meeting N.C. standards for modular commercial buildings.

Note 9. Outdoor storage as accessory or principal use. Outdoor storage as an accessory use to a commercial enterprise or as a principal use such as building supply sales, wood or coal sales etc., is permitted only if the storage yard is enclosed by a fence not less than eight feet in height which completely screens from view the stored materials.

Note 10. Temporary Construction Offices/Construction Equipment Storage/Real Estate Sales or Rental Offices -

1. A concurrent building permit is required for the permanent building that is under construction.
2. The office must be removed upon completion of the project, or when construction activities are halted for a period of 90 days or more.

Section 5-1. Objectives and purposes.

- (a) Special uses are authorized by G.S. 160D-705(c). Permitting special uses adds flexibility to this chapter. Subject to high standards of planning and design, certain property uses are allowed in the several districts where these uses would not otherwise be acceptable. 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.
- (b) The uses for which special use permits are required are listed in Section 5.3 Regulations for Special Use Permits along with a detailed description of the procedures which must be followed in the issuance of each such permit. Uses specified in this division shall be permitted only upon the issuance of a special use permit. (Ord. of 8-27-87)

Section 5-2. Special use permits granted by town council on recommendation of planning board.

- (a) Special use permits may be granted by the town council for the uses enumerated in the Regulations for Special Uses in Section 5-3. The planning board shall have an opportunity to review and provide written comments on the application before the meeting at which the town council conducts a quasi-judicial hearing, arrives at a finding of facts, and renders a decision.
- (b) The owners of all the property included in the petition for a special use permit shall submit an application to the town clerk at least three weeks before the regular monthly planning board meeting at which it is to be considered. Such application shall include all of the requirements pertaining to it in this section.

After reviewing the application, the planning board shall forward the application and its recommendations to the town council within 30 days after its review unless the board requests and is granted an extension by the council. Failure to submit a recommendation within this period without an extension shall be deemed a favorable recommendation. The planning board's written recommendation shall focus on the standards set out in the ordinance for a special use permit and how those standards apply to the particular application. Public support or opposition shall not be a factor in the planning board's comments.

On receiving the recommendation of the planning board, the town council shall give notice of a public hearing on the application in the manner provided by G.S. 160D-406(d). As provided by G.S. 160D-406(a), the hearing shall be quasi-judicial; and the council shall follow proceedings for an evidentiary hearing.

- (c) The town council shall consider the application, recommendations of the planning board and shall provide the applicant an opportunity to present evidence, cross examine witnesses and present rebuttal evidence. Only those who would be directly and substantially affected

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by the decision may speak at the hearing.

- (d) At the conclusion of the hearing, the council may grant or deny the special use permit. As provided by G.S. 160D-406(j), the town council shall determine the facts based on competent, material and substantial evidence in the record.
- (e) The special use permit, if granted, shall include approval of plans as may be required and the following findings:
 - (1) The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
 - (2) The use meets all required conditions and specifications;
 - (3) The use will not substantially injure the value of adjoining or abutting property, or the use is a public necessity; and
 - (4) 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 and in general conformity with the plan of development of the town and its environs.
- (f) The town council may make additional conditions, in addition to the findings as will, in its opinion, ensure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and clearly in keeping with the public welfare. All such additional conditions shall be entered in the minutes of the meeting at which the special use permit is granted, on the special use permit certificate itself and on the approved plans submitted therewith. All specific conditions shall run with the land and shall be binding on the original applicants for the special use permit, their heirs, successors and assigns.
- (g) In addition to the conditions specifically imposed in this chapter and such further conditions as the town council may deem reasonable and appropriate, special uses shall comply with the height, area and parking regulations for the zoning district in which they are located. All special uses other than condominiums, townhouses, planned unit developments and planned business groups, commercial shall comply with yard regulations for the zone district where they are located.
- (h) The decision shall be in writing, signed by the chair or other duly authorized member of the council and shall be filed with the town clerk.
- (i) Appeal. The decision of the council, as with any quasi-judicial decision, shall be subject to review by the superior court of Caswell County by proceedings in the nature of certiorari pursuant to G.S. 160D-406(h). A petition for review shall be filed with the clerk of superior court within 30 days after the decision is effective.
- (j) For failure to comply with the plans approved by the town council or with any other conditions imposed upon the special use permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or certificates of occupancy

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under this special use permit shall be issued, and all completed structures shall be regarded as nonconforming uses subject to this chapter; provided, however, the town council shall not be prevented from thereafter rezoning the property for its most appropriate use.

- (k) Where plans are required to be submitted and approved as part of the application for a special use permit, modifications of the original plans may be authorized by the town council after review and recommendation by the planning board. (Ord. of 8-27-87)

Section 5-3. Regulations for individual special use permits.

Generally. Detailed regulations for the special uses subject to this division are set forth in the regulations for special uses and the notes related to those provisions in this section.

(a) Adult establishments

- (1) *Definition:* Adult establishment means an adult bookstore, an adult mini motion picture theatre, adult mini motion picture theatre, adult live entertainment business, or massage business as defined in Article 26A of G.S. 14.
- (2) *Special use district:* HB
- (3) *Location requirements.* No adult establishment shall be located within 500 feet of any zoning district boundary line of any office and institutional, restricted residential, residential and agricultural, and restricted manufacturing districts; and/or within 1,000 feet of a property line of any school, park, church, or similar place of religious service; and/or within one-half mile of any other adult establishment.
- (4) *Use.* No adult establishment shall be issued a zoning permit until any business license requirements or other town requirements have been met. Further, the establishment must comply with all requirements set forth in Article 26A of Chapter 14 (G.S.14-202.10 – G.S.14-202.12) as written or subsequently amended.
- (5) *Enclosed building.* The adult establishment must be conducted within an enclosed building so that viewing, display, or sound from inside the building cannot be experienced outside the walls of the building.
- (6) *Yard requirements.* Any building containing an adult establishment must be at least 50 feet from all property lines.
- (7) *Screening.* All adult establishments located adjacent to residential uses, must be screened along all common property lines by the screening devise set forth in this Code.
- (8) *Signage.* Signs shall comply with all requirements set forth in this Code. Further, signs shall not contain materials, words, objects, images or displays that suggest or relate to

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specified anatomical areas and/or specified sexual activities as defined by G.S. 14-202.10, or contain display that has been determined by community standards to be harmful to minors as defined by G.S. 14-190.13-15. (Ord. No. 5-99, 9-7-99)

(b) Assisted living, nursing homes

Special use district: R-A, HB

(See Chapter 1 *Definitions* for “congregate care” including “assisted living” and “nursing home”)

Minimum lot area. Minimum lot area of district in which located plus 1,000 square feet for each person to be accommodated.

Parking and loading. One space for each regular employee, plus one space for each four persons to be accommodated.

Plans required. Plans required must show the following:

- a. *Structures.* Location and approximate size of all existing and proposed buildings and structures within the site and on the lots adjacent thereto.
- b. *Circulation.* Proposed points of access and egress and pattern of internal circulation.
- c. *Parking and loading.* Layout of parking spaces.

Other requirements. Must meet all requirements for licensing by the state. Where located in a residential district, there must be ample site area, adequate open space on all sides of the proposed structure and other considerations, including landscaping to the character of the neighborhood so that its residential nature will be preserved.

(c) Campgrounds and RV parks

Special use districts: RA

General Requirements:

- (1) The development area of a campground/RV park shall be a minimum of three acres. A minimum of three (3) tent or RV spaces shall be included within the campground/RV park.
- (2) No campsite shall be used as a permanent place of abode, dwelling, or business for indefinite periods of time. Continuous occupancy extending beyond any six month period out of twelve months shall be presumed to be permanent occupancy.
- (3) Accessory uses shall be so designed and developed so as to blend with the park's design and natural setting. Such uses shall be clearly accessory to the

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principal use as a campground/recreational vehicle park. Accessory uses shall include management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, and other uses and structures customarily incidental to the operation of the park.

- (4) Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence, or erosion shall be used for any purpose which would expose persons or property to hazards.
- (5) Exposed ground surfaces in all parts of the recreational vehicle park shall be paved, or covered with stone screenings, or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust. A soil sedimentation control plan shall be submitted in accordance with Section 5-5.
- (6) Surface drainage plans for the entire tract shall be reviewed to determine whether the proposed plan is compatible with the surrounding existing drainage pattern and relevant drainage plans, prior to issuance of site plan approval and building permits. No permit shall be issued where it is determined that the plan is incompatible with surrounding areas.

Dimensional Requirements:

- (1) Maximum density shall be limited to 15 campsites per net acre, excluding public areas, rights-of-way, watercourses, and other areas as may be set forth.
- (2) In no case shall any individual campsite contain less than 2,800 square feet. To the greatest extent possible, campsites shall be developed to preserve their natural character. The portion of the campsite intended to accommodate a recreational vehicle or tent shall be level and well drained.
- (3) Recreational vehicles shall be separated from each other and from other structures within the campground/RV park by at least 15 feet.

Access and Street Requirements:

No individual campsite shall have direct vehicular access to a public street. All campsites shall directly abut and have access to a private, interior road contained within the campground/RV park.

Parking Requirements:

- (1) Each campsite shall contain a stabilized vehicular parking pad of paving or other suitable material.
- (2) No more than one recreational vehicle may be parked on an individual campsite.

Utility Requirements:

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- (1) Proposals for dumping stations and common toilets and restrooms, laundries, and baths shall have the approval and be subject to the requirements of the applicable Caswell County Health Department.
- (2) All water supply facilities shall have the approval of Caswell County and the NC Division of Health Services. All sewer facilities improvements shall have the approval of the Caswell County and the NC Division of Environmental Management.
- (3) All water and sewer improvements within the campground/RV park shall comply with the NC Building Code for Plumbing.

Screening Requirements:

Where campgrounds/RV parks abut a residential area, a permanent buffer yard of at least 50 feet shall be established with adequate restrictive covenants to prohibit development within the buffer yard. A natural year-round screen shall be planted, which at maturity, shall reach a minimum height of at least 8 feet. Such screening shall complement the adjacent environment.

Recreational Space Requirements - A minimum of 8 percent of the gross site area of the campground/RV park shall be set aside and developed as common use areas for open or enclosed recreation facilities.

(d) Child Care Center

Special use districts: R-A, R-12, RR-8, R-8.

Minimum lot area. As prescribed by state regulations.

Parking and loading. One space for each regular employee and one additional space for every six children or adult client or fraction thereof.

Screening and fencing. Play space shall be enclosed by a fence at least three feet high.

Plans required. Plans required must show the following:

- a. *Structures.* Location and approximate size of existing and proposed buildings and structures within the site and on the lots adjacent thereto.
- b. *Circulation.* Proposed points of access and egress and pattern of internal circulation.
- c. *Parking and loading.* Layout of parking spaces.
- d. *Other details.* Location and extent of open play areas.
- e. *Other requirements.* In residential districts, a preschool shall not be operated between the hours of 7:00 p.m. and 6:00 a.m.

Parking. Off-street parking and loading shall be provided in accordance with Chapter 8.

Signs. Signs on premises shall be regulated as follows:

- a. Type of sign permitted: Identification.
- b. Permitted number of signs: One ground sign per entrance to the

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development. There shall be no more than one sign attached to and flat against the exterior of each business in the development.

- c. Maximum area of ground sign: 15 square feet.
- d. Permitted location: Within the bounds of the property.

(e) Continuing Care Retirement Community. See Planned Unit Development

(f) Clubs and lodges, private, nonprofit community buildings, not for commercial gain.

- (1) *Special use districts.* R-A, R-12, RR-8, R-8.
- (2) *Minimum lot area.* Sufficient to meet setback and dimensional requirements of district where located.
- (3) *Parking and loading.* One space for each five members or families or one space for each five seats in principal room.
- (4) *Plans required.* Plans required must show the following:
 - a. *Structures.* Location and approximate size of all existing and proposed structures, playfields and facilities.
 - b. *Parking and loading.* Proposed off-street parking.
- (5) *Other requirements.*
 - a. No improvements, structures, sidewalks or play areas or equipment shall be closer than 50 feet to any *adjoining* property lines. Parking areas may be permitted within 20 feet of an *adjoining* property line if the 20-foot strip is used for *planting* designed to grow at least six feet high.
 - b. Lights shall be located and shielded so as not to adversely affect adjacent property.

(g) Condominiums, residential and business

- (1) *Special use districts.* Residential R-8
Commercial/business OI, B-1, HB, M-1, M-2
- (2) *Plans and declarations.* Before a declaration establishing a unit ownership development may be recorded in the office of the county register of deeds as prescribed in the North Carolina Condominium Act, the declaration and plan shall be approved by the town council. No unit shall be conveyed until the declaration and plan have been approved by the town council and recorded in the office of the county register of deeds. In addition, compliance with the following shall be required:
 - a. The "declaration" shall be a complete legal document prepared in accordance with the North Carolina Condominium Act and shall be submitted in five copies to the *town clerk* at least two weeks before a regularly scheduled *planning* board meeting, along with a plan drawing described below.
 - b. The plan of the proposed development shall be prepared and shall contain the following particulars:
 - 1. The unit designation of each unit and a statement of its location,

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approximate area, number of rooms and immediate common area to which it has access and any other data necessary for its proper identification.

2. Description of the general common areas and facilities as defined in the North Carolina Condominium Act and the proportionate interest of each unit owner therein.
3. Description of all boundary lines between portions of the structures designed for different ownership.
4. Description of all garages, balconies, patios, etc., which form a part of each unit.
5. Description of any special common areas and facilities, stating what units shall share the common areas and facilities and in what proportion.
6. Statement of the purpose for which the building and each of the units are intended and restricted as to use.
7. Description of signing and parking areas.
8. Description and heights of all fences, walls and hedges.
9. Description and location of solid waste storage facilities
10. Description of all structures and zoning within 300 feet of the property.

The overall density of the project shall be no greater than that permitted by any applicable zoning requirements.

Because a final plan may not be possible until an engineering survey has been made of the constructed condominium, town council may permit the applicant to build under the special use permit, providing all items other than final engineering survey data of boundary line have been provided by the applicant and approved by the council. No declaration and plan shall be recorded until all final boundary descriptions have been added to the plan and approved by the zoning enforcement officer.

(h) Fairgrounds, carousels, roller coasters, Ferris wheels, super slides and the like; garbage landfills, incinerators, junkyards.

Special use districts:

- a. Fairgrounds, etc., H-B, M-1, M-2.
- b. Garbage landfills, incinerators, R-A, M-1, M-2
- c. Junkyards, M-2

Minimum lot area. None.

Screening and fencing.

- a. Garbage landfills, incinerators and junkyards shall be entirely surrounded by a

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fence not less than eight feet high which completely screens the use from view and prevents public access except through a gate. In addition, where such uses abut a residential use, there shall also be a permanently maintained screen not less than eight feet high of dense plant material.

- b. Ferris wheels, carousels, roller coasters, super slides and the like shall be buffered from residential lots and uses by a permanently maintained screen not less than eight feet high of dense plant material.

Plans required. Plans required must show the following:

- a. Internal circulation pattern and provisions for parking.
- b. Control of noise, dust, traffic, visual impact.
- c. Signing (size and locations).
- d. Surrounding land uses within 500 feet of the property.
- e. Safeguards against contamination of water supply.

Other requirements. In junkyards storage of cars with gas or oil in them shall not be permitted.

(i) Group Homes

Special use districts: R-A, R-8, B-1 (in B-1 only if in existing building)

- a. Property Separation: A group home shall not be located within a 2,000-foot radius (measured by a straight line and not street distance) of another group home.
- b. Operation: The facility shall be limited to not more than six 6 persons plus resident managers.
- c. Screening: Parking lots shall be screened from adjoining residential uses by a thickly planted buffer that reaches a height of five (5) feet in three (3) years.
- d. Parking: Parking spaces shall be located on-site and located in the rear or to the side of the principal structure behind the building line.
- e. Location: The use shall be located and sited so as to mitigate adverse impacts on adjoining residential properties.

(j) Hospitals.

Special use districts. R-A, OI, H-B.

Minimum lot area. Minimum lot area of district in which located plus 1,000 square feet for each person to be accommodated.

Parking and loading. One space for each bed space.

Plans required. Plans required must show the following:

- a. *Structures.* Location and approximate size of all existing and proposed buildings and structures within the site and on the lots adjacent thereto.

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- b. *Circulation.* Proposed points of access and egress and pattern of internal circulation.
- c. *Parking and loading.* Layout of parking spaces.

Other requirements. Must meet all requirements for licensing by the state.

(k) Manufactured home park. A manufactured home park is a plot which has been planned or improved for three or more manufactured homes for dwelling or sleeping purposes.

Special use district. R-MH.

Minimum lot size.

- a. For a single-wide manufactured home hooked to municipal water and sewer, 5,000 square feet.
- b. For a double-wide manufactured home hooked to municipal water and sewer systems, 6,000 square feet.
- c. For a triple-wide manufactured home hooked to municipal water and sewer, 7,000 square feet.
- d. Any and all lot sizes may be increased by the planning board to protect the public health, safety and welfare.

Density. Not to exceed seven units per gross acre.

Setbacks and separations.

- a. From the intersection of the park entrance road and a public street, 50-foot minimum setback.
- b. From the public street right-of-way, 25-foot minimum setback; 15 feet from the road edge of a private park street.
- c. Minimum clearance between any manufactured home unit and any property line or other piece of property, 15 feet.
- d. Minimum between any manufactured home and a nonresidential use allowed to operate within the park (e.g., convenience shop or Laundromat), 30 feet.
- e. Minimum separation between units, 30 feet. Units placed at obtuse or right angles will be allowed a minimum 20-foot separation.

Buffers. A greenbelt planting strip shall be planted and maintained by the park operator. It shall be at least ten feet wide composed of shrubs, deciduous or evergreen trees which will grow to a height of five feet or more after the first full growing season and which will grow to at least 12 feet at maturity.

Park entrance and streets.

- a. Manufactured home parks containing more than 25 spaces shall have at least two street connectors with a public street.
- b. All manufactured home parks shall be provided with a network of streets, roads

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- or driveways that will allow safe and convenient vehicular access to an improved public street from each manufactured home lot, but no individual manufactured home within a park may have direct driveway access to an abutting public street.
- c. The intersection of the public street with the entranceway or private access road to the manufactured home park shall be designed to facilitate the free movement of traffic on the public street and to minimize the hazards caused by traffic entering or leaving the park development.

Signs.

- a. Signs shall be erected or curb markings painted to indicate that parking on the entranceway or private access road within 100 feet of its intersection with the public street is prohibited.
- b. A manufactured home park identification sign, which may be double faced, no larger than 16 square feet in area on each side and nonblinking may be placed near each entrance to the park, provided it is located so as not to obstruct the visibility of motorists entering or leaving the park.

Interior street system.

- a. Definitions.
 1. A collector street is one which serves as the most probable and convenient access route between any public street with street connectors to the manufactured home park and 30 manufactured home spaces.
 2. All other streets are considered minor streets.
- b. *Circulation.* The street system shall provide convenient circulation by means of minor streets and properly located collector streets. Dead-end streets shall be no longer than 1,000 feet, and their closed end shall have a turnaround such as a "T" or "Y" turn on a cul-de-sac with a minimum diameter of 60 feet.
- c. *Pavement widths.* In all cases, pavements shall meet the following minimum requirements:
 1. Collector streets with parking allowed on both sides, 32 feet.
 2. Collector streets without parking allowances, 24 feet.
 3. One-way minor streets serving less than 20 lots, with no parking allowed, 14 feet.
- d. *Street grades.* Grades of all streets shall be sufficient to ensure adequate surface drainage but shall not be more than eight percent. Short runs may have a maximum grade of 12 percent, if traffic safety is ensured.
- e. *Intersections.* Street intersections *shall* generally be at right angles. Off-sets at intersections and intersections of more than two streets at one point shall be avoided.
- f. *Paving.*
 1. Manufactured home parks containing more than ten spaces shall have streets which are paved with a hard surface, such as asphalt or concrete. The surface shall be kept free of cracks and holes, its edges suitably protected

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to prevent raveling and shifting of the base.

2. Streets in manufactured home parks containing ten or fewer spaces may be hard-packed crushed gravel, crowned to drain.

Parking.

- a. *Off-street parking.* A minimum of two off-street parking spaces shall be provided for each manufactured home site. Such spaces may be located on the individual lot or grouped to serve two or more manufactured home sites. Grouped parking spaces shall be no more than 100 feet from any manufactured home unit which they are intended to serve.
- b. *Storage space for auxiliary vehicles.* No travel trailer, camper, boat, snowmobile or other auxiliary vehicles or conveyances shall be stored for long periods on the street.

Maintenance and responsibilities of park management.

- a. The person to whom a special use permit for a manufactured home park is issued shall operate the park in compliance with local ordinances and shall provide adequate supervision to maintain the park, its grounds, facilities and equipment in good repair and in a clean and sanitary condition.
- b. The operator shall notify park occupants of all applicable provisions of local ordinances and inform them of their responsibilities under such ordinances and any regulations thereunder.
- c. The manufactured home park operator will check and ascertain that the owner of a manufactured home moving into his park has all the required permits and meets the regulations as set forth by the local and state governments before allowing the manufactured home unit to be connected for occupancy.
- d. The park operator shall supervise the placement of each manufactured home on its stand. This includes ensuring unit stability and supervising the placement of tiedowns and utility connections.
- e. The park operator shall maintain a register containing the names of all occupants and the make and year of each manufactured home. Such register shall be available to any authorized person inspecting the park.
- f. On January 1 of each year, the operator of a park renting space for one or more manufactured homes shall furnish to the county tax supervisor the name of the owner and a description of each manufactured home located in the park.

Support / foundation of manufactured home unit.

- a. Each manufactured home site, whether in a manufactured home park or individual lot, shall be provided with a stand which will give a firm base and adequate support. A manufactured home unit must be maintained level. Such stand shall have a dimension equal to the width and length of the home and any expansions or extensions thereto.
- b. Installation of any manufactured home in the town must comply with all "State of North Carolina Regulations for Manufactured Homes," including any amendments thereto, as published by the state department of insurance.

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Fire safety.

- a. Access to a manufactured home for fire protection services shall be such as to permit fire apparatus to approach within 100 feet of each manufactured home.
- b. Water supplies for fire department operations shall be as required by the authority having jurisdiction. Where there are no such requirements, water supplies shall be adequate to permit the effective operation of at least two 1¹/₂-inch hose streams on any fire in a manufactured home or elsewhere in the manufactured home park.
- c. Each lot shall be clearly marked by a permanent lot number sign or marker that can be easily identified by emergency personnel.

Recreation areas.

- a. In all manufactured home parks designed to accommodate 25 or more manufactured homes on lots less than 10,000 square feet, there shall be provided one or more developed recreation areas which are easily accessible to all park residents. The size of such recreation areas shall be based on a minimum of 200 square feet per manufactured home unit served.
- b. Such space shall be located and of sufficient size so that it can be used for active recreation purposes and shall be stabilized by grass or some other form of ground cover which will prevent dusty or muddy areas.
- c. The 15-foot perimeter setback surrounding the park may be designated as either (i) part of the open space, or (ii) part of the individual lots. This option is to allow adaptation of a manufactured home community to a particular site.

Utilities and lighting.

- a. Electric lines shall be installed underground
- b. All manufactured home parks shall be furnished with adequate lights to illuminate streets, driveways and walkways for the safe movement of vehicles and pedestrians at night.
- c. The park operator may provide a common antenna and make hookups available at each space. The operator may prohibit individual antennas on manufactured homes.

Solid waste management.

- a. All solid waste shall be stored in durable rust-resistant, nonabsorbent, watertight insect proof and rodent proof containers that are covered with close-fitting lids. Solid waste storage facilities may be placed at individual home sites or grouped to several homes. Waste may be placed at individual home sites or grouped to several homes (bulk containers).
- b. Solid waste shall be collected at least once weekly.

(I) Nursing home. See Assisted Living.

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(m) Planned business development. Planned business development is an area of land under unified control developed for business, commercial or industrial uses, consisting of one or more principal structures or buildings and accessory structures or buildings on a plot not subdivided into customary streets and lots.

Special use districts. OI, H-B, M-1, M-2.

Minimum area. One acre, 250-foot minimum plot width.

Site considerations.

- a. Such developments shall abut a major highway or a collector street and shall have direct access thereto.
- b. Minimum setback of buildings from the street right-of-way shall be 40 feet. This setback shall be measured from the major access street abutting the development. The first ten feet from the right-of-way shall be developed for grass, plants and sidewalks and shall not be used for any purpose except necessary entrances and exits and shall not be used for off-street parking.
- c. No structure in any planned business development shall be located closer than 25 feet to any external property line of the tract on which it is situated.
- d. Points of ingress and egress shall consist of a driveway or roadway at least 20 feet in width and shall be located a sufficient distance from highway intersections to minimize traffic hazards, inconvenience and congestion.
- e. The number, width and location of curb cuts shall be such as to minimize traffic hazards, inconvenience and congestion.
- f. Parking areas shall have a paved surface, and all parking areas and traffic lanes shall be clearly marked.
- g. Required buffers when planned business development adjoins or abuts a residential zone or residential use permitted by this chapter.
- h. A greenbelt planting strip, not less than ten feet in width, shall be planted prior to opening of the business along the side of the property abutting or joining a residential district. Such a greenbelt shall be planted at random with evergreens and other trees which eventually will grow to a height not less than ten feet.

Required plans. Plans shall be submitted as may be required, showing:

- a. Topography of the site, at contour intervals no greater than five feet.
- b. Dimensions of the property and adjacent lots and streets.
- c. Location and proposed use of all buildings with dimensions and ground area thereof.
- d. Streets, traffic circulation and parking areas with spaces.
- e. Service areas, off-street loading facilities, service drives and dimensions thereon.
- f. All pedestrian ways.
- g. A title, giving the names of the developers, the date, the scale of the plan and the person preparing the plan.
- h. Proposed landscaping, with property buffers between other uses.
- i. Size and location of signs.

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- j. Proposed water system and firefighting facilities, such as hydrants or sprinkler connections.
- k. The location and heights of all fences, walls and hedges.
- l. Profiles of publicly maintained water and sewer lines.
- m. Profiles, cross sections and slopes of on-site, off-site ditches carrying water runoff.
- n. Erosion and sedimentation control plan.
- o. Lighting plan, where applicable.

(n) Planned unit development. A planned unit development is an area of land under unified control to be developed as a single entity for a number and variety of dwelling units both attached and detached housing, the plan for which may not correspond in lot size, type of dwelling or lot coverage to the regulations of the residential zoning district in which the PUD is located. With permission of the town council, a planned unit development may also include an approved commercial or business use.

Special use districts. R-A, R-12, RR-8, R-8.

Minimum area: five acres, provided development has public water and sewer or is consistent with requirements for water and septic tank installation.

Modifications of dimensional requirements and density.

- a. The yard regulations and height regulations set forth in Chapter 7 may be modified for a planned unit development, provided that, for such development as a whole, excluding driveways and streets but including parks and other permanent open spaces, there shall not be less than the required area per dwelling unit for the district in which such development is located. The development itself shall have a minimum frontage of 80 feet, which shall be used only for driveways, landscaping and screening.
- b. No structure in any planned unit development shall be located closer than 25 feet to any external property line of the tract on which it is situated or closer to any street right-of-way line than the distance specified as a front yard requirement for the zone district in which it is located.

Site considerations.

- a. Points of ingress and egress shall consist of a driveway or roadway at least 20 feet in width and *shall* be located a sufficient distance from highway intersections to minimize traffic hazards, inconvenience and congestion.
- b. The number, width and location of curb cuts shall be such as to minimize traffic hazards, inconvenience and congestion.
- c. Parking areas shall have a paved surface, and all parking areas and traffic lanes shall be clearly marked.
- d. Storm and sanitary sewage shall be provided as approved by the planning board.
- e. A greenbelt planting strip, not less than 20 feet in width, shall be planted prior to

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opening of the housing, along the street side of the property. Such greenbelt shall be planted with evergreens and other trees, at least 11 plants per 100 linear feet planted at random, which eventually will grow to a height not less than 12 feet.

- f. Topographic or other natural features offering screening shall be acceptable in lieu of foliage. The greenbelt at the front of the property shall be located so as to provide reasonable continuity in alignment with the greenbelt of adjacent property.
- g. Adequate screening shall be provided by means of planting or fencing as needed to project adjacent property.

Homeowners' association. The developer shall submit a draft of the articles of incorporation for the homeowners' association. The articles of incorporation shall provide that all owners of property within the development share automatic membership rights and assessment obligations for the maintenance of these areas. The automatic membership rights and assessment obligations of all owners of property within the PUD shall be so covered by covenants running with the land and other contractual provisions as to ensure the property maintenance of all commonly owned areas and shall include provisions for liens against the individual properties and legally enforceable personal obligations on the part of the individual property owners within the development. Before grant of a special use permit, the articles of incorporation shall be approved by, the town attorney.

Required plans. Plans as may be required shall be submitted showing:

- a. Topography of the site, at contour intervals no greater than five feet.
- b. Dimensions of the property and adjacent lots and streets.
- c. Location, use and ownership of all buildings, with dimensions and ground area thereof.
- d. Public and private streets, parking areas with spaces and channelization.
- e. All pedestrian ways.
- f. A title, giving the names of the developers, the date, the scale of the plan and the person preparing the plan.
- g. Proposed landscaping, with property buffers between other uses.
- h. Storm drainage and sanitary sewers, where applicable.
- i. Size and location of signs.
- j. Proposed water system and firefighting facilities such as hydrants or sprinkler connections.
- k. The location and heights of all fences, walls and hedges.
- l. Profiles of publicly maintained water and sewer lines
- m. Profiles, cross sections and slopes of on-site, off-site ditches carrying water runoff.
- n. Erosion and sedimentation control plan.
- o. Lighting plan where applicable.
- p. Location and amount of recreation area.

Common areas. Land not shown as lots or reserved for residential development shall be commonly owned land. Such land shall be designated on the development plan as common

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area to be held in separate ownership for the use and benefit of residents of the PUD.

Parking. Off-street parking and loading shall be provided in accordance with Chapter 8.

Signs. Signs on premises shall be regulated as follows:

- a. *Type of sign:* Identification.
- b. *Permitted number of signs:* One ground sign per entrance to the development.
- c. *Maximum area of ground sign:* 16 square feet.
- d. *Permitted illuminations:* Indirect lighting, non-flashing illumination and motionless.
- e. *Permitted location:* Within the bounds of the property.

(o) Public buildings, libraries, fire stations, etc.

Special use districts: R-A, R-12, RR-8, R-8, R-MH, OI, B-1, H-B, M-1, M-2

Minimum lot area. Same as district where located.

Parking and loading. Plans shall show layout of parking spaces.

- a. Fire stations and other public buildings: One space for each person on normal shift
- b. Libraries, museums, art galleries: One space for each 15d square feet of gross floor area.

Screening and fencing. A screen of dense plant material not less than four feet high where any off-street parking abuts a residential lot.

Other requirements.

- a. Lighting shall be shielded so as to cast no direct light on adjacent property.
- b. For libraries, museums and art galleries, plans must be presented which show points of access and egress and pattern of internal circulation.

(p) Public utility facilities, including water and sewer facilities.

Special use districts. Any district.

Minimum lot area.

- a. One-half acre for public utility station.
- b. One acre for telephone exchange.
- c. Three acres for radio and television towers or stations.
- d. Eight thousand square feet for water and sewer facilities.

Parking and loading. One space for each two regular employees.

Screening and fencing. A screen of not less than six feet in height of dense plant material shall be provided where a lot abuts a residential lot. Substations shall be fenced in.

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Plans required. Plans required must show the following:

- a. *Structures.* Location and approximate size of all existing and proposed structures within the site and all buildings and structures within 500 feet.
- b. *Circulation.* Proposed points of access and egress.
- c. *Parking and loading.* Location and arrangement of all proposed off-street parking.
- d. *Other details.*
 1. Proposed provisions for fencing and other protective screening at the lot lines adjacent to abutting residential property.
 2. The anticipated service area of the facility to be constructed.

(q) Rehabilitation facility such as half-way house

Special use districts. R-A, OI

Minimum lot area. According to zoning district where located.

Parking and loading. One space for every five temporary residents or fraction thereof, plus one parking space for each employee on the premises.

Other requirements.

- a. One sign permitted, not to exceed two square feet in area, which shall be flat mounted against the building or fence.
- b. All rehabilitation residences shall be licensed or sponsored by the appropriate state or local agency.
- c. The zoning lot on which one rehabilitation residence is proposed shall not be located within 500 feet of a zoning lot containing another such facility.

(r) Schools, academic.

Special use districts. R-A, R-12, RR-8, R-8, OI, H-B.

Parking and loading. See Chapter 8 for academic school parking requirements.

Plans required. Plans required must show the following:

- a. *Structures.* Location and approximate size of all existing and proposed buildings and structure within the site and on the lots adjacent thereto.
- b. *Circulation.* Proposed points of access and egress and pattern of internal circulation,
- c. *Parking and loading.* Layout of parking spaces.
- d. *Other details.*
 1. Location and extent of open recreation or training area.
 2. Estimated number of students.
 3. Subjects to be taught outside of regular classroom facilities (for example, in

laboratories, gyms, etc.)

(s) Shooting ranges, indoor commercial

Special use districts: HB, M-1, M-2

The range must be located at least 200 feet from the property line of any of the following uses: existing residential, schools, day care, or religious assembly use.

The range must be located within a fully enclosed and soundproofed building.

Gunfire associated with the range must not be audible from any property

Additional criteria

- A. The firing range shall be constructed to a standard that is at least as stringent as all standards set forth in the National Rifle Association Range Source Book and any applicable federal or state regulations or guidelines.
- B. Lead particles shall at all times be contained on-site and properly contained and disposed of. Appropriate devices shall be utilized to contain lead bullets and/or shot, and such devices shall be periodically cleaned and lead particulates properly disposed of. Ventilation systems shall be designed, and other appropriate steps shall be taken, to prevent the discharge of lead from within the structure housing the indoor firing range into the external environment and to prevent the exposure of clients and employees to unsafe (as defined by applicable federal or state standards) levels of lead. The detection of lead in the external environment on the same property as the indoor firing range or off-site, or unsafe levels of lead within the structure housing the indoor firing range, shall be grounds for the revocation of a special use permit by the town.
- C. Noise levels generated by the discharge of firearms within an indoor firing range shall not be discernable in the external environment to be measured as follows:
 1. By a decibel meter of 85DB;
 2. Located on the same parcel of land as the range;
 3. Located at all entrances, windows, ventilation outlets, and any other outlet to the external environment;
 4. Located at any shared wall, on the opposite side of such wall from the range;
 5. Witnessed by an independent, third party engineer or other qualified professional.
- D. The applicant shall submit documentation from a licensed professional engineer with relevant experience, certifying that the range and the structure within which

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such range is to be housed has been designed to satisfy all requirements set forth above as well as any additional requirements adopted by the Town Council.

- E. At least one qualified individual in the sponsoring club or organization shall be certified (NRA or equivalent, or NC Criminal Justice standards) for shooting range supervision. Each facility shall adopt safety rules and regulations as determined by the sponsoring club or organization.

(t) Solar generation facility, utility scale.

Special Use District: M-1

Definition: As used in this special use ordinance, the following terms shall have the meanings indicated:

- a. *Solar Generation Facility, Utility Scale* - An installation, sometimes called a solar farm, designed and used to capture and convert solar energy into electric or thermal energy for use off-site, such as transmission to the power grid. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems.

General guidelines and requirements: The following provisions shall govern the issuance of special use permits for all Solar Generation Facilities:

- a. *Setbacks.* The perimeter (fencing) of the area containing the solar generation facility shall be located at least 100 feet from the property line of adjoining properties.
- b. *Security fencing.* The solar generation facility shall be enclosed by a chain-link security fence, a minimum of six feet in height with barbed wire.
- c. *Poles and lines.* Except for poles and lines necessary to connect the facility to the electrical utility grid, the height of structures and arrays associated with the facility shall not exceed 20 feet, and structures and arrays shall be set back at least 100 feet from every public road right-of-way.
- d. *Vegetative screening and buffers.* The screening or buffer yard shall be ten feet wide and consist of at least nine evergreen trees or shrubs per 100 linear feet or fraction thereof.
 - 1. The evergreen buffer must be capable of reaching a height of at least 6 feet within three years of planting, with at least 75% opacity at the time of planting.
 - 2. The screening or buffer shall be provided where the property on which the solar generation facility is located adjoins residential uses or public right of ways, unless the Town Council finds that equivalent natural

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vegetation exists sufficient to satisfy the screening requirement, or that the distance between the use and residences or public rights of ways renders all or certain portions of screening unnecessary.

- d. *Streets and roads.* Prior to construction, the developer of the site shall consult with NCDOT regarding necessary driveway location and improvements to ensure safety and to protect the public road or street from damage during construction and shall comply with such requirements.
- e. *Stormwater.* The site shall conform to applicable storm water regulations, including water supply watershed protection regulations and river basin rules, to prevent erosion and protect water quality in adjacent surface waters.
 - a. Before the site is developed, the applicant/developer shall consult with the NC Division of Water Quality concerning compliance with applicable stormwater management requirements.
- g. *Building and electrical code.* All active utility scale solar energy systems shall comply with the requirements of the North Carolina State Building Code and the National Electrical Code, current edition.
- h. *Site plan requirements* (shall be drawn by a licensed engineer or land surveyor)
 - 1. The location of the solar generation facility (including the arrangement of any existing or proposed buildings, structures, or panels);
 - 2. The distance from any proposed solar generation facility, structure, or use area to the surrounding property lines and surrounding residential structures within 1/8 mile (660 ft.).
 - 3. Any existing or proposed signs, fencing, lighting, parking areas, driveways, landscaping, vegetative screening or required buffers;
 - 4. Horizontal and vertical (elevation) scaled drawings with dimensions of proposed solar collector structures and lighting facilities;
 - 5. Noted limitations on built-upon area as required for compliance with storm water, watershed, and/or riparian buffer regulations;
 - 6. The electrical disconnect switch shall be clearly identified and unobstructed, and shall be noted clearly on the site plan; and
 - 7. Location where wiring is brought together for inter-connection to system components and/or the local utility power grid.
- i. *Noise level.* Inverter noise shall not exceed 50dBA after construction, measured at the property line.
- j. *Outdoor lighting.* All outdoor lighting shall be shielded to direct light and glare onto the system premises. Any glare by the system or outdoor lighting must be mitigated or directed away from adjoining property or adjacent roads when it creates a nuisance or safety hazard.
- k. *Decommissioning.* A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with permit application.

Recording. A copy of the decommissioning plan shall be recorded with

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the Caswell County Register of Deeds and a copy of the recorded document shall be submitted to the Town's Zoning Administrator prior to commencement of construction of the solar generation facility.

General decommissioning requirements:

1. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, etc.)
2. Removal of all equipment, conduit, structures, fencing, roads, and foundations.
3. Restoration & reforestation of property to condition prior to development of the solar generation facility.
4. The timeframe for completion of decommissioning activities.
5. Description of any agreement (e.g. lease) with landowner regarding decommissioning.
6. The party currently responsible for decommissioning.
7. Plans for updating this decommissioning plan.

Decommissioning Period. Decommissioning shall be completed within 12 months of determination by the Town Manager that the facility is no longer being maintained in an operable state of good repair, unless the current responsible party with ownership interest in the facility provides substantial evidence to the Town's Council of the intent to maintain and reinstate operation of the facility.

(u) Tiny house as an accessory use (See "Tiny House" in Definitions Chapter 1)

Special use districts: R-A, R-12, RR-8 and R-8

General guidelines and requirements:

1. The owner of the property must occupy either the primary or the accessory dwelling.
2. Only one accessory dwelling per zoning lot is allowed.
3. The accessory dwelling must meet the setback requirements for the zoning district.
4. The heated floor area of the accessory dwelling must be at least 400 square feet in area, but it may not exceed 30% of the floor area of the primary dwelling.
5. Accessory dwellings smaller than 500 square feet of floor area must be separated by at least 5 feet from any other structure on the lot. Larger accessory dwellings must be separated by at least 10 feet from any structure.
6. If the accessory dwelling is proposed for location on a single-family property, the property must retain a single-family appearance from the street.

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7. The accessory dwelling unit must be site built or labeled modular, either of which are required to meet the NC Residential Building Code including the foundation.
8. One additional off-street parking space must be provided.
9. Use of a travel trailer or recreational vehicle (RV) as an accessory dwelling is prohibited.

(v) Townhouses (residential and business).

Special use districts. Residential townhouses, R-8
Business townhouses, OI, B-1, H-B, M-1.

Plats required. A preliminary plat of a proposed townhouse development and a final plat of the development shall be submitted pursuant to the provisions of the special use permit to the planning board with the following:

- a. *Location of facilities.* The site plan shall show the location of the buildings, streets, alleys, walks, parking areas, recreation areas and facilities, numbered and dimensioned residential sites, and common areas to be conveyed to an owners' association, the members of which shall be all of the owners of sites within the development.
- b. *Design standards.* The design standards for planned unit developments shall be applicable to townhouse developments and, in addition, compliance with the following shall be required:
 1. *Sites.* The site plan shall number and show the location and, dimensions of sites within the development. The site shall be that property intended for conveyance to a fee simple owner after the construction thereon of a structure and shall be sufficient in size to contain the structure to be constructed thereon; the site may be of any larger size desired by the developer, provided that in no case shall a. site be located within 20 feet of any public right-of-way.
 2. *Common areas.* All areas on the site plan, other than public streets and sites, shall be shown and designated as common areas, the fee simple title to which shall be conveyed by the developer to the owners' association. Such common areas shall not be subdivided or conveyed by the owners' association.
- c. *Covenants and restrictions.* The developer shall file with the application for preliminary approval a declaration of covenants and restrictions governing the common areas, the owners' association and sites. The restrictions shall contain but not be limited to provisions for the following:
 1. The owners' association shall be organized and in legal existence prior to the sale of any structures in the development.
 2. Membership in the owners' association shall be mandatory for each

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original purchaser and each successive purchaser of a site.

3. The owners' association shall be responsible for the payment of premiums for liability insurance, local taxes, maintenance of facilities located on the common areas, payment of assessments for public and private capital improvements made to or for the benefit of the common areas, maintenance and repair to the exterior of all structures located within the development. It shall be further provided that, upon default, by the owners' association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the common areas or assessments for public improvements to the common areas, which default shall continue for a period of six months, each owner of a site in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such taxes or assessments in an amount determined by dividing the total taxes and assessments due to the governmental authority by the total number of sites in the development. If such sum is not paid by the owner within 30 days following receipt of notice of the amount due, such sum shall become a continuing lien on the site of the owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may: either bring an action at law against the owner personally obligated to pay the sum or may elect to foreclose the lien against the lot of the owner.
 4. The owners' association shall be empowered to levy assessments against the owners of sites within the development for the payment of expenditures made by the owners' association for the items set forth in subsection (f)(3)b.3a.ii of this section, and any such assessments not paid by the owner against whom such are assessed shall constitute a lien on the site of the owner.
 5. Easements over the common areas for access, ingress and egress from and to public streets and walkways and easements for enjoyment of the common areas, as well as for parking, shall be granted to each owner of a site.
 6. All common walls between individual residences shall be party walls, and provisions for the maintenance thereof and restoration for destruction or damages shall be established.
- f. The overall density of the project shall be no greater than that permitted by any applicable zoning requirement.

(w) Tower, communication, radio, TV, microwave or other telecommunication tower.

Special use districts: RA, OI, HB, M-1

General: The following provisions shall govern the issuance of special use permits:

- a. Minimum lot or leased area mat aside for the use of a tower facility, shall be equal to minimum lot size for district in which it is located and in no case shall be less than 100 percent of the fall zone of the tower and shall include all required buffers

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and setbacks as required by this subsection.

- b. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.

Definitions: As used in this special use ordinance, the following terms shall have the meanings indicated:

- a. *Alternative tower structure* shall mean man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the present of antennas or towers.
- b. *Antenna* shall mean any exterior apparatus designed for telephonic, radio, or television communication through the sending and/or receiving of electromagnetic waves.
- c. *FAA* shall mean the Federal Aviation Administration.
- d. *FCC* shall mean the Federal Communications Commission.
- e. *Fall zone* shall mean the radius around the base of the tower wall to the height of the tower.
- f. *Governing authority* shall mean the approving authority for the tower, the town council
- g. *Preexisting towers and antennas* shall have the meaning set forth in section (3)d. of this subsection.
- h. *Height* shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
- i. *Tower* shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

Applicability:

- a. District height limitation. The requirements set forth in this subsection shall govern the location of towers that exceed, and antennas that are installed at a height in excess of the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antennas.
- b. Public property antennas or towers located on property owned, leased, or otherwise controlled by the town shall be exempt from the requirements of this subsection, provided a license or lease authorizing such antenna or tower has been approved by the town council after a public hearing and notification of adjoining owners.
- c. Amateur radio, receive-only antennas. This subsection shall not govern any tower, or the installation of any antenna, that complies with the height

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requirement for the district in which it is located and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas.

- d. Pre-existing towers and antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this subsection shall not be required to meet the requirements of this subsection, other than the requirements of Sections (4)e. and (4)f. Any such towers or antennas shall be referred to in this subsection as "pre-existing towers" or "pre-existing antennas."

General guidelines and requirements:

- a. *Purpose, goals.* The purpose of this subsection is to establish guidelines for the siting of towers and antennas. The goals of this subsection are to:
 - 1. Encourage the location of towers in non-residential areas and minimize the total number of towers throughout the community;
 - 2. Encourage strongly the joint use of new and existing tower sites;
 - 3. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
 - 4. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and
 - 5. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently.
- b. *Principal or accessory use.* Antennas and towers may be considered either principal or accessory use. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development, regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this subsection shall not be deemed to constitute the expansion of a nonconforming use or structure,
- c. *Inventory of existing sites.* Each applicant for an administrative approval or a special use permit shall provide to the zoning administrator an inventory of its existing towers that are either within the jurisdiction of the governing authority or within one mile of the border thereof, including specific information about the location, height, and design of each tower. Applicants are encouraged to submit an inventory of potential future tower sites within the jurisdiction of the town. The zoning administrator may share such information with other applicants applying for administrative approvals or special use permits under this subsection or other organizations seeking to locate antennas within the jurisdiction of the

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- governing authority; provided, however, that the zoning administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- d. *Aesthetics lighting.* The guidelines set forth in this section (4)d. shall govern the location of all towers, and the installation of all antennas, governed by this subsection; provided, however, that the governing authority may waive these requirements if it determines that the goals of this subsection are better served thereby.
1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.
 2. At a tower site the design of the buildings and related structures shall to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 4. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority if lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- e. *Federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas, If such standards and regulations are changed, then the owners of the towers and antennas governed by this subsection shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Changes to the height or lighting requirements would require additional review by the planning board. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- f. *Building codes; safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards that are published by the Electronic Industries Association, as amended from time to time. If, upon notice being provided to the owner of the tower, the governing authority shall not issue a certificate of occupancy and power will not be permitted until such noncompliance's are corrected.
- g. *Coverage need.* Need of coverage shall be demonstrated by the wireless

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provider.

Specific development guidelines:

a. *Information required.* Each applicant requesting a special ordinance shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculation, and other documentation, signed and sealed by appropriate licensed professional engineers, showing the following information:

1. Location and dimensions of all improvements on lease or purchased area;
2. Information concerning topography;
3. Property lines of site;
4. Radio frequency coverage;
5. Tower height requirements;
6. Setbacks;
7. Proposed points of ingress and egress;
8. Parking;
9. Fencing;

b. Landscaping and buffers;

1. Adjacent uses within 500 feet of the tower tall zone;
2. Proposed number of telecommunication carriers;
3. Any other information deemed by the governing authority to be necessary to assess compliance with this subsection;
4. Lease agreement signed by property owners (if applicable).

Factors considered in granting special use permits. The governing authority shall consider the following factors in determining whether to issue a special use permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the goals of this subsection are better served thereby:

1. Height of the proposed tower;
2. Proximity of the tower to residential structures and residential district boundaries;
3. Nature of uses on adjacent and nearby properties;
4. Surrounding topography;
5. Surrounding tree coverage and foliage;
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
7. Proposed ingress and egress;
8. Availability of suitable existing towers and other structures as discussed in section (5)c. of this subsection; and
9. Co-location of other telecommunications carriers as discussed in section (5)d. of this subsection.

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Availability of suitable existing towers or other structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

1. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements;
2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements;
3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment;
4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna;
5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt to an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable;
6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

Co-location of other telecommunication carriers. All new towers or structures shall be designed to accommodate multiple carriers. The minimum number of carriers will be height dependent based on the following ranges:

1. One carrier for towers up to 90 feet in height;
2. Three carriers for towers from 90 to 120 feet in height;
3. Five or more carriers for towers over 120 feet in height;

Applicants shall agree to lease space at commercially reasonable rates and shall also make tower(s) available for use by county emergency service agencies at no charge to the county.

Setbacks and separation. The following setbacks and separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the governing authority may reduce the standard setbacks and separation requirements if the goals of this subsection would be better served thereby.

1. Towers must be set back a distance equal to 100 percent the height or the tower from any occupied structure, flammable or explosive material or property line may be reduced to 50 percent of tower fall zone from the property line if an easement is obtained from the affected property owner. Also, to encourage the construction of monopole structures, monopole towers may have a 20 percent reduction in the required setbacks. To encourage location of towers in existing

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forested area with a minimum depth of 100 feet, the tower may have a 20 percent reduction in the required setbacks. In no case shall the setback be less than those required for the underlying zoning district. Said setback reductions shall only be allowed upon a professional engineering certification which states that the structure's construction will cause the tower to crumble inward so that in the event of collapse no damage to structures adjacent zoning lots will result.

2. Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements.
3. No tower shall be allowed within the airport hazard overlay district.
4. More than one tower may not be placed on a lot provided that it:
 - (i) Complies with the minimum setback requirements; and
 - (ii) It's fall zone does not overlay with the fall zone of another tower.

Security fencing. Towers, supporting cables anchors and any accessory buildings shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the governing authority may waive such requirements, as it deems appropriate.

Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required provided however, that the governing authority may waive such requirements if the goals of this subsection would be better served thereby.

1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent property.
2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
3. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots natural growth around the property perimeter may be a sufficient buffer.

Removal of abandoned antennas and towers: Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 60 days. Applicants shall provide proof of a performance bond for the cost of removal of towers.

Administrative approvals. The following uses may be approved by the zoning administrator after conducting an administrative review:

- a. Installing an antenna on an existing nonresidential structure other than a tower (such as a building, sign, light pole, water tower, utility pole, or other free-standing nonresidential structure) in any commercial, industrial, highway business or manufacturing district that is less than 50 feet in height so long as such

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- addition does not add more than ten feet to the height of the existing structure.
- b. Installing an antenna on an existing tower of any height, including a pre-existing tower, and further including placement of additional buildings or other supporting equipment in connection with said antenna as long as the addition of the antenna adds no more than 20 feet to the height of the tower.
 - c. Replacing an existing tower which adds no more than ten feet to the overall height of the existing structure with only one replacement allowed.
 - d. Installing an antenna on an existing structure other than a tower (such as a building, sign light pole, water tower, or other freestanding, nonresidential structure) that is more than 50 feet high, so long as such addition does not add more than 20 feet to the height of the existing structure.

(Ord. of 8-27-87; Ord. No. 2-00, 5-2-00)

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DIVISION I. IN GENERAL

Section 6-1. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sign – Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design, trade names or trademarks by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or product, which is visible from any public way and used to attract attention. (Ord. of 8-27-87, art. VI, § 2)

A-Frame or Sandwich Sign - A pedestrian-oriented temporary/movable sign that sits on the grade located proximate to the primary entrance of a non-residential use whose products or services are being advertised. The sign is composed of two boards set up in a triangle shape hinged at the top and shall be self-supporting. The sign shall be equipped with support to ensure it remains stable in normal wind conditions.

Electronic Sign - A sign designed where a portion of the sign area uses fixed or changing light emitting diodes (LEDs), fiber optics, light bulbs, or other illumination devices within the electronic display panel to display a message or messages in text and/or image. The electronic display panel for a changeable copy electronic sign generates a sequence of messages with the rate of change electronically programmed and can be modified by electronic processes. Time/temperature signs are not considered electronic message signs.

Freestanding Sign/Pole Sign - A sign which is attached to or anchored in the ground with one or more supports that are not part of a building or other structure and with open space between the bottom of the sign face area and the grade beneath it.

Flashing Sign. A sign with an intermittent or sequential flashing light source is used primarily to attract attention. Flashing signs do not include electronic signs.

Ground Sign/Monument Sign - Any sign, other than a pole sign, that is attached directly to the ground by means of a supporting system comprised of a solid pedestal, or other bracing system where there is no open space between the bottom of the sign face area and the ground. Ground signs are configured so that the base of the sign support structure is at least as wide as the sign face area. Ground signs may also be referred to as “pedestal” signs or “monument” signs.

Off-Premises Advertising Sign (Billboard) - A sign that is not located on the property of the business, commodity, entertainment, or service which it advertises.

Pole banner sign - A sign consisting of a flexible banner or similar material (i.e., plastic, vinyl,

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etc.) secured to a single permanent pole.

Projecting sign - A sign attached to and mounted on a building and extending beyond the building to which it is attached at a right angle, i.e., perpendicular to the building.

Suspended Sign – A sign that is suspended from the underside of a principal building’s overhang or canopy that is intended for view by pedestrians or patrons already on a site. The sign may be parallel or perpendicular to the building wall. A sign that is not suspended from a canopy or overhang of a building is not a suspended sign.

Temporary Sign - A non-electrified sign or banner placed on property in conjunction with an event of short duration and which sign is to be removed after the end of the event. If a sign structure is permanent but the message changes periodically, that sign shall not be regarded as temporary.

Wall sign – A sign that is attached to or painted on the wall of any building and completely in contact with the building throughout its greatest dimension, which does not extend beyond the main wall of the building more than fifteen (15) inches. A painted work of art or mural is not considered a wall sign.

Window Sign - A sign, which is painted on, affixed to, or designed to be visible through a window, excluding displays of merchandise.

Section 6-2. Purpose and scope.

This chapter addresses the placement of signs within the town's jurisdiction for the following purposes: to promote traffic safety; to prevent business and advertising signs from conflicting with public safety signs; to ensure that permitted signs do not become a hazard or nuisance; to prevent the overcrowding of land; to facilitate fire and police protection; to protect and enhance the value of properties; to provide a pleasing overall environmental setting and good community appearance which is deemed vital to the continued economic attractiveness of the town; and to promote the public safety and welfare of the town. (Ord. No. 1-00, 2-1-00)

Section 6-3. Sign compliance.

- A. No sign shall be constructed, erected, modified, placed, maintained, or moved, except as authorized by this article.
- B. A zoning permit must be obtained before a sign is erected, modified, or moved on a zoning lot, unless otherwise provided in this Chapter.
- C. No sign shall be placed within a public right-of-way or within the sight triangle of a roadway intersection as would be determined by the state department of transportation, unless otherwise

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provided in this Chapter.

- D. Any sign authorized in this chapter is allowed to contain non-commercial copy in lieu of any other copy. (Ord. No. 1-00, 2-1-00)

Secs. 6-4 Prohibited signs.

The following signs are prohibited:

1. Any non-governmental sign which resembles a public safety warning or traffic sign.
2. Signs with animated, blinking, scrolling chasing, flashing, or moving effects. This does not include electronic signs as defined herein or time and temperature displays.
3. Rotating or revolving sign
4. Roof sign above the parapet of a building.
5. Off premise advertising signs, except for off-premises advertising signs established before June 8th, 2023, which may be permitted to continue as a nonconforming use only in accordance with Section 6-24 Nonconforming Signs and G.S. 160D-912 "Outdoor Advertising."

Secs. 6-5 – 6-9 Reserved.

DIVISION II. SIGNS NOT REQUIRING A PERMIT

Section 6-10. Signs allowed without a permit.

The following signs shall be exempt from regulation under this chapter, regardless of whether they may be considered "signs".

1. Commemorative tablets or signs, historical or memorial markers or monuments, erected by or with the permission of the county board of commissioners, town council or the state department of transportation;
2. Official traffic control or other government signs;
3. On-premises directional, instructional or warning signs provided they contain no commercial message except a business logo or name and do not exceed four square feet in area or 3 feet in height.
4. Flags, emblems, or insignia of corporate, political, professional, fraternal, civic, religious, or educational organizations;
5. Lights and decorations with no commercial message temporarily displayed on traditionally adopted civic, patriotic or religious holidays.
6. Time and temperature signs limited to one freestanding sign bearing no advertising matter other than the name or logo of the business; permitted in addition to other

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freestanding signs on the property, provided the area requirements for freestanding signs are not exceeded and all sign height and setback requirements are met.

7. Signs carried by people.
8. Signs located on the interior of buildings, courts, lobbies, stadiums, or other structures which are not intended to be seen from the exterior of the structures.
- ~~9.~~ Window signs painted on or attached to the interior of a window or glass door or inside a window.
10. Sandwich signs either at the doorway or in the parking lot of the business if they are folded and taken inside at the close of business and are put back outside when the business reopens.

Section 6-11. Certain temporary signs allowed without a permit.

7. The following temporary signs do not require a zoning permit, provided they are not placed within the public road right-of-way, except as provided in Subparagraph 6 below, nor attached to any natural or man-made permanent structure located within a public right-of-way, including without limitation, trees, utility poles, or traffic control signs in a public right-of-way; and conform to the standards and provisions of this section and other applicable parts of this chapter.
 1. Real estate signs. No real estate sign shall be placed off the premises that is for sale without the permission of the owner.
 2. Construction site and property improvement identification signs.
 3. Seasonal agricultural signs. Such signs may be erected for the purpose of advertising and directing potential patrons to the seasonal sale of agricultural products produced and offered for sale at bona fide farming operation. Seasonal agricultural signs may be erected not sooner than 30 days before the normal sales or harvest season and must be removed within 30 days after the normal sales or harvest season.
 4. Temporary special event signs or banners indicating that an event such as an athletic event, fair, carnival, circus festival, air show, fund raiser, or similar event is to take place. Such signs may be erected no sooner than 30 days before the event and must be removed no later than seven days after the event. The town manager or designee shall be notified before such signs are erected so that an account can be kept of the time they are displayed.
 5. Temporary on-premises signs or banners not covered in the foregoing category as long as such signs: (a) are not displayed for longer than 60 consecutive days, limited to 3 special events per 12-month period, (b) are limited to three per zoning lot, and (c) do not exceed 4 sq. ft in residential districts and 32 sq. ft in commercial/industrial districts. The town manager or designee shall be notified before such signs are erected so that an account can be kept of the time they are displayed.

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6. Temporary signs erected in connection with elections or political campaigns. Political signs shall not be erected on private property without permission of the owner; shall not be erected before the established filing date for an election or allowed to remain longer than ten days after the election.
7. Pursuant to G.S. 136-32(b), temporary signs erected in the right-of-way of the state highway system in connection with elections during the period beginning on the 30th day before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the 10th day after the primary or election day. Such signs:
 - (a) shall be no closer than three feet from the edge of the pavement of the road;
 - (b) shall not obscure motorist visibility at an intersection;
 - (c) shall not be higher than 42 inches above the edge of the pavement of the road; shall not larger than 864 square inches;
 - (d) shall not obscure or replace another sign; and
 - (e) shall not be illuminated

Any such sign remaining in the right-of-way more than 30 days after the end of the period prescribed in this subsection shall be deemed unlawfully placed and abandoned property, and a person may remove and dispose of such political sign without penalty.

8. Yard sale sign. A sign not exceeding six square feet may be erected not sooner than two weeks before the event and must be removed not later than three days after the event.
9. Signs affixed to windows of vehicles displaying information on the terms of sale for said vehicles.
- B. Unless otherwise stated herein, temporary signs shall not exceed 4 square feet in residential districts and 32 square feet in area per sign face **in non-residential districts** or have more than one sign face per direction of travel or exceed six feet in height.

Secs. 6-12– 6-14 Reserved.

DIVISION III. SIGNS REQUIRING A PERMIT

Section 6-15. Application for a Permit required.

- A. A sign permit is required before any sign is displayed or erected unless this Article provides that no permit is required.
- B. An application for a sign permit must be filed with the Zoning Administrator on forms furnished by that department.
 - (1) The applicant must provide sufficient information to determine if the proposed sign is allowed under this code and other applicable laws, regulations, and ordinances.
 - (2) An application for a temporary sign must state the dates intended for the erection

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and removal of the sign, not to exceed 30 days.

- c. The application shall be accompanied by a fee set by the Town Council.
- d. The Zoning Administrator or designee must promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies.
- e. The Town may revoke a sign permit if the Zoning Administrator determines that the sign is not being properly maintained or has been abandoned.

Section 6-16. On-premises business identification and advertising signs.

The following sign types identify or advertise a business or service on the premises where they are located. They shall be considered an accessory use incidental to the principal land use.

- A. **A-Frame, Sandwich or Sidewalk Sign** - A pedestrian-oriented movable sign that sits on the grade located proximate to the primary entrance of a non-residential use whose products or services are being advertised. The sign shall be self-supporting and only visible during operating hours. Sidewalk signs are configured with a broader base than a top or are equipped with supports to ensure they remain stable in normal wind conditions.
- B. **Freestanding Sign, Pole Sign** - On-premises freestanding signs shall be permitted and shall comply with the following:
 - 1. *Where Permitted.* Freestanding, pole signs are permitted in the OI, HB, M-1 and M-2 districts.
 - 2. *Area.* The maximum area of all freestanding on-premises signs shall be 300 square feet. The area shall mean the surface area of a sign as computed in accordance with section 6-22.
 - 3. *Height.* The maximum height of a freestanding on-premises sign shall be 30 feet. The height shall mean the height of a sign as determined in accordance with section 6-22 herein.
 - 4. *Setback.* The minimum setback from the public right-of-way for an on-premise freestanding sign is ten (10) feet.
 - 5. *Number permitted.*
 - a. One freestanding on-premises sign shall be permitted per street frontage of a zoning lot.
 - b. A zoning lot with a freestanding sign (or two freestanding signs if fronting on two streets) is allowed the following additional types of signs: one wall sign and two additional signs in either the bench sign, ground sign or pole banner sign category.
- C. **Ground Sign/Monument Sign** -
 - 1. *Where Permitted.* Ground, monument signs are permitted in the OI, HB, M-1 and M-2 districts.
 - 2. *Area.* The maximum area of a monument sign shall be one hundred (100) square feet. The area shall mean the surface area of a sign as computed in accordance with section 6-22.
 - 3. *Height.* The maximum height of a ground or monument sign shall be twelve feet. The height

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shall mean the height of a sign as determined in accordance with section 6-23 herein.

4. *Setback.* The minimum setback from public right-of-way shall be ten (10) feet.

5. *Number permitted.*

- a. One monument on-premises sign shall be permitted per street frontage of a zoning lot.
- b. Businesses on a zoning lot with a monument sign (or 2 monument signs if fronting on two streets) are allowed one wall sign

D. Electronic Signs

- a. Electronic signs are permitted for non- residential uses within the H-B, M-1 and M-2 districts. In addition, electronic signs are also permitted in any district on the property of a cultural facility, primary or secondary, educational facility - university or college, government office/facility, park/playground, or place of worship.
2. Only one electronic sign per lot is permitted.
3. Each message or image displayed on an electronic sign shall be static for a minimum of eight seconds. Electronic signs shall not flash and shall have no animation or effects simulating animation or video.

C. Pole banner sign - Where permitted OI, B-1 and HB. One flag, other than those exempt from regulation in Section 6-10 consisting of a flexible banner or similar material (i.e., plastic, vinyl, etc.) secured to a single permanent pole allowed for every 75' of lot frontage. Said flag shall not exceed 15 sq. ft. in area; and it shall be secured to single, permanent pole not exceeding 25' in height.

D. Projecting sign – Where permitted OI, B-1 and HB. One projecting sign attached to a building in a perpendicular fashion in any business district shall be permitted provided the business does not have an area to place a freestanding sign. Ex: Downtown businesses that only have a sidewalk in front of their location. Projecting signs shall be acceptable as part of the overall allowed signage provided:

1. *Area.* The sign area shall not exceed six square feet per side and 12 square feet in total.
2. *Projection.* The signboard or bracket by which it is attached shall not project more than 36 inches from the wall.
3. *Height Above Ground.* No part of the sign shall hang lower than eight feet above the ground or pedestrian walkway.

Mounting. The sign is mounted, attached and maintained in a secure manner.

E. Wall signs - Wall signs are permitted on a zoning lot that has a freestanding sign **or a ground/monument sign.**

F. Requirements for sign types in this Section shall be deemed complied with if signs provided for herein are specifically included as part of the sign plan approved as condition of, or pursuant to a special use permit. (Ord. No. 1-00, 2-1-00)

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Section 6-17. Home occupations.

A home occupation shall be permitted one professional or announcement sign per dwelling unit not exceeding six square feet in area. (Ord. No. 1-00, 2-1-00)

Section 6-18. Subdivision and multi-family development entrance signs.

At any entrance to a residential subdivision or multi-family development, there may be not more than two ground signs to identify or identifying such subdivision or development. A single face of any such sign may not exceed 16 square feet, nor may the total surface area of all such signs located at a single entrance exceed 32 square feet. (Ord. No. 1-00, 2-1-00)

Section 6-19. Industrial Park entrance signs.

At any entrance to an industrial park, there may not be more than two ground signs identifying the park. A single face of any such sign may not exceed 100 square feet, nor may the total surface area of all such signs located at a single entrance exceed 160 square feet. (Ord. No. 1-00, 2-1-00)

Section 6-20. Off-premises directional signs

Off-premises directional signs shall conform to the standards of this chapter and shall be considered in violation if they do not meet the provisions of this Chapter. An off-premises directional sign shall not exceed 32 square feet in area per sign face or have more than one sign face per directional flow of traffic, or no more than two sign faces per sign structure or exceed six feet in height. Not more than three off-premises directional signs shall contain directions to the same business or activity. At the time the permit is applied for, the applicant shall provide written evidence of the owner's permission to place the sign on such property.

Section 6-21. Sign illumination.

Signs must be effectively shielded to prevent beams or rays of light from being directed toward any portion of a traveled road, and must not be of such intensity or brilliance or glare or impair the vision of the driver of any motor vehicle or otherwise interferes with any driver's operation of a motor vehicle. No sign shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign device or signal. All illuminated signs or structures shall be placed so as to prevent the light rays or illumination from being cast directly on any residence. (Ord. No. 1-00, 2-1-00)

Section 6-22. Computations.

The area and height of a sign shall be computed as follows:

- (1) *Area of individual signs.* The area of a sign shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof which will encompass the extreme

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limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, ornamental base or trim.

If the sign consists of more than one section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.

(2) *Multi-faced signs—Computation of area.* For multi-faced signs, the sign area shall include all sign faces visible from any one point. When two identical sign faces are placed back-to-back so that both faces cannot be viewed from any point at the same time, and when the backs for such sign faces are part of the same sign structure and are not than 42 inches apart, the sign area shall be computed by the measurement of one of the larger faces.

(3) *Height.* Height shall be measured from: (i) the higher of the unaltered grade of the terrain of the sign location or (ii) the elevation of the grade of the road shoulder perpendicular to the sign, whichever is higher, to the uppermost part of the sign or sign structure, whichever is higher. (Ord. No. 1-00, 2-1-00)

Section 6-23. Sign maintenance.

All sign supports, braces, poles, wires and other appurtenances of the sign or sign structure shall be kept in good repair, maintained in a safe condition, and shall conform to the standards in this section and the state building codes.

Maintenance of sign supports, braces, poles, wires and other appurtenances of the sign or sign structure and not the result of damage or destruction shall not require a zoning permit, provided the sign is not enlarged, moved, or altered in any manner which would create or increase a nonconforming condition.

A sign face shall be in a state of disrepair when more than 20 percent of its total surface is disfigured, cracked, ripped or peeling paint or poster paper, or any combination of these conditions.

No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages, or struts.

No sign or sign structure shall be allowed to have weeds, vines or other vegetation growing on it and obscuring it from the road or highway from which it is intended to be viewed.

Section 6-24. Nonconforming signs.

A. Off premise advertising signs

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1. Off premise advertising signs (formerly outdoor advertising signs or billboards) are hereby made nonconforming within the zoning jurisdiction of the Town of Yanceyville as of June 8th, 2023. Off premise advertising signs in existence before such date may be permitted to continue as a nonconforming use, provided:
 - a. the signs and supporting structures may not be enlarged or moved to a different location;
 - b. the signs and supporting structures may be repaired or reconstructed without enlargement of square footage of the advertising surface area.
 - c. lights and/or other electric or electronic features may not be added;
 - d. a signed statement with the name and address of the owner and current lease for each sign shall be kept on file with the code enforcement officer.
 - e. they shall be subject to yearly inspections; and
 - f. they shall conform to applicable requirements set forth in Article 11 Outdoor Advertising of North Carolina General Statutes, Chapter 136.

 2. If a nonconforming sign is damaged to an extent equal to or greater than 50% of the sign replacement cost, the sign shall be removed if repair or damage to the sign and structure exceeds 50% of value as determined by the criteria in 19A NCAC 2E.0225(f); however, if the sign is damaged or destroyed by an event that is an "Act of God". The Sign owner have the right and privilege to restore/ replace to its original condition prior to the event.
- B. Other nonconforming signs - All signs made nonconforming by this chapter, but which were lawfully established may continue provided that no such sign shall be:
- changed or replaced with another nonconforming sign except that copy may be changed on an existing sign;
 - expanded;
 - relocated except in conformance with the requirements of this chapter;
 - reestablished after damage or destruction of more than 60 percent of the fair market value immediately prior to the time of the damage or destruction.
 - modified in any way which increase the sign's degree of nonconformity; or
 - reestablished after the sign structure has been removed.

As soon as reasonably possible after the effective date of this amendment, the zoning administrator shall make every reasonable effort to identify all the nonconforming signs with the town's planning jurisdiction. (Ord. No. 1-00, 2-1-00)

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CHAPTER 7 AREA, YARD and HEIGHT REQUIREMENTS

Section 7.1 Table of Area, Yard, And Height Requirements for All Zoning Districts *(not applicable to planned unit developments or planned business developments):*

MINIMUM YARD REGULATIONS

District	Use	Minimum Lot Size Area in Sq. Ft.	Frontage at Building Line	Front Yard Setback in Feet	Rear Yard Depth in Feet	Side Yard Width in Feet	Maximum Height of Structure in Feet
R-20 Residential	Single Unit	20,000	100	45	35	12(a)	35(b)
	Nonresidential use	30,000	200	45	35	20(a)	35(b)
R-12 Residential	Single unit	12,000	80	35	20	10(a)	35(b)
	Nonresidential use	30,000	150	35	20	20(a)	35(b)
RR-8 Residential	Single unit	8,000	80	35	20	10(a)	35(b)
	Nonresidential use	20,000	120	35	20	10(a)	35(b)
R-8 Residential	Single unit	8,000	80	35	20	10(a)	35(b)
	Double unit	13,000	90	35	20	10(a)	35(b)
	Multifamily	13,000+3,000 for each unit over 2	90	35	20	10(a)	35(b)
	Condominium	13,000+3,000 for each unit over 2	90	35	20	10(a)	35(b)
	Townhouse	13,000+3,000 For each unit over 2	70	35	20	10(a)	35(b)
R-MH Residential	Single unit	6,000	80	20	20		
	Duplex	9,000	70	35	20	10(a)	35(b)
	Mfg. Home Parks	See Chapt 5 Sp. Uses, Mfg Home Parks					
OI Office & Institutional		8,000	80	20	20 (d)(e)	10(a)(d)(f)	35(b)
B-1 Business					(c)	(a) (c)	40(b)

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CHAPTER 7 AREA, YARD and HEIGHT REQUIREMENTS

District	Use	Minimum Lot Size Area in Sq. Ft.	Frontage at Building Line	Front Yard Setback in Feet	Rear Yard Depth in Feet	Side Yard Width in Feet	Maximum Height of Structure in Feet
H-B Highway Business			100	15	15(d)	15(d)	40(b)
M-1 Industrial							
M-2 Industrial							

Notes:

- (a) Corner lots must have an additional width of ten feet along the side street line in residential districts and a minimum of ten feet along the side street line in the B-1 district.
- (b) Maximum height of structure in feet is measured from the highest buildable portion of the lot.
- (c) Where the side or rear of a lot abuts a residential use, the abutting side or rear yard shall be at least ten feet wide, and it shall be densely planted with trees or shrubbery capable of reaching at least ten feet in height.
- (d) Where the required side or rear yard abuts a residential use, there shall be a buffer densely planted with trees capable of reaching at least ten feet in height.
- (e) When abutting a residential use, add ten feet to required rear yard.
- (f) When abutting a residential use add 20 feet to required side yard. (Ord. of 8-27-87)

Section 7.2. Height limitations.

The height limitations of this chapter shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy or to monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, radio towers, television towers, masts, aerials and similar structures. (Ord. of 8-27-87)

Section 7.3. Visibility at intersections.

On a corner lot in any residential district, no planting, structure, fence, wall or obstruction to vision more than three feet high, measured from the centerline of the street, shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on the right-of-way lines, each of which is 25 feet from the point of intersection.
 (Ord. of 8-27-87, art. V, § 4)

TOWN OF YANCEYVILLE ZONING ORDINANCE
CHAPTER 7 AREA, YARD and HEIGHT REQUIREMENTS

Section 7.4. Townhouses, condominiums.

For all townhouse and condominium developments, there shall be no more than eight units per building.

(Ord. of 8-27-87; Ord. of 6-7-88)

TOWN OF YANCEYVILLE ZONING ORDINANCE
CHAPTER 8 OFF-STREET PARKING and LOADING

Section 8.1 Scope.

- (a) The requirements set forth in this chapter shall apply to all districts except the B-1 district.
- (b) Violation of 2 hour parking limits Monday-Friday 8 AM – 5 PM posted on signs placed around courthouse square shall result in a civil penalty of ten dollars (\$10).
- (c) For land, structures or uses developed, enlarged, expanded or changed, after the effective date of the ordinance from which this chapter derives, off-street parking shall be provided in accordance with the ratios contained in this chapter. If existing land uses are converted to another type of land use or classification by this chapter, compliance with the off-street ratios as contained in this chapter is required.
- (d) Off-street parking space (either garage or properly graded open space with a stable surface) and off-street loading space shall be provided in accordance with the following requirements in all classes of districts:
 - (1) Each applicant for a building permit or certificate of zoning compliance submitted to the building inspector shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress between such space and a street or alley. This information shall be in sufficient detail to enable the building inspector to determine whether or not the requirements of this chapter are met.
 - (2) The certificate of occupancy for the use of any building, structure or land where off-street parking or loading space is required shall be withheld by the building inspector until requirements of this section are fully met. If at any time such compliance ceases, any certificate of occupancy which shall have been issued for the use of the property shall immediately become void and of no effect.
 - (3) When parking or loading areas are provided adjacent to a public street, ingress or egress thereto shall be made only through driveways or openings not exceeding 25 feet in width at the curbline of the street, except where the town finds that a greater width is necessary to accommodate the vehicles customarily using the driveway. Detailed plans of all curb cuts and driveway openings shall be submitted to the town for staff approval.

Section 8.2. Off-street parking.

- (a) No part of an off-street parking area required for any building or use for the purpose of complying with the off-street parking requirements in this chapter shall be included as part of any off-street parking area similarly required for another building or use, unless the times of usage of such buildings or uses will not be simultaneous.
- (b) Off-street parking space shall be located on the same lot as the use for which provided or on a separate lot within 200 feet of any entrance to the building, provided that such parking space land is owned by

TOWN OF YANCEYVILLE ZONING ORDINANCE
CHAPTER 8 OFF-STREET PARKING and LOADING

the owner of the building or leased for the same period of time as the building.

- (c) The off-street parking requirements for two or more uses on the same lot may be combined and used jointly, provided that the parking space shall be adequate in area to provide the same total off-street parking requirements with all such uses.
- (d) No parking shall be provided that would necessitate the automobile backing onto any street right-of-way. Sufficient maneuvering space shall be provided on the lot to enable the motorist to enter all street rights-of-way in a forward direction.
- (e) All off-street parking spaces shall be provided with shield or bumper guards so located that no part of a parked vehicle will extend beyond the parking space onto any public right-of-way.
- (f) An off-street parking space shall not be less than the size required as follows for the angle parking shown:

Angle (degrees)	Stall width (feet)	Curb Length Per Car (feet)	Stall Depth (feet)
0	8	23.0	8.0
20	8	23.5	14.0
30	8	16.0	16.5
45	8	11.3	19.1
60	8	9.3	20.5
70	8	8.5	20.8
90	8	8.0	19.0

- (g) All multifamily dwellings with more than four units shall have parking areas graded and paved to town specifications.
- (h) Parking space required. The following parking ratios shall control, as applicable, in the zoning districts:

Auditoriums, stadiums and theaters	1 space for every 5 seats
Banks and financial services	1 space for every 200 square ft of gross floor area
Churches	1 space for every 4 seats in principal auditorium
Community or private swimming clubs	1 space for every 5 members or families
Drive-through services such as banks, dry cleaners, carwashes, etc.	Stacking for 4 vehicles at each bay window or lane
Dwelling unit having home barber or beauty shop	2 spaces other than for residential occupants
Hospitals	1 space for each bed space
Hotels motels	1 space for every guest room, plus 2 spaces per 3 employees on largest shift
Indoor commercial recreation (physical fitness centers, game rooms, etc.)	1 space for each 130 square feet of gross floor area devoted to such use
Industries	1 space for every 2 employees during maximum

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CHAPTER 8 OFF-STREET PARKING and LOADING

	employment and 1 space for every truck to be stored or stopped simultaneously
Institutions and clubs	1 space for each 5 seats in principal assembly room
Medical clinics	4 spaces for each doctor plus 1 space for each employee
Nursing homes, assisted living	1 space for each 4 persons to be accommodated, plus 1 space for each regular employee
Offices	1 space for every 250 square feet of gross floor area.
Personal services (barber shops, hair salons, business schools, dance studios, gyms)	2.5 spaces per operator or employee
Preschools	1 space for each regular employee and 1 additional space for every 6 children or fraction thereof
Residence, multifamily	2 spaces for each dwelling unit
Residence, multifamily for elderly & handicapped	0.75 spaces for each dwelling unit
Residence, single-family, two-family	2 spaces (may be in a single drive with 1 car behind the other)
Restaurants or other eating places	1 space for each 4 seats
Retail businesses	1 space for every 200 square feet of gross floor area; 1 space minimum
Roadside stands, new and used car sales, house and truck, trailer sales, outdoor machinery sales	4 spaces for each sales person on duty during period of average greatest employment, plus 1 space per each 2 other employees during period of average greatest employment
Rooming houses and boarding houses	1 space for each roomer, in addition to normal dwelling unit requirements
School, elementary and middle school	3 spaces for each room used for administrative offices, class instruction, or 1 space for each 6 seats in auditoriums and other places of assembly, or facilities available for the public, whichever is greater
School, senior high	7 spaces per classroom
Shopping center	5 spaces per 1,000 square feet of gross floor area (optional to computing parking on a store-by-store basis)
Wholesale establishments, warehouses and other businesses not catering to retail or package trade	1 space for every 3 employees during maximum employment and 1 space for every vehicle to be stored or stopped simultaneously

Special situations which are not covered by the ratios in this subsection shall be handled by the board of adjustment, which shall make the final determination as to the number of spaces to be required. In all

TOWN OF YANCEYVILLE ZONING ORDINANCE
CHAPTER 8 OFF-STREET PARKING and LOADING

cases the board shall give due consideration to the needs and space available and shall classify the proposed use in one of the categories listed in this subsection. (Ord. of 8-27-87, art. VII, § 2)

Section 8.3. Off-street loading.

(a) The duty to provide the off-street loading space required in this chapter shall be the joint responsibility of the owner and operator of the structure for which off-street loading space is required. The space shall be provided in accordance with the table in subsection (b) of this section, and all off-street loading spaces shall be designed so that the vehicles loading and unloading shall not rest upon or cross any public street or alley right-of-way. All off-street loading spaces shall be at least 12 feet wide, 40 feet long, and shall have an overhead clearance of 14 feet.

(b) Table of off-street loading space requirements:

Use Classification	Space Requirements
Retail operations with a total usable floor area of 20,000 sq. ft. or more devoted to such purposes; large shopping centers can use common loading zones for small shops if plan approved by town council	1 for each 20,000 square feet of floor area. In stores having over . square feet of floor area, maximum requirements shall be 2 spaces per store area of 20,000 square feet
Retail operations and all first floor nonresidential uses with a gross floor area of less than 20,000 square feet and all wholesale and light industrial operations with a gross floor area of less than 10,000 square feet	1 space
Office buildings and hotels with a total usable floor area of 100,000 square feet or mores	1 space for each 100,000 square feet of floor area
Industrial and wholesale operations with a gross floor area of 10,000 sq. ft. or over: 10,000-40,000 square feet 40,000-100,000 100,000-160,000 160,000-240,000 240,000-320,000 3 2 0 , 0 0 0 - 4 0 0 , 0 0 0 Each 90,000 above 400,000	Minimum number of loading berths required: 1 2 3 4 5 6 1

TOWN OF YANCEYVILLE ZONING ORDINANCE
CHAPTER 9 NONCONFORMING SITUATIONS

Section 9-1. Uses of Land or Structures in General

Except as specifically provided in this chapter, 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. A nonconforming situation is the use of land or existence of a structure that, after the original effective date of this Ordinance, is prohibited in the district in which it is located.

Section 9-2. Nonconforming Uses of Open Land

A nonconforming use of open land consists of open lots used for storage yards, car lots, auto wrecking, junkyards, and similar uses where the only buildings on the lot are incidental and accessory to the open use of the lot and where the use is not permitted in the zoning district where it is located.

Such nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming. Fencing or other screening of the use does not change its status as a nonconforming use of open land.

Section 9-3. Nonconforming Uses of Structures

A nonconforming use of a structure is a function or purpose, occurring in the particular structure, that is not permitted in the zoning district in which the structure is located.

- A. *Enlargement of Structures That Are a Nonconforming Use is Prohibited:* Use of a structure for purpose that has been made nonconforming by adoption of this ordinance or by rezoning may not be enlarged or altered in a way that increases its nonconformity.
- B. *Maintenance and Repair:* Normal maintenance and repair of a structure used for a nonconforming purpose is permitted and encouraged, provided it does not extend the nonconformity.
- C. *Change to Conforming Use:* Any nonconforming use of a structure of land may be changed to a conforming use, or, with the approval of the Board of Adjustment, a nonconforming use may be changed to a use more in character with the uses permitted in the district as long as there is no structural enlargement.
- D. *Extension of Use within a Nonconforming Structure:* A nonconforming use of a structure shall not be extended or enlarged except into portions of the structure, which at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use. No structural alterations shall be made in any structure occupied by a nonconforming use, except those required by law or ordinance or ordered by the Building Inspector to secure the safety of the structure.

TOWN OF YANCEYVILLE ZONING ORDINANCE
CHAPTER 9 NONCONFORMING SITUATIONS

- E. *Discontinuance of a Nonconforming Use of Structure:* When any nonconforming use of a structure is discontinued for a continuous period of 180 days, any future use of the structure shall be limited to those uses permitted in that district under the provisions of this ordinance. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision. If active operations are discontinued for a continuous period of twelve (12) months with respect to a nonconforming use, such building, buildings, or land shall thereafter be occupied and used only for a conforming use.

- F. *Single-Family Residence Exception:* Any structure used for a single-family residence that has been made nonconforming by adoption of this ordinance or by rezoning may be replaced with a structure of the same or a larger size, as long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard size and setback. In particular, a manufactured home may be replaced with a larger manufactured unit. Minor variances in setbacks due to lot size may be presented to the Board of Adjustment for consideration. This policy is adopted in the interest of maintaining an adequate stock of housing in Yanceyville.

Section 9-4. Nonconforming Structures

A nonconforming structure is a structure that does not meet all of the dimensional requirements of this ordinance for lot coverage, height, yards or other characteristics of the structure or its placement on the lot.

- A. *Lawful Structures May be Continued:* Any structure that was lawful as to its dimensions at the effective date of the adoption, amendment or readoption of this Ordinance but could not be built under its present provisions may be continued as long as it remains.

- B. *Enlargement Prohibited:* Nonconforming structures shall not be enlarged or expanded.

In limited circumstances, the Board of Adjustment, after notice and hearing, may issue a permit for enlargement. The following minimum conditions, in addition to any other reasonable conditions, shall be met in order for the Board to grant an extension of the nonconforming structure:

1. The enlargement does not increase the space devoted to the nonconforming use.
 2. The enlargement does not increase the dimensional nonconformity of the use (yard, height, setback requirements).
 3. The enlargement does not enclose previously unenclosed land.
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- C. *Maintenance and Repair:* Normal maintenance and repair of a nonconforming structure is permitted and encouraged provided it does not extend the nonconformity.

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- D. *Change or Expansion of Uses Within Nonconforming Structures:* If no structural alteration or enlargements are made, the Board of Adjustment, after notice and hearing, may permit an extension of a use or a change to a use more compatible with the district. In permitting such extension or change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance. Such extension or change shall not be permitted to take place beyond the building in which it occurs.
- E. *Damage or Destruction:* If a nonconforming building is destroyed by any means to an extent of more than fifty (50) percent of its assessed value at time of destruction, such building may not be restored for any nonconforming use.

Section 9-5. Nonconforming Lots

- A. *Vacant Lots:* A nonconforming vacant lot is defined as a lot for which a plat or deed has been recorded in the office of the Caswell County Register of Deeds, which at the time of adoption of this Ordinance failed to comply with the minimum area and/or width requirements of the district in which it is located. Any such nonconforming lot may be used for any of the uses permitted in the district in which it is located provided that:
 - 1. Where the lot area is not more than twenty (20%) percent below the minimum specified in this Ordinance, and other dimensional requirements are otherwise complied with, the Zoning Enforcement Officer is authorized to issue a zoning compliance permit;
 - 2. Where the lot area is more than twenty (20%) percent below the minimum specified in this Ordinance or other dimensional requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions; and
 - 3. Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in single ownership at any time after the adoption of this Ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be combined to create a single lot or lots which meet the minimum requirements of this Ordinance.
- B. *Nonconforming Lots with Structures:* A nonconforming lot with structures is defined as a lot occupied by a building or buildings or structures at the time of the adoption of this Ordinance, that fails to comply with the minimum requirements for area, width, yard and setback for the district in which they are located. These lots may continue to be used.

Section 9-6. New Uses or Construction

After the effective date of this Ordinance, all new construction and the moving, altering, and

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CHAPTER 9 NONCONFORMING SITUATIONS

enlarging of existing structures shall conform to the use, area, and bulk regulations for the district in which it is, or is to be, located.

Section 9-7. Conforming Uses

After the original effective date of this Ordinance, existing structures or the use of land or structures which conform to the regulations for the district in which they are located may be continued, provided that any structural alteration or change in use shall conform to this Ordinance.

TOWN OF YANCEYVILLE ZONING ORDINANCE
CHAPTER 10 VESTED RIGHTS

Section 10-1. Process to Claim Vested Right

A landowner claiming a statutory or common law vested right may submit information to substantiate the claim of a vested right pursuant to North Carolina General Statute 160D-108 on a form to be provided by the Town at the same time as application is made for a zoning map amendment, subdivision plan approval, a conditional zoning, a special use permit, a site plan approval or a planned unit development approval. The Zoning Administrator shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under NCGS 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 by NCGS 160D-405(c).

Section 10-2. Types and Duration of Statutory Vested Rights

Amendments to Yanceyville development regulations shall not be applicable or enforceable with regard to development that has been permitted or approved pursuant to NCGS 160D-108 as long as one of the types of approvals listed in this Section remains valid and unexpired. Each type of vested right listed in this Section is defined by and is subject to the limitations provided herein. Vested rights established under this Section are not mutually exclusive. The establishment of a vested right under this Section does not preclude the establishment of one or more other vested rights or vesting by common law principles. Vested rights established by Yanceyville approvals are as follows:

- (a) Six months, Building permits. - Pursuant to NCGS 160D-1109, a building permit expires six months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of 12 months after work has commenced.
- (b) One year, Other local development approvals. - Pursuant to NCGS 160D-403(c), unless otherwise specified by 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 shall not affect the duration of a vested right established under this section or vested rights established under common law.
- (c) Two years, Site-specific vesting plans.
 - 1. Duration. - A vested right for a site-specific vesting plan shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by Yanceyville ordinance.
 - 2. Relation to building permits. - A right vested as provided in this subsection shall terminate at the end of the applicable vesting period with respect to

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buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of NCGS 160D-1109 and NCGS 160D-1113 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this subsection 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 of Yanceyville describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of 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 guided by Town of Yanceyville ordinance. What constitutes a site- specific vesting plan shall be defined by the relevant development regulation, and the development approval that triggers vesting shall be so identified at the time of its approval. At a minimum, the regulation shall designate a vesting point earlier than the issuance of a building permit. In absence of a Town of Yanceyville regulation setting forth what constitutes a site-specific vesting plan, any development approval shall be considered to be 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 the Town of Yanceyville development regulations, a 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 plan established under this subdivision. 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 of Yanceyville 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 its terms and conditions will result in a forfeiture of vested rights. The Town of Yanceyville shall not require a landowner to waive vested rights as a condition of developmental approval. A site-specific vesting plan shall be

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CHAPTER 10 VESTED RIGHTS

deemed approved upon the effective date of the local government's decision approving the plan or such other date as determined by the governing board upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government as follows: any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by the Zoning Administrator, if such are defined and authorized by local regulation.

- (d) Seven years, Multiphase developments. - A multiphase development shall be vested for the entire development with the zoning regulations, subdivision regulations, and unified development ordinances in place at the time a site plan approval is granted for the initial phase of the multiphase 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 multiphase development. For purposes of this subsection, "multiphase 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 NCGS 160D-1001.

Section 10-3. Continuing Review

Following approval or conditional approval of a statutory vested right, the Town may make subsequent reviews and require subsequent approvals 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 development regulations.

Section 10-4. Exceptions

The provisions of this Chapter are subject to the following:

- (a) A vested right, once established precludes any zoning action 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 when any of the following conditions are present:
 - 1. The written consent of the affected landowner.

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CHAPTER 10 VESTED RIGHTS

2. Findings made, 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, safety, and welfare if the project were to proceed as contemplated in the approved vested right.
 3. The extent to which 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 consulting fees incurred after approval by the local government, together with interest as is provided in NCGS 160D-106. Compensation shall not include any diminution in the value of the property that is caused by such action.
 4. Findings made, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the local government of the vested right.
 5. The enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the approved site-specific vesting plan or phased development plan, in which case the local government may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and an evidentiary hearing.
- (b) The establishment of a vested right 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 a local government, 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 Chapter.
- (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 a local government to adopt and enforce development regulation provisions governing nonconforming situations or uses.

Section 10-5. Miscellaneous Provisions

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 all successors to the original landowner shall be entitled to exercise such rights. Nothing in this section shall preclude judicial

CHAPTER 10 VESTED RIGHTS

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.

Section 10-6. Termination of a Vested Right

A zoning right that has been vested as provided in this article shall terminate with:

1. The written consent of the affected landowner.
2. Findings made, 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, safety, and welfare if the project were to proceed as contemplated in the approved vested right.
3. The extent to which 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 consulting fees incurred after approval by the local government, together with interest as is provided in NCGS 160D-106. Compensation shall not include any diminution in the value of the property that is caused by such action.
4. Findings made, after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the local government of the vested right.
5. 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 local government 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.

TOWN OF YANCEYVILLE ZONING ORDINANCE
CHAPTER 11 DEVELOPMENT AGREEMENTS

Section 11.1 Purpose

The purpose of this Chapter is to establish standards and procedures for the Town to enter into Development Agreements for long-term, large-scale developments, in recognition of the following findings and statements of intent:

1. *Large-Scale Development Projects and Long-Term Commitment of Resources*
Large-scale development projects often occur in multiple phases extending over a period of years, requiring a long-term commitment of both public and private resources.
2. *Potential Community Impacts*
Such large-scale developments often create potential community impacts and potential opportunities that are difficult or impossible to accommodate within traditional zoning processes.
3. *Careful Integration between Public Capital Facilities Planning, Financing, Schedules*
Because of their scale and duration, such large-scale projects often require careful integration between public capital facilities planning, financing and construction schedules and the phasing of the private development.
4. *Stable Development Standards*
Because of their scale and duration, such large-scale projects involve substantial commitments of private capital by private developers, which private developers are unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.
5. *Nontraditional Development Types*
Because of their size and duration, such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing the impacts on the surrounding areas.
6. *Negotiating Flexibility*
To better structure and manage development approvals for such large-scale developments and ensure their proper integration into local capital facilities programs, local governments need the flexibility in negotiating such developments.
7. *Plan Consistency*
In negotiating for such developments, it is the intent of the Town to remain consistent with the adopted plans, policies, and goals of the Town as they relate to land use and capital improvements.

TOWN OF YANCEYVILLE ZONING ORDINANCE
CHAPTER 11 DEVELOPMENT AGREEMENTS

Section 11.2 Authority

The Town may enter into a Development Agreement with a developer, subject to the procedures and standards of this Chapter. In entering into such a Development Agreement, 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. 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.

Section 11.3 Relationship to Prior Development Approvals

Although an application for a Development Agreement generally is submitted and reviewed before, or in conjunction with, the first development approval required for the proposed development (e.g., a Planned Unit Development), such an application may be submitted and decided at any stage of the development. If the application is submitted after development approvals have been granted, either the Development Agreement should incorporate the terms and conditions of those prior approvals or any approval of the Development Agreement shall be contingent upon any amendments to those prior approvals necessary to ensure conformance between the Development Agreement and applicable development approvals.

Section 11.4 Initiation

An application for a Development Agreement may be initiated by any person who may submit applications in accordance with the provisions of this Chapter.

(a) Procedures

1. *Application Contents*

An application for a Development Agreement shall include a proposed Development Agreement that shall, at a minimum, include all of the following:

- a. A legal description of the property subject to the agreement and the names of its legal and equitable property owners.
- b. The duration of the agreement.
- c. A development schedule, including commencement dates and interim completion dates at no greater than five-year intervals.
- d. The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.
- e. A description of public facilities that will service 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.
- f. If the Development Agreement provides that the Town shall provide certain public facilities, the Development Agreement shall provide that

TOWN OF YANCEYVILLE ZONING ORDINANCE
CHAPTER 11 DEVELOPMENT AGREEMENTS

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).

- g. A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property.
- h. A description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing their permitting requirements, conditions, terms, or restrictions.
- i. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the Town for the public health, safety, or welfare of its citizens.
- j. A description, where appropriate, of any provisions for the preservation and restoration of historic structures.
- k. An indemnification and "hold harmless" clause whereby the developer/property owner holds the Town and its agents harmless from liability for damages, injury, or death that may arise from the direct or indirect operations of the owner, developers, contractors, and subcontractors that relate to the project.

(b) *The proposed Development Agreement may include the following:*

- 1. A provision that the entire development or any phase of it be commenced or completed within a specified period of time.
- 2. Other defined performance standards to be met by the developer.
- 3. Other matters not inconsistent with law.

(c) *The application shall include a master plan that depicts the general configuration and relationship of the principal elements of the proposed development, including major uses, general building types, pedestrian and vehicular circulation, open space, public facilities, and phasing.*

Section 11.5 Review and Report by Town Manager or Administrator

As part of the staff review of the application, the Manager/Administrator or the designee may negotiate revisions to the proposed Development Agreement consistent with the provisions of Section 11.9 Development Agreement Standards.

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Section 11.6 Review and Recommendation by Planning Board

Following staff review, preparation of a staff report, and provision of public notification in accordance with Subsection g. Development Agreement Standards, the staff shall recommend that:

- the Town enter into the Development Agreement as submitted;
- the Town enter into the Development Agreement application subject to modifications agreed to by the applicant, in writing; or
- the Town not enter into the Development Agreement.

Section 11.7 Review and Action by Governing Board

Following Planning Board review, the town council shall conduct a legislative public hearing on the application in accordance with public hearing guidance. Thereafter the Board may vote:

- To enter into the Development Agreement as submitted;
- To enter into the Development Agreement, subject to modifications agreed to by the applicant, in writing;
- Not to enter into the Development Agreement; or
- Remand the application to the Planning Board for further consideration.

Section 11.8 Recording the Agreement

Within 14 days after entering into a Development Agreement, the Town shall record the agreement with the Caswell County Register of Deeds.

Section 11.9 Development Agreement Standards

In consideration of the Town's participation in a Development Agreement, a development subject to the agreement must meet the following criteria:

1. *Planned Development* - The information regarding the property subject to the Development Agreement shall contain details of the property and the planned development in accordance with NCGS 160D Article 10 Development Agreements.
2. *Phasing and Duration of Development* - The development shall demonstrate phasing and participation in the proposed agreement shall be of reasonable terms that shall be specified in the agreement.
3. *Impact on Capital Improvements* - The development shall demonstrate the impact on existing and future provisions of capital improvements by the Town including at least one of the following: transportation, potable water, sanitary sewer, solid

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waste, stormwater management, educational, parks and recreational, and health systems and facilities.

Section 11.10 Effect of Development Agreement

- (c) *Burdens and Benefits* - 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.
- (d) *Rights and Obligations* - Rights and obligations established by a Development Agreement shall not preclude or supersede rights and obligations established pursuant to other law regarding building permits, site specific development plans, phased development plans or other provisions of law.
- (e) *Building Code* - A Development Agreement shall not exempt the property owner or developer from compliance with the State Building Code.
- (f) *Subsequently Enacted Laws* - 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.
- (g) *Application of Subsequently Adopted Laws* - Except for grounds specified in Section 160D-1-(e) of the North Carolina General Statutes, the Town may not apply subsequently adopted ordinances or development policies to a development that is subject to a Development Agreement.
- (h) *Change in State or Federal Law* - If 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, by ordinance after notice and a hearing, may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the Development Agreement.
- (i) *Vested Rights* - This Ordinance does not abrogate any rights preserved by NCGS 160D-1-8, or that may vest pursuant to common law or otherwise in the absence of a Development Agreement.

Section 11.11 Approval of Debt

If 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. The agreement shall be signed by the Town Attorney, Finance

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Director, and Town Manager.

Section 11.12 Periodic Review and Breach of Agreement

- (a) *Annual Review* - During any period of time in which a development permit is active, the Town shall review the development at least once every 12 months for compliance with the agreement. The developer shall be required to demonstrate good faith compliance with the terms of the Development Agreement. The failure to meet a commencement or completion date specified in the Development Agreement shall not, in and of itself, constitute a material breach of the agreement, but must be judged based upon the totality of the circumstances.
- (b) *Material Breach*- If the Town finds and determines that the developer has committed a material breach of the terms or conditions of the Development Agreement, the Town shall serve written notice of the breach upon the developer within a reasonable time after the periodic review. Such notice shall set forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and shall provide the developer a reasonable time in which to cure the material breach.
- (c) *Failure to Cure Material Breach* - If the developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the Development Agreement.

Section 11.13 Appeal

The notice of termination or modification may be appealed to the Board of Adjustment for review and decision in accordance with Section 7-13(D Appeals).

Section 11.14 Amendments to Development Agreement

- (a) *Mutual Consent* - A Development Agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.
- (b) *Major Modification* - Consideration of a proposed major modification of a Development Agreement shall follow the same procedures as required for initial approval of the agreement.
- (c) *Minor Modification* - The Planning Director may approve minor modifications of the Development Agreement with the mutual consent of the other parties to the agreement, without following the same procedures as required for initial approval of the agreement, upon making written findings that the proposed modifications would not significantly change the use, intensity, or design of the development, would be consistent with the

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purposes and goals of the agreement, would comply with this Ordinance, and would not adversely affect the public health, safety, or general welfare.

Section 11.15 Assumption of Jurisdiction Over Development Agreements

- (a) *Town Assumes Planning Jurisdiction* - If the Town assumes planning jurisdiction over property subject to a Development Agreement established by another jurisdiction, such development agreement shall be valid for the duration of the agreement, or eight years from the effective date of the Town's assumption of planning jurisdiction over the subject property, whichever is earlier.

- (b) *Rights and Obligations*- The parties to the development agreement and the Town shall 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.

- (c) *Modification or Suspension*- The Town may modify or suspend the provisions of the Development Agreement if the Town determines that the failure to do so would place the residents of the area subject to the Development Agreement, or the residents of the Town's planning jurisdiction, or both, in a condition dangerous to their health or safety, or both.

TOWN OF YANCEYVILLE ZONING ORDINANCE
CHAPTER 12 PLANNING BOARD

Section 12.1. Planning Board

The Yanceyville Planning Board shall consist of five (5) members.

Section 12.2. Appointment of members

A. Five (5) members shall be appointed by the Town Council.

B. *Oath*: All members before entering their duties, qualify by taking an oath of office as required by NCGS 160A-61.

Section 12.3. Terms of Office

Initial appointments may be staggered to ensure all members' terms do not expire in the same year. Terms for all seats shall expire in December of each respective year. As any staggered terms expire, appointments shall be made for terms of 3 years. Members shall hold office until their successors are appointed and qualified. Appointments to fill vacant seats shall be for the remainder of the terms.

Section 12.4. Duties

As provided in G.S. 160D-301, the duties of the Planning Board shall include but not be limited to:

1. To prepare, review, maintain, monitor, and periodically update and recommend to the Town Council a comprehensive plan, and such other plans as deemed appropriate, and to conduct ongoing related research, data collection, mapping, and analysis.
2. To provide review and comment to the Town Council on all zoning text and map amendments as required by G.S. 160D-604 and to advise the council concerning the implementation of plans adopted by the Town.
3. To facilitate and coordinate citizen engagement and participation in the planning process.
4. To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
5. To exercise any functions in the administration and enforcement of various means for carrying out plans that the Town Council may direct.
6. To perform any other related duties that the Town Council may direct.

Section 12.5. Meetings, Records and Officers

All regular meetings of the planning board shall be held at Town Hall and shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member on each question; if absent or failing to vote, an indication of such fact; all of which shall be public

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CHAPTER 12 PLANNING BOARD

record. The board shall elect a chair and vice chair. The Town Clerk or designated town employee shall serve as secretary to the board. The board shall adopt a regular meeting schedule for the coming calendar year to be filed with the Town Clerk.

Section 12.6. Conflict of Interest

Members shall not vote on any decision 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.

TOWN OF YANCEYVILLE ZONING ORDINANCE
CHAPTER 13 BOARD OF ADJUSTMENT

Section 13.1. Creation

As permitted by G.S. 160D-302(b) as currently written or subsequently amended, the town council shall serve as the board of adjustment for the town.

Section 13-2. Chair and vice chair, duties

Chair and vice chair - The mayor shall serve as chair of the board of adjustment. A vice-chair shall be elected from members of the Town Council sitting as the Board of Adjustment and shall serve for the same term of years as the chair or until a successor is elected. The board shall appoint a secretary who may be a municipal officer, an employee of the town or a member of the board. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. The chair or in the absence of the chair the vice-chair may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the board shall be open to the public.

Section 13.3. Powers

The Board of Adjustment shall have decision-making authority for the following quasi-judicial matters:

- (a) Appeals of administrative decisions. Pursuant to G.S. 160D-405, the board shall hear and decide appeals of any decision by the building inspector, zoning enforcement officer, or other town official based on this chapter. Such appeal shall be taken within 30 days of the issuance of the decision being appealed or the delivery of any required written notice of the decision, whichever is later, by filing with the town clerk and with the board of adjustment a written notice of appeal specifying the grounds thereof. All papers constituting the records upon which the action appealed from was taken shall be transmitted to the board of adjustment. All procedures set forth in G.S. 160D-405 shall be followed.
- (b) Variances. As authorized in G.S. 160D-705(d), the Board shall authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until it shall make a finding that:
 - (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district;
 - (2) The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare;

CHAPTER 13 BOARD OF ADJUSTMENT

- (3) Literal interpretation of the provisions of this chapter would deprive the applicant of a right commonly enjoyed by other properties in the same district under the terms of this chapter;
 - (4) The special conditions and circumstances do not result from the actions of the applicant; and
 - (5) Granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district.
- (c) Special use permits. As authorized by G.S.160D-705(c) and set forth in Chapter 5 of this Ordinance, the board shall conduct quasi-judicial hearings and grant special use permits when the required findings have been met.

Section 13.4 Timing of hearings; stay of proceedings

- (a) Time of hearings. The Board of Adjustment shall fix a reasonable time for the hearing of variance requests, appeals or other matters referred to it. (See Chapter 5 for timing of Special Use Permit hearing.) and shall give notice as provided in Section 11.5 below to the parties in interest and shall decide the matter within a reasonable time. At a hearing, any party may appear in person or be represented by agent or by an attorney. (Ord. of 8-27-8
- (b) Stay of proceedings. Pursuant to G.S. 160D-406(f), when an appeal is taken, it stays all legal proceedings in furtherance of the action appealed from, unless the official who made the decision certifies to the Board of Adjustment after the notice of appeal has been filed that, because of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation, then, enforcement proceedings are not stayed except by a restraining order which may be granted by a court. (Ord. of 8-27-87)

Section 13.5 Notice

Notice of Hearing. – Notice of evidentiary hearings conducted pursuant to this Chapter shall be given in accordance with G.S. 160D-406(b). Procedures include but are not limited to mailing to the person or entity whose appeal 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. Notice must be deposited in the mail at least 10 days, but not more than 25 days, before 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.

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CHAPTER 13 BOARD OF ADJUSTMENT

Section 13.6 Evidentiary hearing

- (a) Standards for evidentiary hearing. For any of the proceedings identified in Section 11.3 , the chair shall administer oaths. The Board shall conduct an evidentiary hearing to gather competent, material, and substantial evidence in order to make findings for the required quasi-judicial decision.
- (b) Who may participate - Pursuant to G.S.160D-406(d), the applicant, the town, and any person who would have standing to appeal a decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. As allowed by the Board, other witnesses may also speak if they present competent, material, and substantial evidence that is not repetitive. The chair shall preside and rule on any objections.

Section 13.7 Voting

Pursuant to G.S. 160D-406(i), the concurring vote of a majority vote of the membership of the Board of Adjustment shall be required to grant a special use permit or to overrule any decision of the zoning enforcement officer, building inspector or other town official empowered under this chapter. A variance requires a four- fifths vote.

Section 13.8 Written decision

Pursuant to 160D-406(j), each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and its application to the applicable standards, and be approved by the board and signed by the chair 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. The board shall inform in writing all the parties involved of its decisions and the reasons therefor. (Ord. of 8-27-87)

Section 13.9. Appeals from Decisions of Board.

Appeal from the decisions of the board of adjustment shall be to Superior Court of Caswell County. Such appeal must be made within 30 days after the filing of the board's decision with the Town Clerk. (Ord. of 8-27-87)

TOWN OF YANCEYVILLE ZONING ORDINANCE
CHAPTER 14 AMENDMENTS

Section 14.1. Authority.

Acting in its legislative capacity, the town council may amend, supplement or change the the Zoning Ordinance and zoning map according to the procedures in this chapter. Procedures for zoning text or map amendments are governed by Article 6 Development Regulation of G.S. 160D.

Section 14.2. Action by applicant.

The following actions shall be taken by the applicant for an amendment of the Zoning Ordinance or zoning map ~~district lines~~:

- (1) *Initiation of amendments.* Proposed changes may be initiated by the town council, planning board, board of adjustment, by one or more owners or lessees of property within the area proposed to be changed or affected or by any resident of the city.
- (2) *Application.* The application for any change shall clearly and fully describe the change requested and the names and addresses of the owners of the property. Such application shall be filed not later than two weeks before the meeting of the planning board at which the application is to be considered.
- (3) *Fee.* A fee established by the town council shall be paid to the town from each application for a change to cover the costs of advertising and other administrative expense.

Section 14.3. Action by planning board and statement of consistency.

The following action shall be taken by the planning board for amendment of the text of the Zoning Ordinance or zoning map:

- (1) *Planning board statement of consistency.* The planning board shall make recommendations to the town council at its next regular meeting concerning each proposed zoning change. As provided in G.S.160D-604, when conducting a review of a proposed zoning text or map amendment, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive or land-use plan adopted by the Town or any other applicable adopted plan.

The planning board shall provide a written recommendation to the governing board that comments on plan consistency and other matters deemed appropriate by the board. However, a comment by the planning board that a proposed amendment is inconsistent with the comprehensive or land-use plan shall not preclude consideration or approval of the proposed amendment by the Town Council.

- (2) *Time limit.* The board shall have 45 days within which to submit its report. If the planning ~~and zoning~~ board fails to submit a report within the 45-day period, it shall be deemed to have approved the amendment.]\

CHAPTER 14 AMENDMENTS

(3) *Time limits of reconsideration.* No new petition for the same change in zoning of the same property or any part thereof shall be accepted within one year from the date of the filing of the last petition. However, the planning board shall reserve the right to waive the requirement, provided that the planning board determines that unusual circumstances or unnecessary hardships warrant a waiver.

Section 14.4 Notice of public hearing

(a) *Media Notice.* A notice of a public hearing for a text amendment or a zoning map amendment shall be given once a week for two (2) consecutive calendar weeks in a newspaper of general circulation in Caswell County. Such notice shall be published the first time not less than ten days nor more than twenty-five (25) before the date fixed 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) *Additional Notice Required for Zoning Map Amendment*

1. *Mailed Notice:* Whenever there is a zoning map amendment, the owner of that parcel of land and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing and across any transportation corridors, shall be mailed a notice of the public hearing on the proposed amendment by first class mail. The notice shall be deposited in the mail at least ten (10) but not more than twenty-five (25) days before the date of the public hearing. The person or persons mailing such notices shall certify to the Town Council that fact, and such certificate shall be deemed conclusive in the absence of fraud.
2. *Posted Notice:* Whenever there is a Zoning Map amendment. 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. If multiple parcels are being rezoning, not every parcel must be posted, but information posted should show the scale of the rezoning request with a map or multiple rezoning notices. The duration of the posted notice shall at a minimum run 25 days prior to the hearing until 10 days prior to the hearing

Section 14.5. Action by town council.

- (a) *Legislative hearing.* Following public notice, the Town Council shall hold a legislative hearing for citizen comment before adopting, amending, or repealing a provision of this ordinance or the zoning map. The town council shall consider the proposed changes at the next regularly scheduled meeting of the town council following public notice.
- (b) *Written Citizen Comments.* As provided by G.S. 160D-603 as written on hereafter amended, a resident or property owner in the town may submit a written statement regarding a proposed amendment, modification, or repeal the zoning ordinance to the clerk to the board at least

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two business days before the proposed vote on such change. The clerk to the board shall deliver such written statement to the town council.

(c) *Action and statements by council.* Before taking such lawful action as it may deem advisable, the town council shall consider the planning board's recommendations on each proposed zoning amendment and shall approve the following:

1. Plan Consistency Statement. – When adopting or rejecting a Zoning Ordinance text amendment or a zoning map amendment, the town council shall follow the requirements of G.S. 160D-605(a) for adoption of a plan consistency statement. This shall be a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive or land-use plan. This requirement may also be met by a clear statement in the minutes that at the time of action on the amendment, the town council was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive or land-use plan.
2. Additional Reasonableness Statement for Rezoning (map amendments). – When adopting or rejecting a proposed zoning map amendment, the town council shall adopt a statement analyzing the reasonableness of the proposed rezoning. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, 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
3. Single Statement Permissible. – The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement