

TOWN OF WINFALL
NORTH CAROLINA

ZONING ORDINANCE

Effective Date: December 8, 1986

Amended: March 20, 1997

Amended: January 10, 2006

Amended: June 14, 2021

Signed: _____


Frederick L. Yates, Mayor Town of Winfall

WINFALL ZONING ORDINANCE

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ARTICLE I TITLE, ENACTMENT AND PURPOSE

Section 1.01 Title and Enactment

An ordinance, in pursuance of the authority granted by the North Carolina General Statutes Chapter 160D for the purposes of promoting the public health, safety, morals and general welfare; to provide for the establishment of districts within Winfall, North Carolina; to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the required open space, the density of population and the uses of land, buildings and other structures to provide methods of administration of this ordinance and to prescribe penalties for the violation thereof.

NOW THEREFORE, the Town Council of the Town of Winfall, North Carolina, does hereby ordain and enact into law the following Articles and Sections, this the 8th day of December 1986.

Section 1.02 Short Title

This ordinance shall be known as the "Zoning Ordinance." The map herein referred to which is identified by the title "Official Zoning Map of Winfall, North Carolina" shall be known as the "Zoning Map."

Section 1.03 Purpose

In accordance with the provisions of Chapter 160D of the General Statutes of North Carolina, the Town Council of Winfall, having designated the Winfall Planning Board as the planning agency to prepare a zoning plan showing proposed district boundaries and recommending a procedure by which the zoning regulations and restrictions and the boundaries of the zoning districts shall be determined, established, and enforced and from time to time amended, supplemented, or changed and having received from the Planning Board a certified plan taking into consideration the character of each district and its peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the town, hereby adopts this zoning ordinance.

The zoning ordinance has been prepared in accordance with a comprehensive plan for the development of Winfall and is designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements and to give reasonable consideration to the expansion and development of the Town so as to provide for its orderly growth and development.

ARTICLE II ESTABLISHMENT OF ZONING DISTRICTS AND PROVISION FOR ZONING MAP

Section 2.01 Official Zoning Map

For the purposes of this ordinance, the Town of Winfall is hereby divided into zones or districts as shown on the "Official Zoning Map of Winfall, NC," which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this ordinance.

The official zoning map shall be identified by the signature of the mayor of the Town of Winfall and attested by the clerk and bearing the seal of the Town under the following words: "This is to certify that this is the official zoning map referred to in Article II of the Zoning Ordinance of Winfall, NC," together with the date of adoption of this ordinance.

If, in accordance with Article XI of this ordinance, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be promptly entered on the official zoning map after the amendment has been approved by the Town Council.

Pursuant to NCGS 160D-105, current and prior Zoning Maps shall be maintained in paper or digital format in the Town Hall for public inspection. Any state or federal maps incorporated by reference into the Zoning Map shall also be maintained.

Section 2.02 Rules Governing the Interpretation of District Boundaries

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

1. Boundaries indicated as approximately following the center lines of streets, highways or railroad rights-of-way shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following corporate limits shall be construed as following such corporate limits;
4. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
5. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
6. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances not covered by subsections 1 through 5 above, the Town Council shall interpret the district boundaries.
7. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Town Council may permit, as conditional use, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

ARTICLE III APPLICATION OF REGULATIONS

Section 3.01 Territorial Application

The provisions of this ordinance shall apply to all lands, waters, and structures and uses on them within the zoning jurisdiction of Winfall, North Carolina as now or hereafter established.

Section 3.02 Use, Occupancy and Construction

No building, structure or land shall hereafter be used or occupied, and no structure or part of one shall hereafter be constructed except in conformity with all of the regulations specified in this ordinance for the district in which it is located.

Section 3.03 Height, Bulk, Density, Lot Coverage, Yards and Open Spaces

No building or other structure shall hereafter be erected or altered to exceed the height or bulk requirements of this ordinance; nor to accommodate a greater number of families than allowed by this ordinance; nor to occupy a greater percentage of lot area than allowed by this ordinance; nor to have narrower or smaller front yards, side yards, rear yards or other open spaces than required by this ordinance; nor shall any building, structure or land be used in any other manner contrary to the provisions of this ordinance.

Section 3.04 Computation of Required Spaces

No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

Section 3.05 Reduction of Lots or Areas Below Minimum

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

Section 3.06 One Principal Building on Any Lot

Only one (1) principal building and its customary accessory buildings may hereafter be erected on any lot except as authorized in this ordinance in Section 6.05 below.

Section 3.07 Lot Access Requirements

No structure requiring a building permit shall be erected on any lot which does not abut either a public right-of-way or a private street or easement at least thirty (30) feet in width which has been approved by the Town Council and recorded by the Register of Deeds of Perquimans County.

Section 3.08 Vision Clearance at Intersections

On a corner lot which abuts a state-maintained right-of-way in any district, no planting, structure, fence, wall, or other obstruction to vision more than three (3) feet in height shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight-line connecting point on said street lines each of which is twenty-five (25) feet distance from the point of intersection. On all other rights-of-way proper setback for vision clearance shall be determined by the zoning administrator, but in no case shall the requirement exceed that above.

Section 3.09 Walls and Fences

The setback requirements of these regulations shall not prohibit any necessary retaining wall or prohibit any wall or fence. However, within or abutting any residential district no wall or fence shall exceed six (6) feet in height within a front or side yard.

Section 3.10 Structures Excluded from Height Limitations

The height limits of these regulations shall not apply to a church spire, belfry, cupola, dome or ornamental tower, monument, water tower, transmission tower, chimney, smokestack, conveyor, flagpole, radio or television tower, mast or aerial, parapet wall not extended more than four (4) feet above the roof line of the building, necessary mechanical appurtenances, and any other feature not for human occupancy.

Section 3.11 Reduction of Front Yard Setback Requirements

In any residential district where the average setback distance for existing buildings on all lots located wholly or partly within two hundred (200) feet of any lot and within the same zoning district and fronting on the same side of the same street as such lot, is less than the minimum setback required in said zoning district, the setback on said lot may be less than the required setback but not less than the existing average setback distance for all lots within the two hundred (200) feet and in no case shall the setback be less than fifteen (15) feet. When lots within the two hundred (200) feet are vacant, those vacant lots shall be considered as having the minimum required setback for the purpose of computing an average setback distance.

Section 3.12 Conversion of Existing Structures to Condominium Ownership

Existing structures not in condominium ownership under the Unit Ownership Act of the State of North Carolina may be converted to unit ownership provided the owner or developer shall comply with all provisions of this ordinance for obtaining a building permit and site plan approval, as applicable, as in new construction and further, that before the existing structure shall be converted to unit ownership in accordance with the North Carolina Unit Ownership Act, the structure shall meet all of the requirements and standards of the current building code in effect at the time that the conversion is made.

ARTICLE IV INTERPRETATION AND DEFINITION OF TERMS

Certain or terms used in this ordinance shall be interpreted as follows:

Section 4.01 Interpretation of Common Words & Terms

Words used in the present tense include the future tense.

Words used in the singular number shall include the plural, and words used in the plural shall include the singular.

The word "person" includes a firm, co-partnership, company, organization, trust, association, or corporation as well as an individual.

The word "lot" includes the words "plot, parcel" or "tract. "

The word "building" includes the word "structure. "

The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied. "

The word "shall" is always mandatory.

The word "may" can be permissive.

Section 4.02 Definition of Specific Terms and Words

Administrative decision - Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in NCGS Chapter 160D or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

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

Adult Entertainment Establishment

1. Adult bookstore;
2. Adult motion picture theater housed in a permanent indoor structure;
3. Clubs and other places of entertainment operated as a commercial enterprise providing nude or seminude entertainment such as "topless" dancing;
4. Eating and drinking establishments providing nude or seminude entertainment such as "topless" dancing;
5. Any physical culture establishment, masseur, massage parlor, health salon or club not otherwise defined by this Ordinance; and
6. Adult motels and hotels.

Adult Bookstore - An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals (including videos and DVDs) which are distinguished or

characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," for observation by patrons therein.

Adult Motels and Hotels - A place where motion pictures not previously submitted to or not rated by the Motion Picture Association of America are shown in rooms designed primarily for lodging, which said motion pictures have as the dominant primary theme matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," for observation by patrons therein.

Adult Motion Picture Theater- An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Alley - A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street and which may be used for public utility purposes.

Buffer Strip - A device of material and space used to provide sight and sound screening from adjoining properties. The required height and width of the buffer strip and the materials used in its construction vary according to use. Where a buffer strip is required under the provisions of this ordinance, such buffer strip shall be approved by the zoning administrator.

Building - Any structure used or intended for supporting or sheltering any use or occupancy.

Building, Accessory- A subordinate building consisting of walls and a roof, the use of which is clearly incidental to that of a principal building on the same lot. Accessory buildings may be placed in any rear or side yard but may be no closer than five (5) feet from any property line.

Building, Principal - A building in which is conducted the principal use of the lot on which it is located.

Building Height - The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of a flat roof; to the deck line of a mansard roof, or to the antennae attached to the building and/or projections from buildings. Radios, TV communication and water towers are not to be included in the calculations of building height. Structures in all residential districts are limited to thirty-five (35) feet from the bottom of all windows, rooflines, balconies, etc.

Building Setback Line - A line parallel to or concentric with the street right-of-way establishing the minimum allowable distance between such right-of-way and the nearest portion of any building, excluding the outermost three (3) feet of any uncovered porches, steps, eaves, gutters, and similar fixtures.

Comprehensive plan - A comprehensive plan that has been officially adopted by the Town Council pursuant to NCGS 160D-501.

Condominium - Ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all the occupants together with individual ownership in fee of a particular dwelling unit in such building.

Drive-In Restaurant or Refreshment Stand - Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages to customers in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Dwelling - A building that contains one (1) or two (2) dwelling units used, intended, or designed to be used, rented leased, let, or hired out to be occupied for living purposes.

Dwelling Unit - A single unit providing complete, independent living, sleeping, eating, cooking and sanitation.

Dwelling, Single Family - A detached building designed for or occupied exclusively by one family. This includes modular homes as defined below.

Dwelling, Two - Family (Duplex) - A detached building, divided horizontally or vertically and designed for or occupied by two single-family housekeeping units contained entirely under one roof and having one dividing partition common to each unit or having the ceiling structure of the lower unit the floor structure of the unit above.

Dwelling Multiple - A building or portion of one used or designed as a residence for three (3) or more families living independently of each other and doing their own cooking therein. This definition includes apartment houses.

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

Family - One or more persons occupying a single-family dwelling unit provided that unless all members are related by blood or marriage, no such family shall contain more than five (5) persons.

Governing Board - The Town Council.

Home Occupation - The accessory use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods or services under the requirements of Section 6.04.

Junk Yard - Two hundred (200) square feet or more of land area used for the storage of junked or scrapped materials or for the storage of two or more unregistered motor vehicles.

Landowner or owner - The holder of the title in fee simple. Absent evidence to the contrary, the Town may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

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

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

Lot - A parcel of land which fronts on and has ingress and egress by means of a public right-of-way or an approved private street and which is occupied or intended to be occupied by a building or group of buildings as provided herein with the customary accessories and open spaces.

Lot Area - The total horizontal area included within lot lines.

Lot, Corner - A lot of which at least two adjoining sides abut for their full lengths on a street, provided that the interior angle at the intersection of two such sides is less than one hundred thirty-five (135) degrees.

Lot Depth - The average distance from the street line of the lot to its rear line measured in a general direction of the side lines of the lot.

Lot Lines the lines bounding a lot as defined herein.

1. **Lot Line - Front** The line separating the lot from that street which is designated as the front street on the building permit, certificate of occupancy or subdivision plat.
2. **Lot Line, Rear** - The lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line, not less than thirty (30) feet long and wholly within the lot.
3. **Lot Line, Side** - A side lot line is any lot boundary line not a front lot line or rear lot line.

Lot Width - The width of a lot at the required building setback line measured at right angles to its depth.

Lot of Record - A lot which is part of a subdivision recorded in the office of the Perquimans County Register of Deeds or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Manufactured Home - Includes Double-Wide and Triple-Wide Homes - A manufactured home meeting and labeled in compliance with the HUD administered National Manufactured Housing Construction and Safety Standards Act of 1976. Built on a chassis with body width exceeding eight (8) feet or body length exceeding thirty-two (32) feet, designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities. *A travel trailer is not to be considered a manufactured home.*

Manufactured Home Park - A parcel or tract of land under single ownership which has been planned and improved for the placement of manufactured homes for dwelling purposes, provided that each ~~mobile~~ manufactured home park existing at the time of passage of this ordinance and not meeting the minimum requirements of this ordinance shall be considered a nonconforming use.

Medical Clinic - A building or structure or portion thereof where medical services are provided for outpatients only.

Modular Home - A dwelling unit consisting of one or more components, constructed in compliance with the North Carolina Uniform Residential Building Code for One or Two Family and comprised of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. The term is intended to apply to major assemblies and does

not include prefabricated panels, trusses, plumbing trees, and other prefabricated sub-elements which are to be incorporated into a structure at the site.

Non-Conforming Use - A use of building or land which does not conform with the regulations of the district in which such building or land is situated but was lawful before adoption of this ordinance.

Open Space - An unoccupied space open to the sky.

Open Storage - Unroofed storage area, whether fenced or not.

Parking Space - A vehicular storage space of not less than ten (10) feet by twenty (20) feet, plus the necessary access space. It shall always be located outside any dedicated right-of-way.

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

Sign - See Section 6.02.

Site plan - A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site-plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.

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

Street -

1. Any permanently dedicated public right-of-way which has been accepted for maintenance by the State Department of Transportation; or
2. Any other open area providing the principal means of access for vehicles or pedestrians from a public right-of-way to a building or use of land and which: Is at least thirty (30) feet in width; and
3. Has been approved by the Town Council as a street to satisfy the requirements of this chapter; and Is covenanted by its owner to remain open and unobstructed throughout the life of any building or use which depends thereon to satisfy any requirement of this chapter.

Structure - Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Townhouse - A single-family dwelling on its own individual lot but connected on two (2) sides by means of a common wall for at least ten (10) feet of its length to two others single-family dwellings or an end dwelling of a row of such dwellings. No more than six (6) such dwelling units may be attached in a single group.

Trailer - includes any of the following:

1. **Travel Trailer** - A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, and factory equipped for the road.
2. **Pick-Up Coach** - A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
3. **Motor Home** - A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
4. **Camping Trailer** - A folding structure of canvas or other material mounted on wheels and designed for travel, recreation, and vacation use.

Trailer Park - A parcel or tract of land under single ownership which has been planned and improved for the temporary placement of campers or trailers as a service to the traveling public. Each trailer park existing at the time of passage of this ordinance which does not meet the minimum requirements established for trailer parks by this ordinance shall be considered a non-conforming use.

Use A "use" is:

1. Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or
2. Any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

Use, Accessory - A use which is clearly incidental to and customarily found in connection with the principal use and located on the same lot with such principal use.

Use, Principal - The specific primary purpose for which land is used.

Use, Special - A use which is permitted in a district only if a permit therefore is expressly authorized by the Town Council.

Use, Temporary - A use which may be located in a zoning district not allowing the use on a permanent basis, after issuance of a permit by the Town Council specifying a limited duration for the use.

Variance - A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance a variance is authorized only for height, area and size of structure or size of yards and open spaces. The establishment or expansion of any use otherwise

prohibited shall not be allowed by variance nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Vested Right - A right pursuant to §NCGS 160D 102, -108, and -108.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

Yard - A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility or any other requirement of this ordinance, and further provided that customary accessory buildings may be located in any side or rear yard no closer than five (5) feet to any property line and subject to other limitations of this ordinance.

Yard, Front - A yard extending between side lot lines across the front of a lot adjoining the public street. Depth of required front yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be essentially parallel.

Yard, Rear - A yard extending across the rear of the lot between side lot lines. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line. In the case of lots abutting more than one street, there may be no rear yard but only front and side yards.

Yard, Side - A yard extending from the rear line of the required front yard to the rear yard. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

Zoning Administrator - An official or designated person of the Town of Winfall charged with enforcing and administering the Zoning Ordinance.

Zoning Enforcement Officer - An official or designated person by the Town of Winfall authorized to enforce the provisions of the Zoning Ordinance.

Zoning Lot - A parcel or contiguous parcels of land under single ownership containing sufficient land area for the proposed development.

Zoning Permit - A permit issued by the Zoning Administrator which must be obtained prior to establishment of a use within a zoning district.

ARTICLE V NON-CONFORMITIES

Section 5.01 Intent

Within the districts established by this ordinance or amendments that may later be adopted there exist lots, structures, uses of land and structures and characteristics of use which were lawful before this ordinance was passed or amended but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. It is the intent of this ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded, or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, that excavation, demolition, or removal shall be actual construction, provided that work shall be carried on diligently.

Section 5.02 Regulation of Non-conformities

Non-Conforming Lots of Record

1. Customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance even though limitations may be imposed by other provisions of this ordinance. The lot must be in separate ownership and not be continuous frontage with other lots in the same ownership. This provision shall apply even though the lot fails to meet the requirements for area or width or access that are generally applicable in the district, except that in district R2 the area of any such lot shall be at least eighty (80%) percent of the minimum required in that district. Yard dimensions and requirements other than those applying to area or width or access of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment as established in Section 10.02 *Variances* of this ordinance.
2. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

Non-Conforming Uses of Land

Where at the time of passage of this ordinance lawful use of land exists that would not be permitted by the regulations imposed by this ordinance and where the use involves no individual structure with a

replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful provided:

1. No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
2. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance.
3. If any such non-conforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which the land is located.
4. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with the non-conforming use of land.

Non-Conforming Manufactured Homes

Where an individual manufactured home is located on a lot in a zoning district in which a manufactured home is not a permitted use, it may be replaced with another manufactured home provided that:

1. All other applicable state and county requirements are met; and
2. Such replacement must occur within thirty (30) days. After such time, the non-conforming manufactured home may only be replaced with a conforming structure.

Non-Conforming Manufactured Home Parks

1. Where a non-conforming manufactured home park is in a zoning district in which manufactured home parks are not permitted, the park may not be expanded in any manner. The park may continue to be operated as a non-conforming use with the same number of spaces for which improvements had been made on the date of adoption of this ordinance if all other applicable state and county requirements are met. When such non-conforming manufactured home park is discontinued or abandoned for six (6) consecutive months (except when government action impedes access to the premises), the land shall not thereafter be used except in conformity with the regulation of the district in which it is located.
2. Where a manufactured home park is in a zoning district in which a manufactured home park is permitted but is non - conforming because it does not meet the requirements of this ordinance, the park may continue to be operated as long as all other applicable state and county requirements are met.

Non-Conforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of- this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot or other requirements concerning the structure, the structure may be continued so long as it remains lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion of it may be altered to decrease its non-conformity.
2. If any such non-conforming structure or nonconforming portion of the structure is destroyed by any means to an extent of more than seventy-five (75) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance. However, any destroyed

nonconforming structure may be rebuilt to its original dimensions if a permit for rebuilding is obtained within one hundred eighty (180) days from the date of destruction. Thereafter, it shall not be rebuilt except in conformity with the regulations of the district in which it is located.

3. If any such structure is moved for any reason for any distance whatever, it shall then conform to the regulations for the district in which it is located after it is moved.

Non-Conforming Uses of Buildings or of Buildings and Premises in Combination

If lawful use involving buildings with a replacement cost of \$1,000 or more or of building and premises in combination exists at the effective date of adoption or amendment of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any non-conforming structure or use of structures may be changed to any conforming use or with the approval of the Town Council to any use more in character with uses permitted in the district. In permitting such a change, the Council must find that the proposed use is more appropriate or equally a's appropriate to the district as the existing non-conforming use and shall require appropriate conditions and safeguards necessary to ensure that the change is in keeping with the provisions and spirit of this ordinance.
4. Any structure or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.
5. When a non-conforming use of a structure or structure and premises in combination is discontinued or abandoned for six (6) consecutive months (except when government action impedes access to the premises) the structure or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.
6. However, any destroyed non-conforming structure may be rebuilt to its original dimensions if a permit for rebuilding is obtained within one hundred eighty (180) days from the date of destruction. Thereafter it shall not be rebuilt except in conformity with the regulations of the district in which it is located.

Repairs and Maintenance of Non-Conforming Structures

1. In any non-conforming structure or portion of a structure containing a non-conforming use work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding ten (10) percent of the current replacement cost of the nonconforming structure or

non-conforming portion of the structure, as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

2. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by the building inspector to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.
3. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

Special Uses. Use Provisions Not Non-Conforming

Any use which is permitted as a special use in a district under the terms of this ordinance shall not be deemed a non-conforming use in such district but shall without further action be considered a conforming use.

ARTICLE VI GENERAL PROVISIONS AND SUPPLEMENTARY REQUIREMENTS

Section 6.01 Off-Street Parking Requirements

At the time of erection of any building or structure or at the time any main building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area, or before conversion from one zoning use or occupancy to another, permanent off-street parking spaces shall be provided according to the amounts and specifications provided by this ordinance.

A. *General Provisions*

1. Each parking space shall have a minimum length of twenty (20) feet and a minimum width of ten (10) feet. It shall have vehicular access to a publicly dedicated street or alley except as authorized in Section 6.05 of this ordinance for group development.
2. Except for required spaces for residential units, sufficient maneuvering space shall be provided so that no vehicle will be required to back into the public right-of-way.
3. No parking spaces for residential use except for single-family and two-family use shall be in the required front yard setback area.
4. Required parking spaces and driveways for other than single-family and two-family uses shall be graded, improved, and maintained in a manner which will provide a dust-free surface permitting safe and convenient use in all weather conditions.
5. Required off-street parking spaces are permanent areas and shall not be used for any other above-ground purpose.
6. For uses not specifically mentioned in this ordinance, off-street parking requirements shall be applied by the zoning administrator based upon requirements for similar use.
7. All space requirements which are based upon employment shall be computed based on the greatest number of persons on duty at any one period during the day or night. In instances where calculations indicate a portion of one (1) space is required, an additional full space shall be provided.
8. Each application for a building permit or certificate of occupancy submitted to the zoning administrator shall include information as to the location and dimensions of off-street parking and loading spaces and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the zoning administrator to determine whether the requirements of this section are met.
9. The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use except that one-half of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.
10. Any off-street parking space required by any use permitted in any residential district shall be provided on the same lot with the use by which it is required. Off-street parking spaces in conjunction with commercial and industrial uses in other districts shall not be permitted in a residential district.

B. *Requirements for Parking Lots*

Where parking space for five (5) or more cars is permitted or required, the following provisions shall be complied with:

1. **Yards** - No parking lot shall be located closer than five (5) feet to a public right-of-way. The area between the parking lot and street right-of-way shall be planted and maintained with a lawn or other appropriate planting or shall be improved otherwise as approved in site plan review.
2. **Curb Bumpers** - The required front and side yards shall be set off from the parking area by a fixed curb of masonry or wood not less than six (6) inches nor more than two (2) feet high.
3. **Lighting** - Any lighting shall be so arranged as to direct the light and glare away from streets and adjacent property.
4. **Surfacing** - All parking lots shall be provided with an adequate surface to provide safe and convenient access in all weather conditions.
5. **Drainage** - Parking lots shall not drain onto or across public sidewalks or into adjacent property except into a natural water course or a drainage easement.
6. **Markings** - Each parking space shall be marked off and maintained to be distinguishable.
7. **Entrances** - On all corner lots no vehicular openings shall be located at closer than fifteen (15) feet from the point of intersection of the established street right-of-way lines. No entrance or exit shall exceed thirty (30) feet in width at the property line or forty (40) feet at the curb line.
8. **Internal Circulation** - The internal circulation plan of parking lots shall be approved by the zoning administrator.

C. Minimum Parking Requirement

The number of off-street parking spaces required by this section shall be provided on the same lot with the Principal use except as provided in Subsection A (9) above, and the required number of off-street parking spaces specified for each use shall be considered as the absolute minimum.

TYPE OF USE	PARKING REQUIRED
Adult Establishment, General - which does not fall into one of the specific categories in this subsection	Five (5) spaces per 1,000 sq. ft.
Apartments	Two (2) spaces per dwelling unit plus (1) visitor space per unit.
Auditoriums, Assembly Halls, Gymnasiums, Theaters, Community Centers, Churches	One (1) space per four (4) fixed seats in largest assembly room or area, or one (1) space for each 40 sq. ft. of floor area available for the accommodation of movable seats in the largest assembly room, or one (1) space per 150 sq. ft. of gross floor area.
Automobile service stations	One (1) space per each gasoline pump plus one (1) space per each service bay, plus one (1) space for each employee. Driveway access to pumps and bays shall not be counted as off-street parking space.
Commercial Developments with multi use and/or structures	Five (5) spaces per 1,000 sq. ft. of gross floor area.

Commercial Recreation, Indoors	One (1) space for each 150 sq. ft. of gross floor area, or one (1) space per each four (4) seats of facilities available for patron use, whichever is greater.
Commercial Recreation, Outdoors	one (1) space per each tee, green, court, cage, and/or other method of participation however styled, plus one (1) per employee.
Congregate Living Facility or Family Care Home	One (1) space per employee of largest shift, plus One (1) space per facility vehicle, plus (1) additional space.
Convenience Stores	One (1) space per 200 sq. ft. of gross floor area; restaurant area including seating area inside or outside of the building – one (1) space per 75 sq. ft. of gross floor area.
Banks and similar financial institutions	One (1) space per employee plus one (1) space per 300 sq. ft. plus a waiting lane for each drive-up window or station with a capacity of five (5) vehicles. All waiting lanes shall be located off street right-of way.
Bar, Cocktail Lounge, Tavern, and Coffeehouse	Two (2) spaces per five (5) seats and/or barstools.
Bed and Breakfast	One (1) space per guest room plus two (2) spaces for owners and one (1) space per facility vehicle.
Brewery, Microbrewery, and Distillery	Four (4) spaces per 1,000 sq. ft. of retail space plus one (1) space per employee of largest shift; and one (1) space per facility vehicle.
Brewpub	Two (2) spaces per five (5) seats and/or barstools plus three (3) spaces per 1,000 sq. ft. of brewing area.
Day Care Home and Centers, Children	One (1) space per employee and one (1) space per facility vehicle, plus four (4) additional spaces. Centers with more than fifteen (15) children shall provide one (1) additional space per each additional five (5) children.
Day Care Home and Centers, Adult	One (1) space per employee plus one (1) space per facility vehicle, plus one (1) space per fifteen (15) clients.

Dwellings, single-family or duplex	Two (2) spaces per dwelling unit.
Dwellings, multi-family (i.e., apartments, condominium, etc.)	Two (2) spaces per dwelling unit, and one (1) visitor space per unit.
Fire and Police Stations	One (1) space per each person on duty on a normal shift plus one (1) space per facility vehicle.
Flea Market	Three (3) spaces per 1,000 sq. ft. of gross floor area indoors and/or outdoor area devoted to sales.
Funeral homes	One (1) space per each forty (40) square feet of floor area available for seating accommodations.
Gas Station	Five (5) spaces per 1,000 sq. ft. of building/structure area.
Hotels & Motels	At least one (1) space per guest room and one (1) space per employee. Banquet and convention facilities that are part of a hotel or motel shall provide one (1) space per each four (4) seats as established by the current N.C. State Building Code as amended for "Occupant Load."
Home Occupations	One (1) space per dwelling with maximum of three (3) spaces.
Hospital	One (1) space per each three (3) beds intended for patients (except bassinets) plus one (1) space per each medical staff member, plus (1) space per each two (2) other employees on shift of average greatest employment.
Industrial, Manufacturing, and Wholesaling Establishments	One (1) space per each two (2) employees on the shift of greatest employment, plus one (1) space for each vehicle used directly in conduct of such use.
Libraries	One (1) space per each 150 sq. ft. of gross floor area for public use, plus one (1) space per each two (2) employees on shift of greatest employment.
Manufactured Home Parks	At least two (2) spaces per each lot

Medical and Dental Offices and Clinics	Four (4) spaces for each doctor practicing at the facility plus one (1) space per each employee.
Museums and art galleries.	One (1) space per each four (4) seats in rooms for public assembly or for one-hundred-fifty (150) square feet of gross floor area for use by the public, whichever is greater, plus one (1) space for each two (2) employees on shift of average greatest employment.
Nursing homes, rest homes, homes for the aged	One (1) space for each three (3) patient beds.
Office, business and professional - which does not fall into one of the specific categories in this subsection	One (1) space per each 200 sq. ft. of gross floor area.
Post Offices	One (1) space per each 200 sq. ft. of gross floor area, plus one (1) space per each two (2) employees on the shift of average employment.
Professional Recovery Facility	One (1) space per employee of largest shift, plus one (1) per facility vehicle, plus one (1) per five (5) residents.
Restaurants, cafes, and other eating establishments with no drive-through service	One (1) space per four (4) seats, plus one (1) space per employee
Restaurants with drive through service	Two (2) spaces per five (5) seats, plus one (1) space per employee, plus a waiting lane for each drive-thru window or station with a capacity for five (5) vehicles. All waiting lanes shall be located off street right-of-way.
Retail stores and service businesses (i.e., Barber shop, tailors, etc.) which do not fall into one of the specific categories in this subsection	One (1) space per 200 sq. ft. of gross floor area.
Roadside stands, new and used car sales, house and truck trailer sales, outdoor equipment and machinery sales, commercial nurseries.	Two spaces per each salesperson on duty during period of average greatest employment, plus one (1) space per each two (2) other employees during the period/shift of greatest employment.
Schools, elementary	Three (3) spaces per each room used for administrative offices or class instruction, or one (1) space for each six (6) seats in auditoriums and other places of assembly or facilities available to the public, whichever is greater.
Schools, high school, business, vocation, and trade	Five (5) spaces per each room used for administrative offices or class instruction, or one (1) space for each five (5) seats in auditoriums

	and other places of assembly or facilities available to the public, whichever is greater.
Veterinary Clinics, Kennels	Five (5) spaces for every 1,000 sq. ft.

D. Off-Street Loading

Where off-street loading space is required under the dimensional requirements of a particular district, one or more loading berths or other space shall be provided for standing, loading, and unloading operations either inside or outside a building and on the same or adjoining premises with every building or structure erected after the enactment of this ordinance, all to be in accordance with the requirements of the following table. A loading berth shall have minimum plan dimensions of twelve (12) feet by five (25) feet and a fourteen (14) foot overhead clearance. A loading space need not be necessarily a full berth but shall be sufficient to allow normal loading and unloading operations of a kind and magnitude appropriate to the property served thereby. The zoning administrator shall determine the sufficiency of loading space, but in no case shall the use of such space hinder the free movement of vehicles and pedestrians over a street, sidewalk, or alley.

Square Feet of Gross Floor Area	Required number of Berths
0-25,000	1
25,000-40,000	2
40,000-100,000	3
100,000-160,000	4
160,000-240,000	5
240,000-320,000	6
320,000-400,000	7
Each additional 90,000 above 400,000	1

Section 6.02 Regulations Governing Signs

A. Definition

1. For the purposes of this ordinance a sign is any surface, fabric or device bearing lettered, pictorial, or sculptured matter designed to convey information visually and exposed to public view, or any structures including billboard or poster panels designed to carry visual information. However, the following shall not be included in the application of these regulations:
 - a. Signs not exceeding one (1) square foot in area and bearing only property numbers, postbox numbers, names of occupants of premises or other identification of premises not having commercial connotations;
 - b. Flags and insignia of any government except when displayed in connection with commercial promotion;
 - c. Legal notices, identification, informational or directional signs erected or required by governmental bodies or public utilities;

- d. Integral decorative or architectural features of buildings except letters, trademarks, moving parts or moving lights; and
 - e. Signs directing and guiding traffic and parking on private property but bearing no advertising matter.
2. Signs are defined as either on-site signs or off-site signs.
- a. An on-site sign is one relating in its subject matter to the premises on which it is located or to products, services, accommodations, or activities on those premises.
 - b. An off-site sign is any sign other than an on-site sign including signs erected for the provision of outdoor displays or display space as a business on a lease or rental basis.

B. *Number and Area*

For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area. The area of a double-faced sign shall be the area of one face of the sign provided that the two faces are of the same size and are parallel to one another with no more than twenty-four (24) inches between each sign face.

C. *Building Permit Required*

No sign shall hereafter be erected or attached to, suspended from, or supported on a building or structure nor shall any existing sign be structurally altered, remodeled, or relocated until a building permit has been by the zoning administrator. No permit is required for signs enumerated in Subsection H.

D. *Material and Design*

All signs shall be constructed and designed according to generally accepted engineering practices to withstand wind pressure and load distribution as specified in Section 804 of the North Carolina Building Code, 1958, as amended.

E. *Inspection Required*

Each sign may be subject to an annual inspection by the zoning administrator for the purpose of assuring that the structure is maintained in a safe condition. The fee for the annual inspection shall be in accordance with a regularly adopted fee schedule of the county. When a sign becomes structurally unsafe, the zoning administrator shall give written notice to the owner of the sign or the owner of the premises on which the sign is located that the sign shall be made safe or removed within ten (10) days of receipt of notice.

F. *Illuminated Signs*

All signs in which electrical wiring and connections are to be used shall require a permit and shall comply with the North Carolina Electrical Code and be approved by the zoning administrator.

G. Prohibited Signs

1. No sign may be erected or maintained which is a copy or imitation of an official highway sign and carrying the words "stop" or "danger. " No sign shall be erected or maintained which involves flashing or intermittent red, green or amber illumination or resembles a traffic control signal or sign.
2. No sign may obstruct corner visibility or visibility at a driveway between a height of two (2) feet and ten (10) feet.
3. No sign may be posted on any telegraph, telephone, or electric light poles or on any tree along any street except for approved street name signs.
4. No sign may obstruct ingress and egress to any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any room or building as required by law.
5. No sign may violate any provision of any law of the State of North Carolina relative to outdoor advertising.
6. No sign may be erected which contains, employs, or utilizes lights or lighting which rotates, flashes, moves, or alternates except for otherwise approved time or temperature signs.
7. No sign may be located within a public right-of-way or within thirty (30) feet of the center line of any public thoroughfare.

H. Signs Permitted in the R-1 and R-2 Residential Districts

1. An indirectly lighted nameplate or professional sign not over two (2) square feet in area may be permitted with an approved home occupation.
2. Temporary real estate signs not exceeding two (2) square feet in area directing the way to premises which are for sale, rent or lease provided such signs shall be neatly painted or printed and shall be removed promptly when the property has been sold, rented, or leased.
3. Directional signs not over four (4) square feet in area indicating the location of churches, schools, hospitals, parks, scenic or historic places or other places of general interest. Any such sign and mounting shall not exceed three (3) feet total height.
4. One name sign or bulletin board not exceeding twelve (12) square feet for any permitted church, school, or other non-commercial institution. The sign or board may be indirectly lighted and shall be set back at least fifteen (15) feet from the property line.
5. Temporary real estate signs not exceeding six (6) square feet in area advertising the sale, rent or lease of the premises on which located. However, these signs shall not be less than fifteen (15) feet from any street or lot line, shall not be illuminated, shall be neatly painted, and maintained and shall be removed promptly when the property has been sold, leased, or rented.
6. Temporary non-illuminated signs not exceeding six (6) square feet in area advertising the general contractor, contractor, subcontractor, architect, landscape architect or other such professional persons or organizations engaged in or associated with the

lawful construction, alteration, remodeling, or demolition of any building or use. However, these signs shall be limited to one (1) for each organization involved and shall be set back from the property line at least fifteen (15) feet and shall be removed within thirty (30) days after the completion of the general contract.

7. A sign not to exceed two (2) square feet in area announcing the name, owner, or location of a dwelling.
8. Non-illuminated signs not over twelve (12) square feet in area announcing the name of a subdivision or group housing project located on the premises at major entrances. However, these signs must be neatly constructed and maintained and limited to announcing only the name of the subdivision or group housing project and must not obstruct corner visibility.
9. Directional signs in parking lots if required by Section 6.01 of this ordinance.

I. Signs Permitted in the GB and HC Districts

1. On-Site Signs

For each lot in commercial use one (1) square foot of business sign area for each two (2) lineal feet of frontage on a public right-of-way may be allowed. However, the total sign area for any single lot may not exceed a total of five hundred (500) square feet. No single sign may exceed sixty-four (64) square feet in area. The sign area may be in a single or in a combination of signs subject to the following limitations:

- a. One (1) free-standing sign per lot may be located either temporarily or permanently on the ground but shall not exceed sixty-four (64) square feet in area and shall not exceed twenty (20) feet in height above street grade. For a lot which has frontage on more than one (1) public right-of-way there may be two (2) signs, neither of which may exceed sixty-four (64) square feet in area.
- b. Window signs shall be placed only inside a commercial building and shall not exceed seventy-five (75) percent of the glass area of the pane upon which the sign is displayed.
- c. Projecting signs may project from the building over the street right-of-way, alley, or other public space provided that the sign does not extend beyond a vertical plane twenty-four (24) inches inside the curb line. The bottom clearance of such sign shall be at least ten (10) feet above the finished grade of the sidewalk along the street and at least fourteen (14) feet above grade at alleys and corners.
- d. Wall signs placed against the exterior walls of buildings shall not extend more than six (6) inches beyond the building wall surface and shall not exceed twenty-five (25) percent of the exposed, finished wall surface area including openings.

2. Off-Site Signs

None permitted except for directional signs which do not exceed thirty two (32) square feet in area nor ten (10) feet in height.

3. Temporary Signs

Temporary non-illuminated signs not exceeding six (6) square feet in area are permitted to announce new businesses or seasonal activities (e.g., Christmas) and shall be removed after thirty (30) days.

This section authorizes the establishment of certain temporary uses of limited duration and special events, provided that such uses do not negatively affect adjacent land, and provided that such uses or events are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure. Temporary use permits shall be reviewed and approved or disapproved by the Town Council.

A. *General Requirements*

- 1) All applications for temporary use permits shall include a site plan and a written description of the proposed use or event, the duration of the use or event, and if applicable, the hours of operations, anticipated attendance, and any buildings, structures, signs, or attention-attracting devices used in conjunction with the use or event. The Town Council shall require written permission of the property owner that the temporary use may occur on the property. The Town Council may require reasonable proof of ownership or authorization from any person submitting an application for a temporary use permit.
- 2) The temporary use permit shall not be issued unless the plans, specifications, and intended use of such buildings, structure, land, or part thereof conform in all respects to the provisions of this Ordinance.
- 3) The Town Council may establish any additional conditions deemed necessary to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including but not limited to, hours of operation, temporary arrangement of parking and traffic circulation, requirements of screening/buffering, and guarantees for site restoration and cleanup of the temporary use.
- 4) No temporary signs shall be permitted in a public right-of-way or off-premises of the temporary use. All temporary signs associated with the temporary use shall be displayed no sooner than one week prior to the commencement of the temporary use and shall be removed no later than two days after the end of the temporary use. All temporary signs shall meet the requirements of Section 6.02 Signs.
- 5) No structures, sales, displays, rides, or activities pertaining to the event or sale shall be permitted in any required setback, public or private right-of-way or landscaping areas.
- 6) No use regulated by this section may occupy required parking spaces, access, maneuvering areas, or loading spaces or areas designated for another use.

B. *Voiding of a Temporary Use Permit*

In the event of failure to comply with the plans approved by the Town Council, or with any other conditions imposed upon the Temporary Use Permit, the permit may be void and of no effect. In accordance with GS 160D-403(f), staff shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval.

C. *Specific Regulations for Temporary Uses and Structures*

1. Temporary Construction Office Trailers

- a. The property owner or contractor shall have secured the appropriate zoning and building permits for the proposed construction project.
- b. The temporary structure shall be factory-fabricated and transportable.
- c. Adequate off-street parking shall be provided for the temporary structure.
- d. The temporary construction trailer shall be removed within ten (10) days after final inspection of the permanent structure or expiration of the corresponding building permit, whichever event occurs first.

2. Temporary Real Estate Sales Offices

- a. Shall be permitted in any residential zoning district for on-site sales of land or residences located only within subdivisions where such office is located.
- b. Any such temporary use must be terminated not more than thirty (30) days from the date that eighty (80) percent of the lots or residences within that subdivision are sold.

D. Temporary Uses Not Listed

Other temporary uses not listed may be granted by the Town Council. In considering approval of a temporary use, the Council may attach reasonable and appropriate conditions to ensure the public health, safety and welfare are protected. The approval of a temporary use shall be in accordance with the following:

1. The proposed use will not endanger the public health, safety and welfare;
2. The proposed use will not have a substantial negative impact on the adjoining properties; and
3. The use will be approved for a specific period of time, not to exceed one (1) year.

Section 6.04 Home Occupations

Home occupations may be approved as Special Use Permit in residential districts by the town council under the provisions of Section 8.05(E) provided that the following conditions are met as well as any additional conditions and safeguards that may be required by the council as conditions of its approval with the landowner's written consent to the conditions.

1. Not more than fifty (50) percent of the total floor area of the principal or accessory building may be used for a home occupation.
2. No electrical machinery may be used which has a rating of over two (2) horsepower.
3. There may be only one (1) person employed in the occupation other than those residing on the premises.
4. In addition to the parking requirement for a residence, off-street parking shall be provided for customers.
5. Only one (1) sign not to exceed two (2) square feet may be erected. The sign may not be lighted.
6. No activity or mechanical devices may be used which cause the residential character of the neighborhood to be impaired by the generation of sounds, light, odor, or vibration.
7. Customer traffic shall be limited to the hours between 6:00 a.m. and 10:00 p.m.

Section 6.05 Manufactured Home Park Regulations

A. General Regulations

1. Location and Maintenance of Parks

No person may maintain, operate, or occupy a manufactured home park within the zoning jurisdiction of the town unless the park meets the requirements of this ordinance. If two (2) or more manufactured homes are located on the same undivided lot or tract of land, they must meet the requirements of this section.

2. Application for Park Permits

Application for a Special Use Permit to develop, operate, alter, or maintain a manufactured home park shall be made to the zoning administrator under the provisions of Section 8.05(E). The application for a permit shall include the following:

- a. A plan for the general layout of the park containing the information required below:
 1. The area to be used for the park showing property lines and adjacent zoning and land use;
 2. Driveways, entrances, exits, roadways and walkways;
 3. Location of manufactured home spaces and buildings;
 4. Location and quantity of proposed sanitary conveniences including proposed toilets, washrooms, laundries, recreation and utility areas and utility rooms;
 5. Method and plan of sewage disposal;
 6. Location and quantity of refuse containers.
 7. Plan of water supply; and
 8. Plan of electric lighting.
- b. Plans and specifications for any building to be constructed on the site.
- c. Further information may be required by the zoning administrator or county health department to enable them to determine if the proposed park will comply with the regulations of this ordinance and other applicable laws.

3. Sanitary Facilities, Water Supply, Sewage, Refuse Disposal and Utilities

In every park and related permanent building all installations of plumbing and electrical wiring and all gas and oil appliances shall comply with the provisions of the building, plumbing and electrical, heating and gas ordinances and codes and any other applicable regulations of the town. In addition, the following requirements must be met:

- a. Each manufactured home space shall be provided with plumbing and electrical connections.
- b. Water supply - Every manufactured home park shall be connected to the Town of Winfall water system. The water supply for each manufactured home shall be obtained only from approved connections located on each manufactured home space or inside each manufactured home.
- c. Sewage disposal - Each manufactured home space shall connect to the Town's wastewater collection system.
- d. Refuse disposal - All garbage and refuse in every park shall be stored in suitable receptacles in accordance with Town of Winfall requirements.

4. Registration

It shall be the duty of the operator of the park to keep an accurate register containing a record of all manufactured homes or trailers, owners, and occupants of the park. The register shall contain the following information:

- a. Name and address of owner and each occupant.
- b. License number and state of issue of each licensed vehicle.
- c. Space number in which the manufactured home or trailer is parked.
- d. Date of entering park. Date of leaving park.

B. Specifications for Manufactured Home Parks

1. Every manufactured home park shall be at least one (1) acre in area. ✓
2. The size of a manufactured home space shall not be less than six thousand (6,000) square feet.
3. Each manufactured home space shall be at least fifty (50) feet wide and clearly marked. There shall be twenty (20) feet clearance between manufactured homes including manufactured homes parked end-to-end. No manufactured home shall be located closer than twenty (20) feet to any building within the park, within twenty (20) feet of any exterior boundary line of the park and no closer than fifteen (15) feet to the edge of any interior street.
4. All manufactured home spaces shall abut upon an interior drive of no less than twenty (20) feet in width, which shall have unobstructed access to a public street or highway. It is the intent of this section that individual manufactured home spaces shall not have unobstructed access to public streets or highways except through an interior drive. All interior drives shall be graded and maintained so that they are passable in all weather.
5. Dead end drives shall not exceed one thousand (1,000) feet in length. Any interior street designed to be permanently closed shall have a turnaround at the closed road.
6. Drives shall intersect as nearly as possible at right angles, and no drive shall intersect at less than seventy-five (75) degrees. Where a drive intersects a public street or highway, the design standards of the North Carolina Department of Transportation shall apply.
7. Suitable vehicular access for firefighting and emergency equipment, delivery of fuel, removal of refuse, parking, and removal of manufactured homes and for other necessary services shall be provided.
8. Each manufactured home park shall have one (1) or more recreation areas with a minimum size of two thousand five hundred (2,500) square feet which shall be easily accessible to all park residents. Additional recreation space shall be based upon a minimum of two hundred (200) square feet for each manufactured home space within the park. Recreation areas shall be located to be free of traffic hazards and should, where topography permits, be centrally located.
9. Parking space sufficient to accommodate at least two (2) automobiles shall be located on each manufactured home space.
10. No manufactured home park shall be located on ground that is subject to flooding. The park shall be graded so as to prevent any water from ponding or accumulating on the premises. All ditch banks shall be sloped and seeded to prevent erosion.
11. The manufactured home park shall have a visual buffer such as shrubbery or fencing not less than six (6) feet in height between the park and any adjacent residential uses other than manufactured homes.

12. The area of the manufactured home space shall be improved to provide an adequate foundation for the placement of the manufactured home as required by the NC building code.
13. Each manufactured home shall be securely anchored in accordance with NC building code standards.
14. Each manufactured home space shall be equipped with plumbing and electrical connections and shall be provided with electrical current in sufficient amount to safely meet the maximum anticipated requirements of a manufactured home.
15. Management - In each manufactured home park the permittee or duly authorized attendant or caretaker shall be in charge at all times to keep the manufactured home park, its facilities and equipment in a clean, orderly, safe, and sanitary condition.

Section 6.06 Adult Entertainment Establishment

Objective and Purpose

It is recognized that there are some uses which, because of their nature, may have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon adjacent areas, or when the uses are proposed to be located in or near sensitive areas or land uses. It is recognized that special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized below:

Site Considerations

1. No adult entertainment establishment shall be located within one thousand (1,000) feet of another adult entertainment establishment, which shall be measured from the exterior walls of the building(s) containing such regulated use.
2. No adult entertainment establishment shall be located within one thousand (1,000) feet of any area zoned for residential use (R1, R2) or from the property line of residential unit (s), churches, synagogues, temples, nursery schools, day care centers (child/ adult) and public or private schools, in all zoning districts, which will be measured from the property line (s) containing such regulated use.

Screening

Screening is required around the entire perimeter of any adult entertainment establishment. This screening shall consist of a naturally wooded area or planted with a mixture of evergreen and deciduous trees and shrubs to simulate a naturally wooded area or planted with a mixture of evergreen and deciduous trees and shrubs to simulate a naturally wooded area within three (3) years. This screening shall be located in a fifteen (15) foot wide buffer.

Required Plan (in addition to those listed at the top of this section)

1. Location of existing structures on property within one thousand (1,000) feet of exterior wall (s) of the regulated use.
2. Zoning of properties within seven hundred fifty (750) feet of each property line of the regulated use.
3. Other information that may be necessary to judge the probable effect of the proposed activity on neighboring properties and to carry out the intent of this Ordinance.

Operational Considerations

1. If applicable, all viewing booths shall be open and be visible to manager (s) of the establishment.
2. If applicable, there shall be a minimum separation between patrons and performers.
3. Masseuses and servers of food and beverage shall at all times wear a shirt and pants.
4. No nude or seminude service or entertainment of any kind shall be allowed outside the building of a regulated use.
5. The adult entertainment establishment shall be limited to one (1) wall sign per premise. The sign shall not be internally lighted. Maximum sign shall be twenty (20) square feet.

Article VII SCHEDULE OF DISTRICT REGULATIONS

Regulations limiting the use of buildings and land and the bulk and arrangement of buildings within the zoned areas established under this ordinance are hereby adopted for the Town of Winfall, North Carolina. Any use not specifically designated as a permitted or conditional use shall be prohibited. These district regulations may be amended by the Town Council as provided in Article XI of this ordinance.

Section 7.01 R-1 - Low Density Residential District

A. Intent

The R-1 district is intended to encourage the development of permanent low-density residential neighborhoods. These districts are located primarily in areas which are protected from more intensive uses of the land.

B. Permitted Uses

The following uses shall be permitted by right:

1. Detached single-family dwellings including modular homes but not manufactured homes.
2. Customary accessory buildings including private swimming pools and tennis courts.

C. Special Use Permits Required

The following uses are permitted subject to the requirements of this district and additional regulations and requirements imposed by the Town Council as provided in Section 8.05(E).

1. Churches and cemeteries require a minimum of one (1) acre.
2. Fire stations, schools, and other public buildings.
3. Home occupations as defined in Section 6.04 of this ordinance.
4. Condominiums and townhouses. These must be distinct from and separated by a buffer from existing neighborhoods / developments.
5. Private clubs. These may include boat launching areas, golf courses, tennis courts, community centers, libraries, picnic areas and concessions integral thereto, provided that there is no open commercial activity, and no sign other than a directional sign is allowed.
6. Public utility facilities. A vegetated buffer strip at least ten (10) feet in height where the facility abuts a residential lot or use must be provided.

D. Dimensional Requirements

1. Minimum lot size: Not less than eight thousand (8,000) square feet.
2. Minimum lot width: Seventy-five (75) feet (measured at the building setback line).
3. Minimum front yard: Fifteen (15) feet.
4. Minimum side yard: Ten (10) feet. An additional ten (10) foot side yard adjacent to the street is required for a corner lot.
5. Minimum rear yard: Twenty (20) feet.
6. Maximum allowable lot coverage by principal use and all accessory structures: Thirty (30) percent.
7. Height limitation: Thirty-five (35) feet.

Note: See Article IV, Section 4.02 for building, accessory.

Section 7.02 R-2 - General Residential District

A. Intent

The general residential district is established to control the development of areas which exhibit a pattern of urban growth characterized by a mixture of dwelling types in relatively close proximity. These regulations are intended to permit the continued development of those areas but to control factors which will minimize the conflict between residential use of the land and other uses.

B. Permitted Uses

The following uses shall be permitted by right:

1. Detached single-family dwellings including modular homes and manufactured homes (see Note 3 below).
2. Customary accessory buildings including private swimming pools and tennis courts.

C. Special Use Permit Required

The following uses are permitted subject to the requirements of this district, additional regulations and requirements imposed by the town council as provided in Section 8.05(E):

1. Churches and cemeteries require a minimum of one (1) acre.
2. Fire stations, schools, and other public buildings.
3. Home occupations as defined in Section 6.04 of this ordinance.
4. Condominiums and townhouses. These must be distinct from and separated by a buffer from existing neighborhoods /developments.
5. Private clubs. These may include boat launching areas, golf courses, tennis courts, community centers, libraries, picnic areas and concessions integral thereto provided that there is no open commercial activity, and no sign other than a directional sign is allowed.
6. Public utility facilities. A vegetated buffer strip at least ten (10) feet in height must be provided where the facility abuts a residential lot or use. Manufactured home parks under provisions of Section 6.06.

D. Dimensional Requirements

1. Minimum lot size: Not less than eight thousand (8,000) square feet.
2. Minimum lot width: Seventy-five (75) feet, measured at the building setback line.
3. Minimum front yard: Fifteen (15) feet.
4. Minimum side yard: Ten (10) feet. An additional ten (10) foot side yard adjacent to the street is required for a corner lot.
5. Minimum rear yard: Twenty (20) feet.
6. Maximum allowable lot coverage by principal use and all accessory structures: Thirty (30) percent.
7. Height limitation: Thirty-five (35) feet.

Notes: Building.

1. **See Article IV, Section 4.02 for building, accessory.**
2. **Existing lots containing dwellings will be grandfathered" at existing dimensions.**
3. **Double-wide manufactured homes shall have a bricked in foundation. Single-wide manufactured homes shall have as a minimum a professionally installed underpinned foundation. This must be accomplished within ninety (90) days of installation.**

Section 7.03 GB - General Business District

A. Intent

The intent of this district is to provide for a centrally located commercial, trade and services area for the town. These regulations are designed to encourage the continued use of land for commercial purposes and to permit concentrated development of the district while maintaining a substantial relationship between intensity of land use and the capacity of utilities and streets.

B. Permitted Uses

The following uses shall be permitted by right:

1. Offices including business, financial, governmental, medical, and professional.
2. Retail stores including clothing, dry goods, drugs, hardware, gifts, jewelry, sporting goods, food stores, appliances, furniture, and florists.
3. Service establishments including barber and beauty Shops, churches, dry cleaning and laundry pickup, post offices and medical clinics.
4. Customary accessory uses.
5. Government buildings including police and fire stations.
6. Signs as permitted in Section 6.02 Parking lots and loading areas.

C. Special Use Permit Required

The following uses are permitted subject to the requirements of this district and any additional regulations and requirements imposed by the Town Council as provided in Section 8.05(E).

1. Public utility facilities (must provide a Vegetative buffer strip at least ten (10) feet in height where the facility abuts a residential lot or use).
2. Adult entertainment establishments.
3. Funeral homes/ crematorium.

D. Dimensional Requirements

1. Minimum lot size: Twenty thousand (20,000) square feet. Commercial lots shall be of sufficient size to provide adequate siting for structures, and to provide off-street parking, loading and maneuvering space for vehicles as required by Section 6.01 of this ordinance. In addition, a visual buffer is required where a commercial use or zone abuts a residential use or zone.
2. Minimum front yard: Five (5) feet.
3. Minimum side yard: Five (5) feet (no side yard is required if a commercial building is constructed with a common wall).

4. Height limitation: Thirty-five (35) feet.
5. Maximum lot coverage by principal use and all accessory structures including parking lots: sixty (60) percent.

Section 7.04 HC - Highway Commercial District

A. Intent

The purpose of this district shall be to provide for and encourage the proper grouping and development of roadside uses which will best accommodate the needs of the motoring public.

B. Permitted Uses

The following uses shall be permitted by right:

1. All uses allowed in the general business district.
2. Auto, truck and boat sales and service
3. Banks
4. Cafes and restaurants including drive-in restaurants
5. Construction companies and equipment storage
6. Contractors' offices
7. Convenience grocery stores
8. Drive-in restaurants
9. Farm equipment sales and repair
10. Garden centers and hardware sales
11. Motels and hotels
12. Manufactured home sales
13. Produce markets
14. Poultry markets
15. Repair services
16. Supermarkets
17. Woodworking and sales
18. Signs as permitted in Section 6.02
19. Wholesale uses
20. Indoor recreation centers
21. Parking lots and loading areas.

C. Special Use Permit Required

1. Shopping centers
2. Gasoline stations, provided that no building or storage tank shall be located within Five Hundred (500) feet of a residential use or district and that no portion of a gasoline station building, equipment or gas pumps shall be nearer than twenty-five (25) feet to any right-of-way.
3. Chemical storage or sales shall not be any closer than five hundred (500) feet from an existing residence or residential district boundary.

4. Manufacturing, fabrication, storage, and warehousing may be permitted provided that the Town Council finds that the use will not create conditions obnoxious or detrimental to adjacent development.
5. Adult entertainment establishments.
6. Marinas, campgrounds, restaurants, and similar activities may be permitted under the following conditions:
 - a. Adequate scaled site plans shall be submitted to allow for review of the size and location of all buildings, structures, streets, drives and parking spaces and their relationship to any open spaces and adjacent properties and showing the following information:
 1. A soil survey and drainage plan prepared by the U.S. Soil Conservation Service or its equivalent prepared by a professional engineer licensed by the State of North Carolina.
 2. A site plan showing the exact location of principal and accessory buildings, driveways, parking lots, required setbacks from property lines and any areas impervious to water.
 3. Access for emergency and public service vehicles.
 4. Provisions for water supply and sewage disposal.
 5. Any additional information deemed necessary by the Town Council to evaluate the proposal.
7. Condominiums and townhouses. These must be distinct from and separated by a buffer from existing neighborhoods/developments.

D. Dimensional Requirements

1. Minimum lot size: Twenty thousand (20,000) square feet. Lots shall be of sufficient size to provide adequate siting for structures and to provide off-street parking, loading and maneuvering space for vehicles as required by Section 6.01 of this ordinance. In addition, a visual buffer is required where a commercial use or zone abuts a residential use or zone.
2. Minimum front yard: Fifteen (15) feet.
3. Minimum side yard: Ten (10) feet except that a fifteen (15) foot side yard adjacent to a street is required for a corner lot.
4. Minimum rear yard: Twenty (20) feet.
5. Maximum allowable lot coverage by principal use and all necessary structures including parking lots shall be no greater than Sixty (60%) percent.
6. Height limitation: Thirty-five (35) feet.

ARTICLE VIII ADMINISTRATION AND LEGAL PROVISIONS

Section 8.01 Town Council

A. *Zoning Powers and Duties*

The Winfall Town Council shall have certain powers and duties to be carried out in accordance with this Ordinance which include, but are not limited to, the following:

1. to initiate and make amendments to the text of this Ordinance and to the Zoning Map;
2. to hear, review and adopt or reject amendments to the text of this Ordinance and to the Zoning Maps;
3. to take such other action not delegated to the Planning Board or Board of Adjustment as the Town Council may deem desirable and necessary to implement the provisions of this Ordinance.

B. *Oath of Office*

All members appointed to boards shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26 and G.S. 160A-61. (NCGS 160D-309)

C. *Conflict of Interest*

A Council member shall not vote on any legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Council 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. "Close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. (NCGS 160D-109)

D. *Minutes*

Pursuant to GS 160D-308, the Town Council shall keep minutes of its proceedings.

Section 8.02 Planning Board

A. *Zoning Powers and Duties*

The Winfall Planning Board shall have certain powers and duties to be carried out in accordance with this Ordinance which include, but are not limited to the following:

1. to review and make recommendations to the Town Council on all matters relating to the land use planning and zoning, including all comprehensive land use plans within the jurisdiction of the Town of Winfall, whenever such matters require the attention of the Town Council;
2. to adopt such rules of procedure necessary for the administration of its responsibilities consistent with this Ordinance;

3. to assume any other duties assigned by the Town Council.

B. *Number of Board Members; Appointment*

The Planning Board shall consist of five (5) regular members and two (2) alternate members who shall be citizens and residents of the Town of Winfall. They shall be appointed by the Town Council.

C. *Length of Terms.*

Terms of appointment shall be for three (3) years and there shall be no limits of appointment. Any appointee may be removed at any time with cause by a majority vote of the Town Council.

D. *Vacancies*

Vacancies that may occur for reasons other than term expiration, shall be filled by appointment of the Town Council for the period of the unexpired term.

E. *Oath of Office*

Pursuant to GS 160D-309 all members appointed to the Planning Board shall, before entering their duties, qualify by taking an oath of office as required by GS 160A-61. (NCGS 160D-309)

F. *Minutes*

Pursuant to GS 160D-308, the Planning Board shall keep minutes of its proceedings.

G. *Conduct of Meetings*

All meetings of the Planning Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each issue and the absence or failure of any member to vote. Minutes shall be maintained by the Town Clerk and shall be available for public review.

H. *Notice*

The Board shall comply with North Carolina Public Meetings Law prior to the public meeting.

I. *Conflict of Interest*

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

has a close familial, business, or other associational relationship. "Close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. (NCGS 160D-109)

Section 8.03 Board of Adjustment

A. Powers and Duties

The Winfall Board of Adjustment shall have certain powers and duties to be carried out in accordance with this Ordinance which include the following:

1. to hear and decide appeals from any specific order, requirement, decision or determination made under this Ordinance by the Zoning Administrator in accordance with the provisions of Section 10.01;
2. to hear and decide petitions for variances from the regulations of this Ordinance in accordance with the provisions of Section 10.02;
3. to hear, decide, and authorize the issuance of Special Use Permits;
4. to adopt such rules of procedure necessary for the administration of its responsibilities consistent with this Ordinance.

B. Terms of Appointment

The Town Council shall perform the function of the Board of Adjustment as outlined above. The terms of appointment for the Board of Adjustment shall be the same as they are for the member's term on the Town Council.

C. Oath of Office

Pursuant to NCGS 160D-309 all members appointed to the Board of Adjustment shall, before entering their duties, qualify by taking an oath of office as required by NCGS 160A-61. (NCGS 160D-309)

D. Minutes

Pursuant to NCGS 160D-308, the Board of Adjustment shall keep minutes of its proceedings.

E. Voting.

The concurring vote of four-fifths (4/5ths) of the total membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which it is required to pass under this Ordinance. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

F. Notice

The Board shall not take any action under their powers and duties, as described in Section 8.03(A), until a public hearing is held. Notice of such public hearing shall be posted on the property for which the petition is sought and in a local newspaper at least ten (10) days and no more than twenty-five (25) days prior to the public hearing.

G. Conflict of Interest

A Board of Adjustment member when exercising any quasi-judicial function shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. "Close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild, the step, half, and in-law relationships. (NCGS 160D-109)

Section 8.04 Zoning Administrator

A. Appointment and Powers

The Town of Winfall shall appoint a Zoning Administrator. It shall be the duty of the Zoning Administrator to administer and enforce the provisions of this Ordinance, to pursue all available remedies for enforcement, and to settle all violations that involve the payment of money to the Town. Appeals from a decision of the Zoning Administrator concerning this Ordinance shall be made to the Board of Adjustment as provided in Article X, Appeals and Variances, of this Ordinance.

B. General Duties

In addition to any authority granted by other laws and ordinances, the Zoning Administrator shall have certain powers and duties to be carried out in accordance with this Ordinance which include, but are not limited to, the following:

1. to serve as an advisor and provide staff support to the Planning Board, the Board of Adjustment and to the Town Council with regards to their function under this Ordinance;
2. to inform such bodies of all known facts and information pertaining to amendments to the text and maps of this Ordinance, the preparation, adoption and updates of land plans and any other matters brought before him;
3. to maintain and interpret the text of this Ordinance and the Zoning Maps;
4. to maintain development review files and other public records related to the administration and enforcement of this Ordinance;

5. to review applications for zoning permits, temporary use permits, special use permits, property rezoning applications and variances to determine compliance with the intent and provisions of this Ordinance;
6. to authorize the issuance of certificates of compliance after determining that the provisions of this Ordinance have been met;
7. to assist the public in its understanding of the zoning process by providing instructions regarding procedure and applications and by interpreting the Zoning Ordinance; and
8. to establish such rules of procedure as are necessary and proper for the administration of responsibilities under this Ordinance.

C. *Delegation*

The Zoning Administrator may designate other individuals to assist with carrying out the administration of this Ordinance under his authority.

D. *Records*

The Zoning Administrator shall ensure that appropriate records are maintained of all permit applications, determinations, site plans and permits issued. These may be made available for inspection for interested parties.

E. *Inspection and Enforcement*

The Zoning Administrator shall conduct or authorize inspections of premises and take other lawful action to ensure compliance with the provisions of this Ordinance.

F. *Appeals*

Appeals from a decision of the Zoning Administrator shall be made to the Board of Adjustment as provided in Section 10.01.

G. *Conflict of Interest*

No staff member shall make a final decision on an administrative decision required by NCGS 160D if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. "Close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild.

If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under NCGS 160D unless the staff member is the owner of the land

or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

Section 8.05 Permits and Administrative Decisions

A. *Applicability.*

No person shall undertake any development activity or use of land that is subject to this Ordinance without a Zoning Permit.

B. *General Requirements*

1. Applications, including appropriate site plans to ensure compliance with the standards of this Ordinance, shall be submitted by the property owner or his authorized agent. The Zoning Administrator may require reasonable proof of ownership or authorization from any person submitting an application for a permit.
2. The application shall be accompanied by such information as the Zoning Administrator may require, to ensure that such development conform in all respects to the provisions of this Ordinance.
3. Application fees for all permits shall be set by a fee schedule adopted by the Town Council.

C. *Zoning Permit*

No building, sign or other structure shall be erected, enlarged, or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be started until a zoning permit has been issued in accordance with the provisions of this Ordinance. The Zoning Administrator shall not issue a zoning permit unless the plans, specifications, and intended use of such buildings, structure, land, or part thereof conform in all respects to the provisions of this Ordinance. The zoning permit shall lapse and become invalid if the development for which it was issued has not started within six (6) months of the date issued or if the development is suspended or abandoned for a period of at least one (1) year.

D. *Special Use Permit*

The development and execution of this Ordinance is based upon the division of the Town's jurisdiction into districts where the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for that use in that particular location. In these cases, a Special Use Permit must be obtained.

1. Authority.

Special Use Permits may be granted by the Winfall Board of Adjustment as permitted by NCGS 160D-705. The Board shall follow quasi-judicial procedures pursuant to NCGS 160D-406.

2. Procedures.

All applications for special use permits shall include a development site plan. The Board of Adjustment may require additional information in order to evaluate the impact of the proposed development. The Board of Adjustment may waive a particular requirement if in its opinion the inclusion is not essential to a proper decision of the project. The Board of Adjustment may impose reasonable conditions in addition to those listed in this section or in other parts of this Ordinance. Applications for special use permits may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

- A. Public Notice. The Zoning Administrator shall set and post a date and time for a public hearing before the Board of Adjustment to gather competent, material, and substantial evidence to establish the facts of the case. The notice of such hearing shall be posted in the Town Hall, at least ten (10) days before the date set for the evidentiary hearing, but not more than twenty-five (25) days before the evidentiary hearing. The Zoning Administrator shall also cause to be mailed, at least ten (10) days before the hearing, a first-class letter to all adjoining property owners the names of whom he has made a good faith effort to obtain notifying them of the Special Use Permit request. For the purpose of this section, properties are "adjoining" even if separated by a street, railroad, or other transportation corridor. The person mailing such notice shall certify that such notices have been mailed.

In addition, the property for which the special use is proposed shall be posted not more than twenty-five (25) and not less than ten (10) days before the evidentiary hearing. The Board may continue an evidentiary hearing that has been convened without further advertisement.

If an evidentiary hearing is set for a given date and a quorum of the Board is not then present, the hearing shall be continued until the next regular Board meeting without further advertisement.

- B. Administrative Materials. The Zoning Administrator shall transmit to the Board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the Board prior to the hearing if at the same time they are distributed to the Board a copy is also provided to the applicant and to the landowner if that person is not the applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or

exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the Board at the hearing.

- C. Presentation of Evidence. The applicant, the Town, and any person who would have standing shall have the right to fully participate including presenting competent, material, and substantial evidence relevant to the case at the evidentiary hearing, cross-examining witnesses, objecting to evidence, and making legal arguments. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board. Opinion testimony from a lay witness shall not be considered evidence for technical matters such as property values and traffic impacts.
- D. Action by the Board. The Board of Adjustment shall consider the application and competent, material, and substantial evidence presented at the evidentiary hearing and may grant or deny the Special Use Permit requested.

No vote greater than a majority vote shall be required for the Board of Adjustment to issue such permits. For the purpose of this section, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the Board' for calculation of the requisite majority. When deciding special use permits, the Board of Adjustment shall follow quasi-judicial procedures. The Mayor, Zoning Administrator or Clerk to the Board shall be authorized to administer the required oath prior to receiving testimony.

The Special Use Permit, if granted, shall include approval of plans as may be required. In granting the permit, the Board of Adjustment shall find:

1. that the use will not materially endanger the public health or safety if located where proposed and developed in according to the plan as submitted and approved;
2. that the use meets all required conditions and specifications;
3. that the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
4. that the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Winfall Comprehensive Land Development Plan.

The Board of Adjustment may issue special use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits with the landowner's written consent to the conditions. 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 itself and shall be binding on the original applicants for the Special Use Permit, their heirs, successors and assigns.

If the Board denies the Special Use Permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken.

3. Revocation of a Special Use Permit.

In the event of failure to comply with the plans approved by the Board of Adjustment, or with any other conditions imposed upon the Special Use Permit, the Zoning Administrator shall issue a stop work order in accordance with NCGS 160D-404(b). In accordance with GS 160D-403(f), a Special Use Permit may be revoked by notifying the holder in writing stating the reason for the revocation. Staff shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. No building permits for further construction or certificates of occupancy under this Special Use Permit shall be issued, and all completed structures shall be regarded as nonconforming uses subject to the provisions of this Ordinance; provided, however, that the Board of Adjustment shall not be prevented from thereafter rezoning said property for its most appropriate use.

4. Modifying a Special Use Permit.

Modifications of the original plans required to be submitted and approved, as part of the application for a Special Use Permit, may be authorized by the Board of Adjustment.

5. Appeals.

Appeals may be taken from the action of the Board of Adjustment in granting or denying a Special Use Permit through the Perquimans County Superior Court.

E. Administrative Development Approvals and Determinations

It shall be the responsibility of the Zoning Administrator to make determinations under development regulations.

1. Determinations and Notice of Determination. Determinations shall be given in writing to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

2. Duration of Development Approval. A development approval issued expires one year after the date of issuance if the work authorized by the development approval has not been substantially commenced.

3. Changes. After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained.
4. Inspections. Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the 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.
5. Revocation of Development Approvals. In addition to initiation of enforcement actions under NCGS 160D-404, development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable 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. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to NCGS 160D-405.
6. Appeals. If an appeal is filed regarding an administrative development approval or determination pursuant to this Article, the provisions in Section 10.01 of this Ordinance regarding stays apply.

Section 8.06 Determination of Exact Location of Zoning District Boundary Lines

The Zoning Administrator shall decide the exact location of zoning district boundary lines when a question arises concerning boundary lines shown on zoning maps, subject to administrative review by the Board. The determination of the exact location of a zoning district's boundary line shall be guided by the provisions of Section 2.02 (Rules Governing Interpretations of District Boundaries).

Section 8.07 Interpretation, Purpose and Conflict

In interpreting and applying the provisions of this Ordinance they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements,

covenants or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction 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 8.08 Separability

Should any article, section, subsection, paragraph, sentence, clause, phrase, or district boundary of this Ordinance and/or the Zoning Map which is a part of this Ordinance herein or hereafter adopted be decided by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of these regulations and the Zoning Map as a whole or any part thereof other than the part so decided to be unconstitutional or invalid. The Town Council hereby declares that it would have adopted this Ordinance and Zoning Map, irrespective of the fact that any one or more articles, sections, subsections, paragraphs, sentences, clauses, phrases, or district boundaries be declared unconstitutional or invalid.

Section 8.09 Vested Rights

Zoning "vested rights" as established under G.S. NCGS 160D-102, -108, and -108.1 ensures that a properly issued development approval will protect the applicant against zoning changes that will affect the allowable type and intensity of use.

A person claiming a vest right (had obtained a building permit to construct a residence or started a development and/or had a site-specific plan approved by your Board). The Zoning Administrator would determine if in fact the person has a vested right, and his decision may be appealed to the Board of Adjustment.

Process to Claim Vested Right:

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the Zoning Administrator. The Zoning Administrator shall determine if a vested right exists. The Zoning Administrator's determination may be appealed to the Board of Adjustment. 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 take an original civil action appeal to the Perquimans County Superior Court.

Duration and Types of Statutory Vested Rights:

- A. **Six months – Building Permits.** Pursuant to GS 160D-1111, a building permit expires six months after issuance unless work under the permit has commenced. If after commencement the work is discontinued for a period of twelve (12) months, the permit shall immediately expire. No work authorized by any building permit that has expired shall thereafter be performed until a new permit has been secured.
- B. **One year – Other Development Approvals.** Pursuant to GS 160D-403(c), unless otherwise specified by statute or local ordinance, all other development approvals expire one year after

issuance unless work has substantially commenced. Expiration of a 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 Development Plans.** A site-specific development plan shall be vested for two years after it is approved. Amendments shall not extend the vesting period unless specified at the time of approval.
- D. **Seven years – Multi-Phase Developments.** A multi-phase development approved containing 25 acres or more and 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. **Exceptions.** A vested right, once established as provided for by this section, precludes any zoning action by the town 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 those explicitly outlined in GS 160D-108(f).

Section 8.10 Permit Choice

If an application for development approval has been made and subsequent to the date of that application, a development regulation changes or is proposed, the development permit applicant may choose the version of the regulation existing at the time of the application. The applicant may choose the existing regulation without waiting for final action on the proposed regulation change.

Section 8.11 Moratoria

The Town of Winfall may adopt temporary moratoria on any Town development approval by law. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions. Except in cases of imminent and substantial threat to duration of sixty (60) days or any shorter period, the Town Council shall hold a public hearing and publish a notice of the hearing in a newspaper having general circulation in the area not less than seven (7) days before the date set for the hearing. A development moratorium with a duration of sixty-one (61) days or longer, and any extension of a moratorium so that the total duration of sixty-one (61) days or longer, is subject to the notice and hearing requirements of NCGS § 160D-601. Absent an imminent threat to the public health or safety, a development moratorium adopted pursuant to this Section shall not apply to any project for which a valid building permit issued pursuant to NCGS § 160D-403 is outstanding, to any project for which a conditional district zoning or special use permit application has been accepted, to development set forth in a site-specific or phased development plan approved pursuant to NCGS § 160D-100(d)), to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the Town prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the Town prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.

Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:

- A. A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the Town and why those alternative courses of action were not deemed adequate.
- B. A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- C. An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- D. A clear statement of the actions, and the schedule for those actions, proposed to be taken by the Town during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

No moratorium may be subsequently renewed or extended for any additional period unless the Town shall have taken all reasonable and feasible steps proposed to be taken by the Town in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions (A) through (D) of this subsection, including what new facts or conditions warrant the extension.

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent such action, the Town shall have the burden of showing compliance with the procedural requirements of this subsection.

ARTICLE IX ENFORCEMENT

Section 9.01 Enforcement by Zoning Administrator

The provisions of this Ordinance shall be enforced by the Zoning Administrator or his designated Code Enforcement Officer. Pursuant to NCGS 160D-403, staff are authorized to enter any premises within the Town's jurisdiction at all reasonable hours for the purposes of enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not opened to the public or that any appropriate inspection warrant has been secured.

Section 9.02 Enforcement Procedures

A. *Notice of Violation.*

The Zoning Administrator or his designated Code Enforcement Officer, upon a determination that a violation of this Ordinance has taken place, shall give written notice of the violation.

B. *Service*

Pursuant to NCGS 160D-404, The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property.

The Zoning Administrator or his designated Code Enforcement Officer providing the notice of violation shall certify to the Town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

C. *Content*

The notice of violation shall include a description of the violation and its location, the measures necessary to correct the violation, the time period allowed to correct the violation, notice of the possibility of civil penalties and judicial enforcement action, and notice of right of appeal to the Board of Adjustment.

D. *Time Period for Correction Violations*

The Zoning Administrator or designated Code Enforcement Officer shall determine the time period allowed to correct the violation. No time period allowed to correct a violation shall exceed thirty (30) days after the date of receipt of the notice of violation.

E. When Notice of Violation Not Required

The Town may pursue remedies set forth in Section 10.03 without a notice of violation under the following circumstances:

1. When a notice of violation of the same violation has been issued to the same violator at the same property within the previous two (2) years; or
2. When action is taken under Section 9.03 (D) Permit Denial or Conditions.

F. Appeals

All appeals of notices of violation must be brought within thirty (30) days after the date of receipt of the notice of violation and in accordance with Section 10.01 of this Ordinance.

G. Noncompliance

Failure to complete the corrective measures set out in the notice of violation, from which no appeal has been taken, or failure to comply with a judgment of the Board of Adjustment after an appeal has been taken, shall subject the violator to one or more of the remedies or enforcement actions set out in Section 9.03.

Section 9.03 Remedies and Enforcement

Enforcement may be by one, all, or a combination of the remedies described below or by any other remedy authorized by common law or statute, including but not limited to NCGS § 160A- 175, 160D-404, 160D-807.

A. Injunctive Relief

The Town may pursue any appropriate equitable remedy, a mandatory or prohibitory injunction, or an order of abatement as authorized by NCGS 160A-175. The Town may execute an order of abatement and the costs of execution shall be billed to the property owner.

B. Civil Penalties

The Town may pursue civil penalties through the issuance of citations for violations as provided below.

1. **Citation.** The Zoning Administrator or designated Code Enforcement Officer may issue a citation for a violation after the time period set out in the notice of violation for taking corrective measures has expired.
2. **Service.** The citation shall be delivered to the violator by:
 - a) Hand delivery or certified mail to the violator's last known address; or
 - b) Hand delivery or certified mail to the property in violation; or

- c) **Posting of the Notice of Violation (NOV)**, in a conspicuous location, at the property in violation.

When service is made by certified mail, a copy of the citation may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused, but the regular mail is not returned by the Post Office within ten (10) days after mailing.

- 3. **Contents.** The citation shall include the nature of the violation, the amount of the civil penalty, information about where to pay the civil penalty, the deadline for payment, notification of daily penalties for continuing violations, and the notification of possible civil and criminal enforcement.
- 4. **Penalty Amount.** The Zoning Administrator or designated Code Enforcement Officer shall assess a civil penalty of up to five-hundred dollars (\$500.00).
- 5. **Deadline for Paying Civil Penalties.** All civil penalties shall be paid on or before thirty (30) days after receipt of the notice of violation. Failure to pay civil penalties within said deadline may subject the violator to a civil action.
- 6. **Continuing Violations.** The citation shall also include notice that a daily penalty of up to five-hundred dollars (\$500.00) shall be assessed for each day of continued violation and that the penalty shall be cumulative. If the violation continues for more than thirty (30) days after receipt of the citation, payment of subsequent daily civil penalties must be made within twenty-four (24) hours for every day of violation past the thirtieth (30th) day.
- 7. **Settlement of Violations.** Once a violation has been corrected, the Zoning Administrator or designated Code Enforcement Officer may waive payment of a single civil penalty or, in the case of a continuing violation, reduce the amount to a single-day civil penalty, if one or more of the following factors are present:
 - a) The violator has not previously received a citation for a violation;
 - b) The violation does not directly impact the public health and safety of the community;
 - c) The violation was difficult to correct in an expeditious manner; or
 - d) The degree of noncompliance was not substantial.

If the violation has not been corrected, payment shall not release a violator from potential civil enforcement, criminal prosecution, injunctive relief, or an order of abatement.

- 8. **Appeals.** All appeals of citations must be brought within thirty (30) days after the date of receipt of the citation and in accordance with Section 10.01 of this Ordinance.
- 9. **Judicial Action to Collect Civil Penalty.** The Town may file a civil action in the nature of a debt in any court of competent jurisdiction to collect an unpaid civil penalty after the thirty (30) day deadline for paying the civil penalty, set out in the notice of violation, has expired. Additional

civil actions in the nature of a debt may be filed to collect an unpaid civil penalty for a continuing violation lasting more than thirty (30) days after receipt of the citation.

C. *Criminal Penalties*

A violation of this ordinance shall constitute a Class 3 misdemeanor, as provided by NCGS 14-4, and shall be subject to maximum fine of five hundred (\$500.00) per violation. Each day of continued violation shall constitute a separate and distinct offense for purposes of criminal prosecution.

D. *Permit Denial or Conditions*

Any permit, certificate, or other authorization that has been issued for property on which there is an uncorrected violation may be withheld or may be conditioned on the correction of the violation and/or payment of a civil penalty, and/or posting of a performance bond.

E. *Permit Revocation or Voiding*

Any permit, certificate or other authorization may be revoked or voided upon a written determination by the Zoning Administrator that the violation is substantial. Any permit or certificate mistakenly issued in violation of State law or local ordinance or issued based on misrepresentations by the applicant, owner, or owner's agent may be revoked or voided without written determination. In accordance with GS 160D-403(f), staff shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval.

ARTICLE X APPEALS AND VARIANCES

Section 10.01 Appeals

A. *Notice*

An appeal from any final order or decision of the Zoning Administrator may be taken to the Board of Adjustment by any person aggrieved. An appeal is taken by filing a written notice of appeal with the Zoning Administrator and the Board of Adjustment which specifies the grounds for the appeal. A notice of appeal shall be considered filed when delivered to the Zoning Administrator. The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the Town, shall be present at the evidentiary hearing as a witness.

B. *Timing*

An appeal must be taken within thirty (30) days after the date the decision or order is made.

C. *Materials*

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

D. *Stays*

An appeal stays all actions by the Zoning Administrator enforcing the requirements of this Ordinance unless the Zoning Administrator certifies to the Board reason of facts that that a stay would in their opinion cause imminent peril to life or property, or because the violation charged is transitory in nature and a stay would interfere with enforcement of the Ordinance. In such case, proceedings shall not be stayed except by a restraining order which may be granted by the Board or by a Court of Record on application, on notice to the Zoning Administrator and on due cause shown.

E. *Appearance of Official*

The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness.

F. *Powers of the Board of Adjustment*

The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it. To this end, the Board shall have all the powers of the Zoning Administrator from whom the appeal is taken. The board shall follow quasi-judicial procedures pursuant to NCGS 160D-406 in determining appeals of administrative decisions.

Section 10.02 Variances

A. Applications

An application for a variance shall be submitted to the Board of Adjustment by filing with the Zoning Administrator.

B. Public Notice

The Zoning Administrator shall set and advertise a date and time for an evidentiary hearing before the Board of Adjustment to gather competent, material, and substantial evidence to establish the facts of the case. The Zoning Administrator shall cause to be mailed, at least ten (10) days before the hearing, a first-class letter to all adjoining property owners, the names of whom he has made a good faith effort to obtain notifying them of the Variance request. For the purpose of this section, properties are "adjoining" even if separated by a street, railroad, or other transportation corridor. The person mailing such notice shall certify that such notices have been mailed. In addition, a notice shall be posted on the property for which the Variance is requested not more than twenty-five (25) days and not less than ten (10) days before the evidentiary hearing. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

C. Materials

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

D. Presentation of Evidence

The applicant, the Town, and any person who would have standing shall have the right to fully participate including presenting competent, material, and substantial evidence relevant to the case at the evidentiary hearing, cross-examining witnesses, objecting to evidence, and making legal arguments. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Opinion testimony from a lay witness shall not be considered evidence for technical matters such as property values and traffic impacts.

Pursuant to NCGS 160D-406, the Board of Adjustment through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the local government, and any person with standing under G.S. 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

E. Oaths

The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

F. Determination

The Board of Adjustment shall only consider the application and competent, material, and substantial evidence presented at the evidentiary hearing and may grant or deny the Variance requested. In considering all proposed variances to this Ordinance, the Board of Adjustment shall, before making any finding in a specific case, first determine that the proposed variance ***will not***:

- 1) allow the establishment of a use not otherwise permitted;
- 2) extend, in area, or expand a nonconformance;
- 3) change the district boundaries shown on the Zoning Map;
- 4) materially diminish or impair established property values within the surrounding area; or
- 5) in any other respect impair the public health, safety, morals, and general welfare.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

G. Findings of Fact

When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the Board of Adjustment shall vary any of the provisions of the zoning regulation upon a showing of ALL the following:

- 1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
- 4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secure and substantial justice is achieved.

H. Conditions

Before granting a variance, the Board of Adjustment may attach such conditions thereto which are necessary to further ensure the public health, safety, morals, and general welfare. Such conditions may address the location, size and nature of proposed buildings, structures or uses and any other development criteria the Board deems appropriate which are in harmony with the spirit and intent of this Ordinance.

Section 10.03 Requests to be Heard Expeditiously

The Board of Adjustment shall hear and decide all appeals, variance requests and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures and obtain the necessary information to make sound decisions.

Section 10.04 Burden of Proof in Appeals and Variances

The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions on these issues remains with the applicant seeking the variance or interpretation of appeal.

Section 10.05 Board Action Required on Appeals and Variances

A. Motions on Appeals

With respect to appeals, a motion to reverse, affirm or modify the order, requirement, decision, or determination appealed from shall include a statement of the specific reasons and findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the majority vote necessary for adoption, then the decision of the Zoning Administrator is upheld.

B. *Motions on Variances*

Before granting a variance, the Board of Adjustment must vote affirmatively (by 4/5 majority) on the required findings stated.

Section 10.06 Re-hearings

The Board of Adjustment shall refuse to hear an appeal or application previously denied if it finds there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

Section 10.07 Review by Certiorari

Any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, or any Officer or Board of the Town of Winfall, may present to a court of competent jurisdiction a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality; whereupon such decision of said Board shall be subject to review by certiorari as provided by law. Any appeal to the Superior Court shall be taken within thirty (30) days after the decision of the Board is filed with the Town Clerk and a written copy thereof is delivered to the appellant by personal service or registered mail, whichever is later.

ARTICLE XI AMENDMENTS

Section 11.01 Amendments in General

The Town Council may, on their own motion or upon petition, initiate the process to amend, change, modify or repeal this Ordinance including the Zoning Maps subject to the procedures and rules established by law and in this Article.

Section 11.02 Amendment Procedure

A. *Initiation of Request*

1. Any property owner or his/her agent, or citizen or his/her agent may initiate the process to amend this Ordinance including the Zoning Maps by submitting an application and any accompanying site-plan, if required, at least thirty (30) days prior to the regularly scheduled meeting. In addition, a statement of reasonableness of the proposed request shall be prepared for each application for a rezoning. Pursuant to NCGS 160D-601, no amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:
 - a) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
 - b) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.
2. There shall be a fee payable to the Town of Winfall for each application for rezoning. The amount of said fee shall be fixed by the Council and shall be sufficient to defray all administrative costs incurred in processing the application, notifying adjacent property owners, obtaining technical assistance, and publishing the notice of public hearing.

B. *Planning Board Consideration of Proposed Amendments*

1. Amendments shall be referred to the Planning Board for its consideration.
2. The Planning Board shall submit its recommendation to the Town Council, within thirty (30) days of first consideration. If a recommendation is not made in that time period, the Town Council may proceed to act on the application. The Council is not bound by the recommendations, if any, of the Planning Board.

3. Planning Board members shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Planning 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.
4. The Planning Board shall be prohibited from allowing any testimony or evidence concerning the specific manner an applicant/property owner intends to use or develop the property
5. The Planning Board shall advise and comment on whether the proposed amendment is consistent with the Winfall Land Development Plan. The Planning Board shall provide a written recommendation to the Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a recommendation from the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Council.

C. Public Notice

1. No amendments may be adopted to this Ordinance until a public hearing has been held on such an ordinance by the Town Council.
2. The Zoning Administrator shall publish a notice of the public hearing on any amendments to this Ordinance once a week for two (2) successive weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of hearing shall be included.
3. In addition to the public notice, above, where the proposed amendment involves a change in the designation of any parcel of land, the Zoning Administrator shall, by first class mail, give notice of the public hearing to the owner(s) of parcel(s) involved in the proposed amendment, if the owner(s) are different from the applicant(s), as well as the owners, as shown on the tax rolls of Perquimans County, of all land abutting the parcel(s) involved in the proposed amendment, including properties separated from the subject property by street, railroad, or other transportation corridor. This notice must be deposited in the mail at least ten (10) days but not more than twenty-five (25) days prior to the date of the hearing. Certification shall be included in the report prepared by the Zoning Administrator that such notice has been made.
4. When a zoning map amendment is proposed, the Town shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. Pursuant to NCGS 160D-602(c), this notice shall be posted not less than ten (10) days nor more than twenty-five (25) days before the date fixed for

the hearing. In computing such period, the day the notice is posted is not to be included but the day of hearing shall be included.

D. *Town Council Consideration of Proposed Amendments*

1. Council members shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Town Council 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.
2. The Town Council shall be prohibited from allowing any testimony or evidence concerning the specific manner an applicant/property owner intends to use or develop the property
3. At the conclusion of the public hearing on a proposed amendment, the Town Council may proceed to vote on the proposed amendment, refer it for further study or take any other action consistent with its usual rules of procedure.
4. Determination of Consistency and Statement of Reasonableness. As required by NCGS 160D-605, prior to adopting or rejecting any zoning amendment, the Town Council shall adopt one of the following statements which shall not be subject to judicial review:
 - a) A statement approving the zoning amendment and describing its consistency with the Winfall Comprehensive Land Development Plan and explaining why the action taken is reasonable and in the public interest.
 - b) A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.

If the amendment is adopted and the action is deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending the future land use map in the approved plan and no additional request or application for a plan amendment shall be required. **The amendment on the plan and a zoning amendment shall be considered concurrently. The Zoning Administrator shall note the amendment on the plan and submit it for approval as required by the Coastal Area Management Act (CAMA) in NCGS 113A-110. Pursuant to NCGS 160D-501(c), the amendment shall not be effective until the Town receives approval of the CAMA plan amendment.**

5. The Town Council is not required to take final action on a proposed amendment within any specific period of time.

Section 11.03 Resubmittal of a Zoning Change Request

No such proposed change in the Zoning Ordinance or map if denied by action of the Town Council may be resubmitted within a period of one (1) year from the date of such denial by the Council, unless the

Town Council unanimously find that changing conditions in the area or new information concerning the property requested for rezoning warrants a resubmission for change in the Zoning Ordinance or Map.

Section 11.04 Withdrawal of an Application

An applicant may withdraw an application at any time prior to the hearing by written notice to the Zoning Administrator.

SUBDIVISION

WINFALL SUBDIVISION ORDINANCE

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TOWN OF WINFALL SUBDIVISION ORDINANCE

ARTICLE I SHORT TITLE

This ordinance shall be known and may be cited as the Subdivision Ordinance of the Town of Winfall, North Carolina.

ARTICLE II PURPOSE

The purpose of this Ordinance is to promote the public health, safety, and general welfare by providing for the orderly subdivision of land in the Town of Winfall. Among other reasons, this Ordinance is deemed necessary to (1) assure the appropriate layout and use of land; (2) provide safe, convenient and economic circulation of vehicular traffic; (3) provide for the dedication of reservation of street rights-of-way, utility easements and public facility sites; (4) assure the proper installation of streets and utilities; (5) avoid undue concentrations of population; and (6) insure proper legal description, identification, documentation and recordation of property boundaries.

ARTICLE III AUTHORITY AND JURISDICTION

Section 1. Authority

The enactment of this Ordinance is authorized under provisions pursuant to Chapter 160D-801 of the General Statutes of North Carolina.

Section 2. Jurisdiction

This Ordinance shall govern the platting and recording of any subdivision of land lying within the Town of Winfall.

ARTICLE IV LEGAL PROVISIONS

Section 1. Application of Ordinance

A. This Ordinance is applicable to all divisions of a tract or parcel of land into two or more lots, building sites or other division, for the purpose, whether

immediate or future, of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in existing streets.

- B. No lot or plat (except as provided by Section 2 below) within Town of Winfall's subdivision jurisdiction shall be transferred, nor shall a plat or record thereof be recorded by the County Register of Deeds until a final plat of the subdivision has been submitted to and approved by the Planning and Zoning Board or the Town Council (Major Subdivisions, Article V, Section 3). Such approval shall be indicated on the face of the plat and signed by the Town of Winfall Subdivision Administrator (See Appendix F for certification form).
- C. The Register of Deeds shall not file a plat or record of subdivision of land within the Town's jurisdiction nor shall the Clerk of Superior Court order such recording without the required certification and signature of the Subdivision Administrator.
- D. The approval of a plat pursuant to this Ordinance shall not be deemed to constitute or affect the acceptance by the Town or the public of the dedication of any street or other ground, public utility line or other public facility shown on the plat.

Section 2. Exceptions

- A. The following shall not be included nor be subject to the regulations prescribed by this Ordinance:
 - 1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as described herein;
 - 2) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
 - 3) The public acquisition by purchase of strips of land for the widening or opening of streets;
 - 4) The division of a tract in single ownership, the entire area of which is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this Subdivision Ordinance; and

- 5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
- B.** Plats not subject to the provisions of this Ordinance may be recorded provided the owner desiring to record such plats shall obtain a Certificate of Exemption (See Appendix F) from the Subdivision Administrator and shall present such certificate to the Register of Deeds Office as proof that one of the conditions of exception noted above is present.

Section 3. Approval Required for Building Permit

No building permit shall be used for the erection of any building on any lot within a subdivision unless a final plat of such subdivision has been approved as required by this Ordinance or a certificate of exemption obtained, provided, however, that this shall not apply to any subdivision recorded by the County Register of Deeds prior to December 11, 1967, the first effective date of this Ordinance.

Section 4. Variances Due to Site Conditions

Where the subdivider can show that a provision of these requirements would cause unnecessary hardship, if strictly adhered to due to topographical or other conditions peculiar to the site, the Board of Adjustment shall approve a variance when it finds that such variance may be granted without destroying the intent of this Ordinance. Any variance thus approved by the Board of Adjustment shall be noted in the minutes of the meeting at which the variance is granted, and such notation shall include the reasons for the variance. The board shall follow quasi-judicial procedures pursuant to NCGS 160D-406.

Section 5. Penalties for Transferring Lots in Unapproved Subdivision

- A.** Any person who, being the owner or agent of the owner of any land located within the subdivision regulation jurisdiction of the Town of Winfall who subdivides such land in violation of this Ordinance or transfers or sells any part of such land by reference to, exhibition of or any other use of a plat showing a subdivision of land before such plat has been properly approved under the provisions of this Ordinance and recorded in the office of the Perquimans County Register of Deeds, shall be guilty of a misdemeanor.
- B.** This Ordinance may also be enforced by injunction, order of abatement or other equitable remedy upon application to the General Court of Justice.
- C.** Building permits may be denied for lots that have been illegally subdivided.

Section 6. Subdivision Administrator

The Planning & Zoning Administrator shall serve as the Subdivision Administrator. The powers and duties of the administrator shall be to implement the provisions of the ordinance with the assistance of the appropriate technical staff. The specific responsibilities of the administrator shall include, but not be limited to, conferring with the subdividers, reviewing plans and plats, coordinating, and collaborating with the appropriate experts on the plans and plats, making field investigations of plans and improvements, and presenting plans and plat with findings and recommendations to the Planning Board.

Section 7. Conflicting Ordinances

Where another applicable regulation, ordinance, or statute imposes more restrictive regulations than those contained in this Ordinance, the more restrictive regulation shall govern.

Section 8. Separability

Should any section or provision of this Ordinance be for any reason held void or invalid, it shall not affect the validity of any other section or provision hereof which is not itself held void or invalid.

Section 9. Effective Date

This Ordinance shall take effect and be in force from and after _____, and as subsequently amended by the Winfall Town Council.

Section 10. Amendment Procedure

This Ordinance may be amended or revised from time to time by the Town Council as provided by North Carolina General Statutes, Chapter 160D-601, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Town of Winfall Planning Board for review and recommendation. If the Planning Board fails to provide a recommendation within 45 days of submission to the Board, it shall be deemed to have favorably recommended the amendment.

Section 11. State Platting and Disclosure Statement Requirement

All subdividers planning to sell lots not platted and recorded prior to October 1, 1975, are advised to consult N.C. General Statutes 136-102.6 "Compliance of Subdivision Streets with Minimum Standards of the Board of Transportation," which requires that all new streets, whether public or private, and all changes in streets be platted. N.C.G.S. 136-102.6 also requires the subdivider to furnish to each lot purchaser a Subdivision Streets Disclosure Statement revealing the

status of new streets, whether they are constructed to N.C. Department of Transportation standards, and who will bear maintenance responsibility for the streets. No provision of the Town of Winfall Subdivision Ordinance or of any other local Ordinance shall exempt a division of land from the provisions of N.C.G.S. 136-102.6.

ARTICLE V PROCEDURE FOR APPROVAL OF PLATS FOR SUBDIVISIONS

Section 1. Major Subdivision Definition.

A subdivision with four (4) or more lots created for the purpose of sale or building development or a subdivision that requires the creation of a new public or private street.

Section 2. Sketch Plan, Major Subdivision.

The developer shall prepare a sketch plan to show general plans for the subdivision. No specific size or scale is required for the sketch plan. The sketch plan should contain:

- A. A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts and roads;
- B. Boundaries of the tract and portion to be subdivided;
- C. Total acres to be subdivided;
- D. Proposed general street and lot layout;
- E. Zoning classification of tract and adjacent properties; and
- F. Name, address, telephone number, email address of owner.

The Subdivision Administrator will review the sketch plan and recommend changes, if necessary, prior to the development of a preliminary plat.

Section 3. Preliminary Plat, Major Subdivisions.

- A. **Submission Requirements.** A preliminary plat of a proposed major subdivision shall be prepared by the developer. Specifications for preliminary plats are contained in Appendix A.

Six (6) copies of the preliminary plat, along with proposed deed restrictions, shall be submitted to the Town of Winfall at least twenty (20) days before the Planning Board meeting at which it is to be considered.

The Administrator shall seek comments from various agencies or departments that may include, but not limited to public works department, fire department, as well as Perquimans County Board of Health, Sheriff's Department, Board of Education, Health Department, The North Carolina Department of Transportation and any other appropriate departments.

The Subdivision Administrator shall also notify in writing all adjoining property owners of the submission of a preliminary plat. Such notice shall state the date of the Planning Board meeting when the preliminary plat will be considered and shall be mailed in sufficient time to provide adequate notice.

- B. **Planning Board Action.** Following a review of the preliminary plat and other submitted materials and, if necessary, a conference with the subdivider regarding changes deemed advisable and the kind and extent of improvements to be made by him, the Planning Board shall act on the plat as submitted or modified, and if approved, the Planning Board shall state the condition of such approval, if any, or if disapproved, shall express its disapproval and its reasons therefore.

Decisions on approval or denial of a preliminary plat may be made only on the basis of standards explicitly set forth in the subdivision ordinance or zoning ordinance.

The decision of the Planning and Zoning Board is subject to appeal to the Town Council, in writing within 30 days, which must act on any appeal within sixty (60) days.

Section 4. Final Plat, Major Subdivisions.

- A. **Submission Requirements.** When the requirements of this Ordinance have been satisfied, the subdivider shall submit six (6) copies of the final subdivision plat and any deed restriction applying thereto to the Winfall Town Council to determine that the final plat conforms to the requirements of this Ordinance. Six (6) copies of the final plat shall be submitted no less than fourteen (14) days before the Town Council' meeting at which the plat is to be reviewed.

Decisions or approval or denial of final plats may be made only on the basis of standards explicitly set forth in the subdivision or zoning ordinance.

- B. **Improvements and Certificates.** No final plat shall be approved until all improvements are installed or their execution guaranteed as set forth in this Ordinance and all certificates required for final plats by this Ordinance or approvals by state law have been properly completed and signed.
- C. **Recordation.** The approval of the final plat by the Town Council shall be on condition that such plat is recorded in the Office of Register of Deeds within sixty (60) days after approval.

Section 5. Minor Subdivisions Definition.

A subdivision of three (3) or fewer lots created for the purpose of sale or building development with all lots having access to an existing state or Town maintained road.

Section 6. Minor Subdivisions Procedures.

The developer of a minor subdivision may apply for final approval of any minor subdivision through the procedures set forth in this section.

- A. **Submission Requirements.** Two (2) copies of a plat prepared according to specifications in Appendix C shall be presented to the Subdivision Administrator for all minor subdivisions.

Plats for minor subdivisions must be accompanied by a certificate of survey and accuracy as specified in Appendix F-6 by a registered land surveyor or professional engineer licensed and registered to practice in North Carolina.

- B. **Review Procedure.** The administrator shall review each minor subdivision and shall find that it either does or does not meet the requirements of this Ordinance. Based on these findings, the administrator shall approve, disapprove, or approve conditionally the proposed minor subdivision within sixty (60) days of its submission. The decision of the administrator is subject to appeal by the subdivider to the Board of Adjustment, which must act on any appeal within sixty (60) days. The board shall follow quasi-judicial procedures pursuant to NCGS 160D-406.
- C. **Certificate of Approval for Recording.** If the administrator approves the proposed minor subdivision, a certificate of approval for recording, Appendix F-2, shall show such approval.
- D. **Recordation.** The approval of the final plat by the administrator shall be on condition that such plat is recorded in the Office of Register of Deeds within sixty (60) days after approval.

**ARTICLE VI
GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF
DESIGN**

Section 1. General.

Land shall be subdivided in accordance with good land planning practices, including adequate consideration of a natural topography and drainage features and type of development proposed.

Section 2. Compliance with Official Plans and Ordinances.

Land shall be subdivided in compliance with the Winfall Zoning Ordinance and other pertinent official development plans and ordinances. In addition, where land lies within the area of a public water supply reservoir, so designated by a Governmental authority, subdivider of such land shall be required to give notice on the face of the final subdivision plat that land within the subdivision lies within a designated public water supply reservoir area and may be the subject of future public purchase. (See Appendix F-5 for Certificate of Disclosure of Public Purchase.)

Section 3. Road Frontage.

All lots in a subdivision must front on a public paved road, unless a private road is specifically provided for in Section 6-5 of this Article. There shall be no reserve strips controlling access to streets except where cause can be shown that such control would best serve the purpose of this Ordinance.

Section 4. Streets and Roads.

- A. The design of all public streets and roads within the Town of Winfall shall conform to the minimum standards set forth in the most recent edition of "Minimum Construction Standards for Subdivision Road" as published by the N.C. Department of Transportation, Division of Highways.
- B. Disclosure and approval by the Division of Highways shall comply with G.S. 136-102.6.
- C. All streets shall be named and signs conforming to Perquimans County and Town standards shall be posted at intersections showing the name of every street. New streets, which are obviously in alignment with others already named and existing, shall bear the names of the existing streets. In no case shall the names of new streets phonetically resemble existing street names.
- D. Subdivision Names. All subdivisions requiring the development of new public roads must be named. A sign clearly indicating the name of the subdivision shall be posted at each entrance to the subdivision. Such signs shall not exceed sixteen (16) sq. ft. in area, with a maximum height of six (6) feet. Developer or realtor advertising signs shall not be a substitute for a permanent subdivision sign. Indirect illumination is permitted.
- E. Access to Adjoining Property. Means of ingress and egress for adjoining properties within the subdivision shall be provided.

- F. Cul-de-Sacs. Cul-de-sacs or other dead-end streets designed to be permanently closed shall be provided at the closed end with sufficient right-of-way for vehicular turnarounds. Circular rights-of-way at the closed end shall have a minimum radius of fifty (50) feet and the surfacing shall have a minimum radius of thirty-five (35) feet.

Section 5. Private Roads.

- A. Private roads or drives shall be permitted only in the following circumstances and
- 1) Developments which by the nature of their design could not occur if required to meet DOT subdivision road standards, as for example residential developments under unified or homeowner association control (mobile home parks, apartment complexes, attached housing, PUDS, etc.) and commercial or industrial development under unified control.
 - 2) In subdivisions in which a new street provides access to two or fewer lots provided that the new street connects directly to a public street currently accepted and maintained by the N.C. DOT or the Town of Winfall, and further provided that the new street is no longer in length than 0.2 miles.
- B. Future re-subdivision of lots served by private roads in subdivisions into smaller tracts shall not be permitted unless plans for upgrading the private road to a public street are approved by the N.C. Division of Highways and until said roads are built according to approved plans or proper assurance of completion is accepted by the Town Council. This requirement shall be stated on the recorded plat.
- C. New major residential subdivisions abutting a private road or designed to utilize a private road for access to the subdivision shall not be permitted without upgrading the private road to a public road per standards established by the Town Council and until said streets are built according to approved plans or proper assurance of completion is accepted by the Town Council. This section shall not apply to commercial and industrial subdivisions and lots served by sewer.
- D. Where permitted, private roads may be constructed in compliance with the following conditions:
- 1) The developer shall sign a certificate attesting to the fact than an instrument will be recorded with the final plat which guarantees:
 - a) a right of access by all lots served by the private road; and
 - b) a full disclosure of the state of the road and specific road maintenance responsibilities (as required by G.S. 136-102.6) and that these listed items shall run with the land. (A

maintenance agreement shall have been previously agreed to by the Town Council and Town Attorney).

- E. All developers who incorporate private roads into their subdivisions will be required to present plans to the Town Council for review.
- F. Design standards for private roads are listed in Appendix D.

Section 6. Sidewalks.

A sidewalk with a minimum width of four (4) feet shall be installed within the right-of-way. New sidewalks must adjoin existing sidewalks on adjacent property. Access for handicapped persons must be provided to sidewalk facilities at appropriate locations, including street intersections.

Subdivisions of twenty-five (25) lots or less shall be excluded from this section of the ordinance.

Section 7. Curb and Gutter (Stormwater Control).

Curb and gutters are mandatory in all newly platted major subdivisions in zoning districts with minimum lot sizes less than 30,000 square feet. A professional engineer shall present documentation to the Planning Board depicting the type and size of storm drainage to be used. Curbs and gutters are mandatory in industrial park development.

The piping of ditches along ribbon paved streets is prohibited, except for the provision of driveway access, which shall involve the minimum length of piping necessary to achieve a driveway width of no less than twelve (12) feet and no more than sixteen (16) feet for a single driveway, and no more than twenty (20) feet for a double driveway. Plans for installations of driveway piping shall be submitted to the Town of Winfall for approval prior to construction. This prohibition on piping of ditches does not preclude the submission of plans for approval for redevelopment of a subdivision, which may incorporate alternate means of stormwater control.

Section 8. Blocks.

Blocks shall be laid out with due consideration given to traffic circulation patterns and contemplated use.

- A. **Length.** Blocks shall be not less than 400 or more than 1,600 feet in length, except as considered necessary to secure efficient use of land or desired features of street pattern by the Board. In blocks over 800 feet in length one or more crosswalks not less than ten (10) feet in width extending entirely across the street may be required at locations deemed necessary by the Board.

- B. **Widths.** Blocks shall be wide enough to allow two tiers of lots of minimum depth, (reference Area and Yard Requirements, Zoning Ordinance), except where fronting on major streets or prevented by topographic conditions, in which case a single tier of lots may be approved.

Section 9. Lots.

Lots shall be designed in shape, size and location with due regard to topographic conditions, features of the surrounding area, contemplated use and official plans and ordinances.

- A. **Marginal Land.** Land subject to flooding or land which may aggravate the flood hazard or increase danger to life or property if developed, and land uninhabitable for other reasons, shall not be considered platted for occupancy and shall not be used in determining the minimum lot area or maximum lot depth.
- B. **Frontage on a Public Street.** Every lot shall front or abut a public street (except where private roads are permitted) and shall have a minimum frontage as required by the dimensional requirements for each zoning district.
- C. **Double and Reverse Frontage.** Double frontage and reverse frontage lots shall be avoided, except where required in unusual circumstances specifically approved by the Board in the preliminary plat.
- D. **Side Lot Lines.** Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.
- E. **Area and Dimensions of Lots.** All lots shall conform to meet or exceed the minimal dimensional requirements for zoning district as prescribed in the Winfall Zoning Ordinance.

Section 10. Water and Sewer Facilities.

New subdivisions shall connect to the Town of Winfall municipal water and sewer systems according to the guidelines established by the Town of Winfall, the plans for both of which must be submitted to and approved by the appropriate state agencies. In areas where public water and/or sewer are not available, the subdivider shall install private systems that have been approved by the Perquimans County Health Department.

- A. Where public water and sewer facilities are not available and individual water supplies or individual sewage disposal systems are planned, the subdivider, at his own expense, shall have the site investigated by the Perquimans County Health Department or other authorized, qualified, individual, firm or agency, to determine whether or not such individual facilities are feasible and shall present proof to the Subdivision Administrator that appropriate soil tests have been conducted and that each lot in the subdivision not served by public water or sewage disposal

systems has been approved by the Perquimans County Health Department for individual water supplies and/or sewage disposal systems.

- B. Where individual septic tank systems are planned, minimum lot sizes specified in this Ordinance may need to be increased as required by the results of soil evaluation investigations.
- C. Water supply and sewage facilities shall comply with applicable state and county health and environmental laws and regulations. (See Appendix E for water and waste disposal approval requirements).
- D. **Building Lines.** On residential lots the minimum depth of building setback lines (front, side, or rear) shall be increased on recommendation of the County Health Department, if necessary, for the installation of an individual sewage disposal system on the front of a lot.

Section 11. Oversized Improvements.

The Town of Winfall may require the installation of certain oversized facilities such as water and sewer mains or oversized sewer pumping stations where it is in the interest of future development.

Section 12. Streetlights.

All public streets, sidewalks, and other common areas or facilities in subdivisions shall be sufficiently illuminated to ensure the security of property and the safety of person using such streets, sidewalks, and other common areas or facilities. Streetlights are to be installed by the developer in accordance with the Town Street light Policy. A street lighting plan will be submitted with the preliminary plat.

Section 13. Easements.

To provide for public service poles, wires, conduits, storm or sanitary sewers, storm drainage channels, surface overflow, gas, water or heat mains, or other utilities, easements maybe required. When necessary, such easements shall be reviewed by the Public Works Director.

Section 14. Recreation Areas and Site for Public Facilities Open Space

Where a school site is shown on a publicly approved plan, which plan shall have been recorded with the Register of Deeds and requested by the local Board of Education, such site shall either be dedicated for the public purposes at the option of the property owner or reserved for acquisition by the appropriate public body for a period not exceeding 18 months from the date of approval of the preliminary subdivision plan.

Section 15. Water Courses.

If there is any water course or dry branch of any type running through or within one hundred fifty (150) feet of the property proposed for subdivision, the prospective subdivider shall furnish reasonable evidence to the Planning and Zoning Administrator that residential lots within the subdivision will not be flooded. Lots located entirely in the flood plain shall not be sold for residential purposes. Lots partially located within a flood plain shall provide adequate space for a primary structure and any accessory structures outside of the floodplain. Under no circumstances should lots be sold for construction that are entirely within a floodplain. All structures must also conform to the Winfall Floodplain Ordinance.

Section 16. Buffer Strips – Streams.

A subdivision including within its boundaries a perennial stream shall provide for a fifty (50) feet buffer of vegetation on both sides of the stream to retard rapid water runoff and soil erosion. Perennial streams are identified as the solid blue lines on United States Geological Survey Maps. Streets, roadways, railroads, and driveways are permitted in the stream buffer, but shall be constructed to cross the buffer as near to perpendicular as possible. Utility lines, greenways and greenway type recreation facilities are permitted within the buffer but shall be designed to have minimal impact. If the vegetative cover must be removed or disturbed, it shall be restored as soon as possible.

The fifty (50) feet buffer shall be measured on a horizontal plane from the bank of the stream. The buffer zone may be included in calculating the lot size.

Section 17. Planned Unit Developments.

The foregoing requirements of this Article applicable to conventional subdivisions may be modified in the case of planned unit developments (PUDS) and planned business developments. Requirements and the review process for PUDS and planned business developments are specified in the Special Use Permit provisions of the Winfall Zoning Ordinance. The Special Use Permit procedure may be combined with the preliminary plat process required by this Ordinance. A developer planning either of these types of development may therefore prepare all information and plans as required by the Zoning Ordinance along with any deed restrictions and present twelve copies of the information to the Town at least four (4) weeks before the Board meeting at which the Special Use request is to be heard. When a Special Use Permit is granted, the preliminary plat requirements of this Ordinance shall be satisfied.

When improvements have been completed in conformance with this Ordinance and the Special Use requirements, the developer shall submit six (6) copies of the final plat and any deed restrictions to the Town Council for review and

recordation of a final plat as specified in Article V, Section 4 of this Ordinance. All applicable certifications shall be required.

ARTICLE VII

Improvements Required Prior to Approval of Final Plats

Section 1. Installation of Improvements.

No subdivision plats shall be granted final approval until the required improvements have been made in accordance with the provisions of this Ordinance.

Section 2. Performance Guarantee of Improvements

Grading and base construction for streets must be installed prior to submission of the plat for final approval. Where other required improvements have not been completed, the approval of said plat shall be subject to the subdivider's guaranteeing the installation of said improvements in one of the following methods:

- A. Performance or surety bond executed by a company duly licensed to do business in the State of North Carolina.
- B. Letter of credit issued by any financial institution licensed to do business in the State of North Carolina.
- C. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

Duration. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

Extension. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the local government, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (3) of this subsection and shall include the total cost of all incomplete improvements.

Release. The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the local

government that the improvements for which the performance guarantee is being required are complete. The Town shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to Town acceptance. When required improvements that are secured by a bond are completed to the specifications of the Town, or are accepted by the Town, if subject to its acceptance, upon request by the developer, the Town shall timely provide written acknowledgement that the required improvements have been completed.

Amount. The amount of the performance guarantee shall be one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The Town may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained. The performance guarantee shall be posted prior to plat recordation.

Coverage. The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

Legal Responsibilities. No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

- A. The local government to whom the performance guarantee is provided.
- B. The developer at whose request or for whose benefit the performance guarantee is given.
- C. The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.

Multiple Guarantees. The developer shall have the option to post one type of a performance guarantee, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.

Exclusions. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.

Section 3. Submission Requirements.

Data demonstrating compliance with the improvement requirements must be prepared and submitted along with the final plat for the meeting of the Town Council at which final approval is sought. Six (6) copies of the final plat and all plans, profiles, specifications and other required information shall be required. Specifications for final plats are listed in Appendix B.

Section 4. Required Improvements.

The following improvements requirements shall be fulfilled or guaranteed before a final plat shall be approved by the Town Council for recording:

- A. **Public Streets.** Streets and all associated improvements, to include storm drains, grading, base and paving, shall be constructed by the subdivider in accordance with the specifications and standards of the N.C. Department of Transportation, Division of Highways and shall be approved by the Town.
- B. **Private Streets.** Private streets or drives shall be permitted only in the situations described in Article VI, Section 5. The word private shall be clearly stamped on the final plat and this shall be recorded with all conveyances along with road maintenance provisions. Design standards for private roads are noted in Appendix D.
- C. **Curb and Gutters.** Curbs and gutters are required with permanent paving meeting the minimum requirements of the Town's standards. Curbs and gutters shall be a combination curb and gutters or such other construction the Zoning Administrator, with technical assistance from the town consulting engineer, may approve.
- D. **Monuments.** Permanent concrete monuments four (4) inches in diameter or square, three (3) feet long, shall be placed at not less than two (2) corners of the subdivision, provided that additional monuments shall be placed where necessary to that no point within the subdivision lies more than five hundred (500) feet from a monument. Two or more of the required monuments shall be designated as control corners. The top of each monument shall have an indented cross, metal pin or metal plate to identify properly the location of the point. All monuments shall be shown on the final plat.
- E. **Utilities.** The subdivider shall install public water mains and sanitary sewers where existing public utilities are available. In other areas the subdivider shall install either individual private lot or private community

water and/or sewer systems. If such installation is made, the subdivider shall comply with all rules and regulations prescribed for private and/or community water supply and waste disposal by the North Carolina Department of Human Resources, the North Carolina Department of Natural Resources and Community Development, the Perquimans County Health Department, and the Sewer Use Ordinance of the Town of Winfall and with all regulations and construction specifications of any municipality to whose utility system such water mains and/or sanitary sewers may eventually be connected.

Electrical utilities and communication lines shall be installed with arrangements made by the subdivider with the utility company or cooperative authorized to serve the area of the subdivision. Installation shall be in keeping with the latest accepted design standards and procedures along lot lines.

Electrical and communication lines shall be installed underground within major subdivisions unless the Town determines underground installation is inappropriate.

Power Lines Exemption. The regulation shall not require a developer or builder to bury power lines meeting all of the following criteria:

- (1) The power lines existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
- (2) The power lines are located outside the boundaries of the parcel of land that contains the subdivision, or the property covered by the development plan.

Utilities, which encroach upon the State Highway system, shall require an Encroachment Contract executed by the person or firm responsible for maintenance.

All electrical, cable (CATV), telephone and telegraph utilities shall be installed according to the Town of Winfall's Utility Department.

- F. **Water Supply and Sewage Disposal on Individual Lots When Public Water and Sewer are Unavailable.** The size, location, soil conditions and drainage of all lots in the subdivision shall be approved by the Perquimans County Health Department relative to individual water supply and sewage disposal systems. Water supply and waste treatment approval requirements are noted in Appendix E.
- G. **Erosion Control.** The subdivider shall mulch, seed, sod or otherwise protect all grading, excavations, open cuts, side slopes and other land surface disturbances.

It is also the subdivider's responsibility to comply with the North Carolina Sedimentation and Pollution Control Act and the Winfall Watershed Regulations. The developer is to contact the N.C. Department of Natural Resources and Community Development, Land Quality Section, which agency provides technical assistance and enforcement of the Sedimentation and Pollution Control Act.

- H. **Removal of Rubbish.** The subdivider shall remove all cut or fallen trees, stumps, or rubbish from the subdivision. The developer/property owner shall file a removal plan with the Subdivision Administrator for any land clearing waste or demolition waste removed/created for the purpose of developing a subdivision. This plan must be approved prior to final plat approval.

Section 5. Procedures for Dedication of Subdivision Development.

- A. **Punch list** – near completion of the subdivision development, a punch list will be provided to the owner detailing the deficiencies needing completion.
- B. **Final plat** – The owner will submit a final plat, deed of dedication and maintenance agreement to the Planning & Zoning Administrator at the completion of the punch list.
- C. **Final inspection** – After receiving the Final Plat, Deed of Dedication and Maintenance Agreement, Winfall Planning & Zoning Administrator's designated representative will conduct a final inspection. If there are no deficiencies, the Final Plat is approved by the Planning & Zoning Administrator. Major Subdivision final plats are then added to the Town Council's agenda for approval. Once the final plat is approved by Council, a separate agenda item is initiated to approve the Deed of Dedication and the Maintenance Agreement. Once the Council approves the Major Subdivision Final Plat, the plat is recorded in the Register of Deeds Office, and then permission is granted to begin construction and building permits can be issued. Minor Subdivision Final Plats are approved by the Planning & Zoning Administrator and must be recorded in the Register of Deeds Office prior to lot development.

Appendix A Specification for Preliminary Plat

The preliminary plat shall be submitted 6 (six copies) on 24" x 36" sheets drawn to a scale of not less than 50 feet to the inch and shall contain the following information:

A. Title Data.

1. Date of survey, date plan drawn, and revision dates as applicable.
2. Name, address, and telephone number of Owner(s)
3. Name, address, and telephone number of Developer, if different from Owner
4. Name of subdivision (Subdivision names shall not duplicate or approximate, phonetically, existing subdivision names.)
5. Location designation (township, county, state)
6. Location map (no less than 1" = 2000') showing the property and its relationship to the surrounding area
7. Seal and signature of a licensed engineer or surveyor, with name, address, and telephone number of the preparer.
8. Scale in figures and bar graph
9. North arrow and orientation. Sheets will not be accepted with North facing toward the bottom of the sheet.
10. "Preliminary Plan" notation
11. Proposed use of property to be subdivided
12. Tax parcel number

B. Existing Conditions (on property to be subdivided and within 500 feet of property being subdivided).

1. Source of datum, and location of benchmark(s) at the site
2. Existing street rights-of-way, width of pavement and names
3. Location and size of any existing private or public utilities including water sewer, electrical, phone gas and cable facilities
4. Location and size of existing bridges, culverts, and other storm drainage facilities
5. Location, width, and purpose of all existing easements
6. Bearings and distances of property boundary with accurate reference to control points defined by state plane coordinates where required by the "Standards of Practice for Land Surveying in North Carolina"
7. Surrounding property lines, property owners and subdivisions
8. Boundaries and identification of political subdivisions, where applicable
9. Zoning classification of property to be subdivided and zoning of all adjacent parcels with owner(s) name(s)
10. Existing buildings

11. Topography including water courses and wooded areas
12. Existing elevations referenced to mean sea level, with a contour interval of two feet, accurate to one-half contour to indicate surface drainage patterns.
13. Location, extent, and identification of flood plain, watershed, water critical area or other restricted land
14. Driveways and roads (in use or abandoned) leading to other property
15. Location of any known gravesites or cemeteries located on the property
16. Delineation of any stream and/or wetland areas under the jurisdiction of the US Army Corps of Engineers and/or the North Carolina Department of Environment and Natural Resources.
17. Other natural or manmade conditions affecting site development

C. Proposed Plans (proposed features shall be shown heavily lined).

1. Proposed street alignments, rights-of-way, names
2. Detail plan of all entrances, driveways, roadways, etc. that connect to existing roads (Connection to State roads requires permits from NCDOT)
3. Proposed private or public utilities, including water and sewer sizes, materials with locations of proposed tie-ins noted.
4. Proposed location and sizes of water lines, services, hydrants, water meters, and backflow devices.
5. Locations, size and material of proposed sewer mains, force mains, manholes, service lines and clean-outs, and sewerage lift stations.
6. Location and size of proposed bridges, culverts, and other storms drainage facilities
7. Location, width, and purpose of all proposed easements (15' easement required centered over water line; 20' easement required centered over sewer line)
8. Plan and profile of proposed sanitary and storm sewers (scale no less than 1" = 100' horizontally, 1" = 10' vertically); elevations based on mean sea level.
9. Lines, numbers and approximate dimensions of proposed lots and blocks
10. Proposed buildings with finished floor elevations shown (must be 2' above established 100-yr floodplain if applicable)
11. Soil erosion and sediment control plan (NCDENR permit required for any site over 1.0 acres).
12. Minimum building setback lines (front, side, and rear)
13. Public use sites
14. Location of stop signs (and other traffic control devices as required)
15. Two (2) copies of pipe sizing, detention/retention sizing and other calculations required for review of plan
16. A 24-hour local contact person

17. Site data:
 - a) Acreage of property to be subdivided
 - b) Acreage of public use sites
 - c) Number of lots
 - d) Average lot size
 - e) Square feet of each irregularly shaped lot
 - f) Lineal feet of streets
18. A list of restrictive covenants (deed restrictions) to be applied to any or all lots in the subdivision
19. Following approval of the construction plans, provide six (6) copies of the subdivision layout or site plan only, and six (6) copies of complete construction plans. One (1) set will be returned as "Approved".
20. Notes:
 - a) "Contractor shall contact the Planning & Zoning Administrator at least 48 hours prior to starting work on the project."
 - b) "All construction within state right-of-way shall conform to North Carolina Department of Transportation specifications."
 - c) "Approval by the Town of Winfall is for the improvements shown in the Site Plan. Any variation from the approved Site Plan must be approved by the Planning & Zoning Administrator."
 - d) "A preconstruction conference and inspection shall be held with the Planning & Zoning Administrator and his designated representative prior to beginning construction."

Where the preliminary plat submitted covers only a part of the subdivider's tract, a sketch shall be submitted showing the prospective future street system and other features for ultimate development of the entire tract.

Appendix B

Specification for Final Plat

The final plat (six (6) copies) shall be submitted on 18" x 24" sheets to a scale of not less than 50 feet to the inch. The plat shall be submitted no less than fourteen days prior to the Town Council's meeting at which the plat is to be considered. If more than two (2) sheets are required, an index sheet of the same dimensions shall be provided. The final plat shall contain the following information:

A. Title Data

1. Date of submission
2. Name and address of owner(s)
3. Name of subdivision
4. Location designation (township, county, school district, state)
5. Name and address of engineer or surveyor
6. Scale in figures and bar graph
7. North arrow
8. "Final Plat" notation
9. Certificates (Reference Appendix F)

B. Surrounding Properties Information

1. Property lines, property owners and subdivisions
2. Rights-of-way, easements, reservations, and public use sites located and identified

C. Property Being Subdivided

1. Street rights-of-way, widths of pavements and names of streets as posted on site
2. Property boundary lines including bearings and distances as determined by survey
3. Block and lot line with dimensions, block, and lot numbers
4. Minimum building setback lines
5. Identification and dimensions of easements, reservations, and dedicated area
6. Location, extent, and identification of flood plain, watershed, water critical area or other restricted land
7. Sufficient data of monuments and markers to determine readily and reproduce on the ground, the location, bearing and length of all the above items
8. A list of restrictive covenants (deed restrictions) to be applied to any or all lots in the subdivision

Appendix C

Specifications for Minor Subdivision Plat

Three (3) copies of a minor subdivision plat shall be submitted on 18" x 24" sheets to a scale of not less than 200 feet to the inch. The following information shall be included:

- A. Date of submission
- B. Name and address of owners
- C. Location designation (township, county, zoning district)
- D. Name and address of surveyor
- E. Scale
- F. North arrow
- G. Property lines, property owners and subdivisions of surrounding property owners
- H. Surveyed lots with all dimensions, easements, reservations, etc.
- I. Sufficient data of monuments and markers to determine readily and reproduce on the ground the location, bearing and length of all above items.

Appendix D

Design Standards for Private Streets

- A. Private streets or roads (except as noted in B and C below) shall be constructed to the North Carolina Department of Transportation, Division of Highways minimum standards.

The most recent edition of the pamphlet "Subdivision Roads, Minimum Construction Standards" can be used as a guide with the following exceptions:

- 1) The roads will not have to be paved, or
- 2) The base can be reduced to four (4) inches of stabilized material

All roads shall have a minimum of 45 feet right-of-way with a minimum of 4 inches of stabilized material.

- B. Private roads in subdivisions under unified control (e.g., homeowners association), such as Planned Unit Developments or Cluster Developments shall be paved according to State Department of Transportation specifications. However, a registered engineer may reduce the pavement and right-of-way width from DOT standards upon submission to the Town Board of roadway, shoulder, and ditch design specifications.
- C. The developer shall comply with all applicable provisions of G.S. 136-102.6 relative to subdivision street disclosure information.

Appendix E

Approval of Water Supply and Waste Treatment Systems

A. Water Supply Systems – In areas where public water is not available

- 1) Water supply systems planned to serve 15 or more connections or at least 25 permanent residents are classified as community public water supplies by the State of North Carolina. Plans and specifications for such systems must be prepared by a professional engineer registered in North Carolina and submitted to the Town of Winfall and the Public Water Supply Branch, (Regional Office) Department of Human Resources for approval.
- 2) Water supply systems planned to serve 14 or fewer connections of less than 25 permanent residents are regulated by the Perquimans County Health Department. Plans and specifications must be submitted to the Town of Winfall and the County Health Department for approval.
- 3) Individual water supplies (wells) are regulated by the Perquimans County Health Department and should be located, constructed, and operated in accordance with county and state regulations administered through the county Health Department.

B. Waste Treatment – In areas where the extension of public sewer is cost prohibitive (as determined by the Town of Winfall)

Plans for waste treatment must first be presented to the Town of Winfall and the Perquimans County Health Department. Whenever possible non-discharging septic tanks will be required with location, lot size and installation regulated by the county Health Department. If septic treatment (or hook-up to a municipal sewer system) is not possible, a letter must be obtained from the county health department to this effect. Thereafter, the developer may apply to the Division of Environmental Management, (Regional Office) Department of Natural Resources and Community Development for a permit to install a community sewer system. The number of hook-ups approved for treatment and the level of treatment required is regulated by the permit process of the Division of Environmental Management.

All private sewage treatment plants are required to be enclosed with a chain-link fence a minimum of 7 feet in height and locked when the plant is unattended. This requirement is applicable to all existing and new private sewage treatment plants.

Town Clerk

4. Certificate of Ownership and Dedication

I hereby certify that I (we) am (are) the owner(s) of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Winfall and that I hereby adopt this plan of subdivision with my (our) free consent, establish minimum building setback lines and dedicate all streets, alleys, walks, sewer lines, water lines, parks and other sites and easements to public or private use as noted.

Owner

Date

Winfall, Perquimans County, North Carolina

5. Certificate of Disclosure of Public Purchase

I hereby certify that land identified within the subdivision plat shown hereon lies within the area of a designated proposed public water supply and may be subject to public purchase at a future date.

Planning & Zoning Administrator

Date

6. Certificate of Accuracy

I, _____, certify that under my direction and supervision this Map was drawn from an actual field land survey; that the Error of Closure is calculated by latitudes and departures is 1: __; that the boundaries not surveyed are shown as broken lines plotted from information in Book _____, Page _____, that this Map was prepared in accordance with G.S. 47-30 as amended.

WITNESS my hand and Seal this _____ day of _____, 20__.

Engineer or Land Surveyor

Registration Number _____

7. Certificate of Approval, Major Subdivision

This subdivision plat has been found to comply with the provisions of the Winfall Subdivision Ordinance and provided that it is recorded in the Office of the Register of Deeds within 60 days of final approval by the Town Council.

Planning & Zoning Administrator

Date

8. Certificate of Warranty

I hereby certify that I know of no defects from any cause and will fully warrant all improvements, which have been installed to be free from defects in material and workmanship for a period of one (1) year from this date. Any improvements yet to be installed, I shall fully warrant in the same manner for a period of one (1) year from the date of the release of guarantees. In the event that defects are discovered in any such improvements during the warranty period, I shall replace and/or repair the defective improvement at my own expense.

Developer/Property Owner

Date

9. Certificate of Plat Review Officer

I, review officer of Perquimans County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date

10. Certificate for Off-Site Septic Systems

Dedication of an exclusive use sanitary sewer easement (EUSSE) as shown on this plat is for the purpose of ingress, egress, and regress, for the purpose of installing, maintaining, and repairing the drain field and/or the supply lines. The easement is perpetual and shall run with the land to all future property owners and their assigns and may not be terminated unless municipal sewer is available. A landowner or his/her agent shall have the authority and right of entry on the easement as denoted on this plat, with equipment as necessary to complete the required installation, repair or maintenance. The responsibility of maintaining the off-site septic system area is the responsibility of the owner of the lot. Maintenance shall

include mowing, keeping the off-site area maintained to shed surface water and preventing trees and shrubs from overtaking the area, in order to prevent the premature failure of the drain field.

Owner(s)

Date

11. Certificate of Open Space

Dedication, use, ownership, and maintenance of the Open Space shall be as required by Winfall Zoning Ordinances.

Owner(s)

Date

12. Certificate of Public Water Supply Watershed

This property is located within a Public Water Supply Watershed. Development Restrictions May Apply.

Planning & Zoning Administrator

Date