

ARTICLE IV ZONING

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ARTICLE IV

ZONING

4-1 DISTRICTS ESTABLISHED

In order to achieve the purposes of this Ordinance as set forth, all property within the jurisdiction of the Town of Whitsett, N. C., is divided into districts with the designations and purposes listed in Section 4-2 (District Descriptions).

4-2 DISTRICT DESCRIPTIONS

4-2.1 AG Agricultural District

The AG, Agricultural District is primarily intended to accommodate uses of an agricultural nature, including farm residences and farm tenant housing. It also accommodates scattered non-farm residences on large tracts of land. It is not intended for major residential subdivisions. The district is established for the following purposes:

- A. To preserve and encourage the continued use of land for agricultural, forest and open space purposes;
- B. To discourage scattered commercial and industrial land uses;
- C. To concentrate urban development in and around area growth centers, thereby avoiding premature conversion of farmland to urban uses;
- D. To discourage any use which, because of its character, would create premature or extraordinary public infrastructure and service demands.

4-2.2 Single Family Residential

In the following districts the number refers to the minimum lot size in thousands of square feet.

- A. RS-40 Residential Single-Family District

The RS-40, Residential Single-Family District is primarily intended to accommodate

single-family detached dwellings on large lots in areas without access to public water and wastewater services. The district is established to promote single-family detached residences where environmental features, public service capacities or soil characteristics necessitate very low density single-family development. The overall gross density in RS-40 areas will typically be 1.0 unit per 40,000 sq. ft. or less.

B. RS-30 Residential Single-Family District

The RS-30, Residential Single-Family District is primarily intended to accommodate low density single-family detached dwellings on large lots without access to public water and wastewater services. The overall density in the RS-30 areas will typically be 1.3 units per 30,000sq. ft. or less.

4-2.3 Office, Commercial, and Industrial

A. LO, Limited Office District

The LO, Limited Office district is primarily intended to accommodate low intensity medical, professional, administrative and government office uses on small to mid-size sites near residential areas.

B. NB Neighborhood Business

The NB, Neighborhood Business District is primarily intended to accommodate very low intensity office, retail and personal service uses within residential areas. The district is established to provide convenient locations for businesses which serve the needs of surrounding residents without disrupting the character of the neighborhood. It is not intended to accommodate retail uses which primarily attract passing motorists. Compatibility with nearby residences is reflected in design standards for both site layout and buildings.

C. Highway Business

The HB, Highway Business district is primarily intended to accommodate those retail service and distributive uses which are typically located along thoroughfares. The district is established to provide locations for establishments which require high visibility and good road access, or which cater primarily to passing motorists. Developments in this district generally have substantial front setbacks.

D. PI Public and Institutional District

The PI, Public and Institutional District is intended to accommodate mid- and large-

sized public and semi-public institutional uses which have a substantial land use impact or traffic generation potential. It is not intended for smaller public and institutional uses customarily found in residential districts.

4-2.4 Conditional Use Districts [4-2.4 adopted 6/9/09]

A) Districts Established: A Conditional Use District, bearing the designation CU, is hereby established as a companion district for every district established in section 4-2. These districts are CU-AG, CU-RS40, CU-RS30, CU-LO, CU-NB, CU-HB, and CU-PI. All regulations which apply to a general use zoning district also apply to the companion conditional use district. All other regulations, which may be offered by the property owner and approved by the Jurisdiction as part of the rezoning process, also apply.

B) Application: The Conditional Use District classification will be considered only upon request of the property owner for rezoning.

4-3 OVERLAY DISTRICTS

Overlay districts establish certain area regulations which apply in addition to the regulations of the underlying zone.

4-3.1 WP Watershed Protection Overlay District

The WP overlay district is intended to set forth regulations for protection of public drinking water supplies and is applicable to all lands which drain toward such supplies. These regulations are specified in Section 4-9.3 (Watershed Protection Overlay District).

4-3.2 HD Historic Overlay District

The HD overlay district is intended to set forth regulations which will help maintain the historic integrity of certain areas in Whitsett. These regulations are specified in Section 4-9.1 (Historic Overlay District Requirements).

4-3.3 SR Scenic Corridor Overlay District

The SR overlay district is intended to set for regulations which will enhance the attractiveness of major thoroughfares which enter and/or pass through Whitsett. These regulations are specified in Section 4-9.2 Scenic Corridor Overlay District).

4-4 USES WITH SPECIAL REQUIREMENTS

Within the various zoning districts certain uses are permitted as long as they comply with standards and/or procedures set forth in this Ordinance.

4-4.1 Uses with Development Standards

The uses designated with a "D" in the Permitted Use Schedule (following) are permitted as long as the Development Standards for the particular use, Section 4-7, are met.

4-4.2 Uses Requiring A Special Use Permit

Some uses can be expected to have a particular impact on surrounding land uses, roads, etc. The compatibility of these uses can be better assessed and assured by means of the Special Use Permit process. The uses designated with an "S" in the Permitted Use Schedule (following) must meet the development standards for the particular use, Section 4-7, and, in addition, are permitted only after the applicant has obtained a Special Use Permit according to the procedure set forth in Section 3-12.1.

4-4.3 AMENDMENT TO THE TOWN OF WHITSETT DEVELOPMENT ORDINANCE ON UNFAVORABLE BUSINESSES WITHIN THE TOWN AREA

(Adopted by Whitsett Town Council on July 11, 1995)

4-4.3-1 ADULT BOOKSTORES/ADULT VIDEO STORES

Any establishment having as its stock in trade for sale, rent, lease, inspection or viewing books, films, video cassettes, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specific sexual activities" or "specific anatomical areas" as defined herein and in conjunction therewith, have facilities for the presentation of adult entertainment as herein defined, including adult oriented film, moves or live performances, for observation by patrons herein. Adult Bookstores/Adult Video Stores permitted pursuant to this ordinance shall adhere to the following siting criteria:

A. Dimensional Property Separation

- a. No adult bookstore/adult video store as defined by this ordinance shall be located within 1,000 feet of any other adult bookstore/adult video store, adult cabaret, adult motel, adult oriented establishments, adult mini-motion picture theaters, adult motion picture theaters or massage therapy establishments. Measurements shall be made from property line to property line.
- b. No adult bookstore/adult video store shall be located within 1,500 feet of any church, elementary or secondary school, public park, child day care, multifamily zoned or residentially zoned property. Measurements shall be made from property line to property line.
- c. No adult bookstore/adult video store shall be located within 1,500 feet of any property zoned Public-Institutional (PI-1). Measurements shall be made from property line to property line .

B. Signage:

Promotional materials shall not be visible to the public from sidewalks, walkways, or streets.

C. Restriction of Uses on the Same Property or in the Same Building, Structure, or Portion Thereof:

There shall not be more than one adult bookstore/adult video store in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult bookstore/adult video store.

4-4.3-2 ADULT CABARET

A cabaret, nightclub, bar, restaurant or other commercial establishment which features topless dancers, strippers, male or female impersonators or similar entertainers.

Adult cabaret, nightclub, bar, restaurant or other commercial establishment permitted pursuant to this ordinance shall adhere to the following siting criteria:

A. Dimensional Property Separation:

- a. No adult cabaret, nightclub, bar, restaurant or other commercial establishment as defined

by this ordinance shall be located within 1,000 feet of any other adult cabaret, adult bookstore/ adult video store, adult motel, adult oriented establishment, adult mini-motion picture theater, adult motion picture theater, or massage therapy establishments. Measurements shall be made from property line to property line.

b. No adult cabaret shall be located within 1,500 feet of any church, elementary or secondary school, public park, child day care, multi-family zoned or residentially zoned property. Measurements shall be made from property line to property line.

c. No adult cabaret shall be located within 1,500 feet of any property zoned Public-Institutional (PI-1). Measurements shall be made from property line to property line.

B. Signage:

Promotional materials shall not be visible to the public from sidewalks, walkways, or streets

C. Restriction of Uses on the Same Property or in the Same Building, Structure, or Portion Thereof:

There shall not be more than one adult cabaret in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult cabaret.

4-4.3-3 ADULT ENTERTAINMENT

Any exhibition of any motion pictures, live performance, display or dance of any type which has as its dominate theme or is distinguished or characterized by an emphasis on any actual or simulated "specific sexual activities" or "specified anatomical areas" as herein defined or the removal of articles of clothing or appearing partially or- totally nude. Adult entertainment permitted pursuant to this ordinance should adhere to the following siting criteria.

A. Dimensional Property Separation:

a. No adult entertainment exhibition as defined by this ordinance shall be located within 1,000 feet of any other adult cabaret, adult bookstore/adult video store, adult motel, adult oriented establishment, adult mini-motion picture theater, adult motion picture theater or massage therapy establishment. Measurements shall be made from property line to property line.

b. No adult entertainment exhibition shall be located within 1,500 feet of any church, elementary or secondary school, public park, child day care, multifamily zoned or residentially zoned property. Measurements shall be made from property line to property line.

c. No adult entertainment exhibition shall be located within 1,500 feet of any property zoned Public- Institutional (PI-1). Measurements shall be made from property line to property line.

B. Signage:

Promotional materials shall not be visible to the public from sidewalks, walkways, or streets.

C. Restriction of Uses on the Same Property or in the Same Building, Structure, or Portion Thereof:

There shall not be more than one adult entertainment exhibition in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult entertainment exhibition.

4-4.3-4 ADULT MINI-MOTION PICTURE THEATER

An enclosed building with a capacity of less than 50 persons used for presenting material having as its dominate theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as herein defined for observation by patrons therein. Adult mini- motion picture theater permitted pursuant to the ordinance shall adhere to the following siting criteria.

A. Dimensional Property Separation:

a. No adult mini-motion picture theater as defined by this ordinance shall be located within 1,000 feet of any other adult mini-motion picture theater, adult motion picture theater, cabaret, adult bookstore/adult video store, adult oriented establishment or massage therapy establishment. adult motel. Measurements shall be made from property line to property line.

b. No adult mini-motion picture theater shall be located within 1,500 feet of any church, elementary or secondary school, public park, child day care, multifamily zoned or residentially zoned property. Measurements shall be made from property line to property line.

c. No adult mini-motion picture theater shall be located within 1,500 feet of any property zoned Public-Institutional (PI-1). Measurements shall be made from property line to property line.

B. Signage:

Promotional materials shall not be visible to the public from sidewalks, walkways, or streets.

C. Restriction of Uses on the Same Property or in the Same Building, Structure, or Portion Thereof:

There shall not be more than one adult mini-motion picture theater in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult mini-motion picture theater.

4-4.3-5 ADULT MOTION PICTURE THEATER

An enclosed building with a capacity of 50 or more persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein for observation by patrons therein. Adult motion picture theater permitted pursuant to this ordinance shall adhere to the following siting criteria.

A. Dimensional Property Separation:

- a. No adult motion picture theater as defined by this ordinance shall be located within 1,000 feet of any other adult motion picture theater, adult cabaret, adult bookstore/adult video store, adult motel, adult mini-motion picture theater, adult oriented establishment, or massage therapy establishment. Measurements shall be made from property line to property line.
- b. No adult motion picture theater shall be located within 1,500 feet of any church, elementary or secondary school, public park, child day care, multifamily zoned or residentially zoned property. Measurements shall be made from property line to property line.
- c. No adult motion picture theater shall be located within 1,500 feet of any property zoned Public- Institutional (PI-1), Measurements shall be made from property line to property line.

B. Signage

Promotional materials shall not be visible to the public from sidewalks, walkways, or streets,

C. Restriction of Uses on the Same Property or in the Same Building, Structure, or Portion Thereof

There shall not be more than one adult motion picture theater in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult motion picture theater.

4-4.3-6 ADULT MOTEL

A hotel, motel or similar commercial establishment that offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that depict or describe "specified sexual activities" or "specified anatomical areas" as one of its principal business purposes; or offers a sleeping room for rent for a period of time that is less than 10 hours; or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours. Adult motel permitted pursuant to this ordinance shall adhere to the following siting criteria:

A. Dimensional Property Separation:

a. No adult motel as defined by this ordinance shall be located within 1,000 feet of any other adult motel, adult bookstore/adult video store, adult cabaret, adult mini-motion picture theater, adult motion picture theater, adult oriented establishment, or massage therapy establishment. Measurements shall be made from property line to property line.

b. No adult motel shall be located within 1,500 feet of any church, elementary or secondary school, public park, child day care, multifamily zoned or residentially zoned property. Measurements shall be made from property line to property line.

c. No adult motel shall be located within 1,500 feet of any property zoned Public-Institutional. Measurements shall be made from property line to property line.

B. Signage: Promotional materials shall not be visible to the public from sidewalks, walkways, or streets.

C. Restriction of Uses on the Same Property or in the Same Building, Structure, or Portion Thereof:

There shall not be more than one adult motel in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult motel.

4-4.3-7 ADULT ORIENTED ESTABLISHMENT

Shall include, but is not limited to, adult bookstores, adult video stores, adult motion picture theaters, adult mini-motion picture establishments, adult cabaret, adult motels, adult establishments or massage therapy establishments and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the

premises for the purposes of viewing adult oriented motion pictures or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. Adult oriented establishment permitted pursuant to this ordinance shall adhere to the following siting criteria.

A. Dimensional Property Separation:

a. No adult oriented establishment as defined by this ordinance shall be located within 1,000 feet of any other adult oriented establishment, adult bookstore/adult video store, adult cabaret, adult mini-motion picture theater, adult motion picture theater, adult motel, or massage therapy establishment. Measurements shall be made from property line to property line.

b. No adult oriented establishment shall be located within 1,500 feet of any church, elementary or secondary school, public park, child day care, multi-family zoned or residentially zoned property. Measurements shall be made from property line to property line.

c. No adult oriented establishment shall be located 1,500 feet of any property zoned Public-Institutional (PI-1). Measurements shall be made from property line to property line.

B. Signage:

Promotional materials shall not be visible to the public from sidewalks, walkways, or streets.

C. Restriction of Uses on the Same Property or in the Same Building Structure or Portion Thereof;

There shall not be more than one adult oriented establishment in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult oriented establishment.

4-4.3-8 MASSAGE THERAPY ESTABLISHMENT

Any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors. Massage means any form of manipulation of the muscles, skin or other soft tissues of the body, by kneading, stroking, pressing, tapping or movement of extremities, by arm, hand, foot, or mechanical device. Massage therapy establishments permitted pursuant to this ordinance shall adhere to the following siting criteria,

A. Dimensional Property Separation:

USE TYPE		40	30				
AGRICULTURAL USES							
Agricultural Production (Crops)	P	P	P				
Agricultural Production (Livestock)	P						
<i>Veterinary Service</i>	P					D	
RESIDENTIAL USES							
Home Occupation (See Definitions and Notes to Permitted Use Schedule Section 4-6.2)	P	P	P				
Modular Homes	P	P	P				
Manufactured Dwelling (Class AA)		S*					
Single Family Detached Dwelling	P	P	P				
Two Family Dwelling - Twin Home/Duplex	S						
ACCESSORY USES AND STRUCTURES							
Accessory Uses and Structures (See Definitions and Notes to Permitted Use Schedule Section 4-6.1)	P	P	P	P	P	P	P
Emergency Shelters	P	P	P	P	P	P	P
Recycling Collection Point					P	P	P
Satellite Dish/Communication Tower	D	D	D	D	D	D	D
Swimming Pool	D	D	D				
RECREATIONAL USES							
Athletic Fields	S						S
Club or Lodge							P
Public Park							D
Public Recreation Facility							D
	AG	RS	RS	LO	NB	HB	PI
USE TYPE		40	30				
EDUCATIONAL & INSTITUTIONAL USES							
Ambulance Service							P
Cemetery or Mausoleum							D
Church							P
<i>Day Care Center, Child (5 or less, Home Occupation)</i>	D	D	D		D	D	
<i>Day Care Center, Child (6 or more)</i>	S				D	D	
Fire Station	P	P	P	P	P	P	P
Government Office							P
Library							P
Museum or Art Gallery							P
Police Station, Neighborhood	P			P	P	P	P

Post Office				P	P		P
BUSINESS, PROFESSIONAL and PERSONAL SERVICES							
Accounting, Auditing or Bookkeeping				P	P	P	
Bank, Savings and Loan, or Credit Union						P	
Barber Shop					P	P	
Beauty Shop					P	P	
Clothing, Alteration or Repairs						P	
Computer, Maintenance and Repair						P	
Computer Services					P	P	
Engineering, Architect or Survey Service				P	P	P	
Furniture Repair Shop	WCA					P	
Insurance Agency						P	
Landscape and Horticultural Services	WCA	S				P	
Law Office				P	P	P	
Medical, Dental or Related Office				P	P	P	P
Medical or Dental Laboratory				P		P	P
Photography Studio					P	P	
Real Estate Office					P	P	
Television, Radio or Electronics Repair						P	
Tourist Home (Bed and Breakfast)		S	S	S		D	P
Travel Agency				P	P	P	
Watch or Jewelry Repair Shop					P	P	

USE TYPE	AG	RS 40	RS 30	LO	NB	HB	PI
RETAIL TRADE							
<i>Antique Store</i>					P	P	
<i>Sale of Utility Buildings and Carports (addition adopted by Town Council 4/13/10)</i>						D	
<i>Building Supply Sales (no storage yard)</i>						P	
<i>Camera Store</i>						P	
<i>Convenience Store (with gas pumps)</i>						P	
<i>Convenience Store (without gas pumps)</i>						P	
<i>Drugstore</i>						P	
<i>Florist</i>						P	
<i>Garden Center or Retail Nursery</i>						P	
<i>Hardware Store</i>						P	
<i>Hobby Store</i>						P	
<i>Home Furnishings, Miscellaneous</i>						P	
<i>Jewelry Store</i>						P	
<i>Luggage or Leather Goods Store</i>						P	
<i>Restaurant (without drive through)</i>						P	
<i>Service Station, gasoline</i>						P	
TRANSPORTATION, WAREHOUSING AND UTILITIES							
<i>Warehouse (self-storage)</i>						D	
<i>Outdoor Storage (RVs, campers, boats)</i>						S	

- * Use Type and "D" designation adopted by Town Council 11/11/08; "S" designation adopted 3/4/09.

USE TYPE	AG	RS 40	RS 30	LO	NB	HB	PI
UTILITIES AND OTHER USES							
Utility Lines & Related Appurtenances	P	P	P	P	P	P	
Temp. Const. Storage or Office (etc)	P	P	P	P	P	P	
Primary Uses (See Section 4-5.2)							
Radio, T-V, or Communication Tower (PRINCIPAL)	D						
TEMPORARY EVENTS(refer to Section 3-3.4)							
<i>Arts and Crafts Shows</i>					P	P	
<i>Carnivals and Fairs</i>	P					P	
<i>Christmas Tree Sales</i>	P					P	
<i>Outdoor Retail Sales</i>						P	

4-6 NOTES TO PERMITTED USES SCHEDULE

4-6.1 Accessory buildings or structures are not permitted in front yard setbacks.

They are permitted in side or rear yards, provided the gross square footage of the structure is 600 square feet or less, that it is located at least 10 feet from a side or rear line. In the case of corner lots such buildings or structures shall be set back at least twenty-five (25) feet from any side street right-of-way line. If an accessory structure is greater than 600 square feet, it must meet the setback requirements of the principal building.

[A. and B. below adopted by Town Council June 8, 2010]

A. *Single-Family Development:* All accessory structures and buildings must be located behind the front building line of the principal structure, except for those tracts of two (2.0) or more acres where the owner can clearly demonstrate to the satisfaction of an Enforcement Officer that the proposed accessory structure will not be intrusive, will be in keeping with the residential character of the surrounding area, and will not interfere with the vehicular or pedestrian traffic.

B. *Non-Residential Zoning Districts:* Accessory structures and buildings may be in front of the front building line of the principal structure, but must follow the same street setback as the principal building.

4-6.2 Home occupations are permitted as long as they conform to the following requirements:

A. A home occupation shall not increase the traffic, noise, electrical interference, glare, dust, smoke or odor which is normally found in its vicinity when its use is not in operation.

B. Home occupations shall be conducted entirely inside the building with no outside storage and shall be clearly incidental and secondary to the permitted use of the building.

C. The floor area used for home occupations shall not exceed 25% of the total floor area of a dwelling unit except where lodging is provided for a resident guest; and one home occupation shall not operate in more than one dwelling unit or residential lot.

D. No exterior evidence of the presence of a home occupation shall be permitted except as provided below; nor shall the presence of the incidental use change the exterior character of the dwelling unit.

1. Up to 5 licensed vehicles and equipment use in the Home Business will be

permitted. [D.1. adopted 6/9/98]

2. There shall be no sales rooms or display windows; nor shall any material or supplies be stored in the open. [D.2. adopted 12/10/96]

3. No sign announcing the presence of a home occupation shall be permitted other than an occupancy sign no larger than two square feet.

E. Not more than one employee who is not a member of the immediate family residing in the same dwelling unit may be employed in the operation of a home occupation.

4-6.3 Class AA Dwellings shall be permitted in RS-40 locations listed by the Planning Board on February 7, 1996.

See attachment #2 -1996-pages 4-22. The following restrictions apply:

1. Housing must meet all State, local, and North Carolina Department of Insurance requirements.

2. Replacements cannot be over (6) six years old.

3. Must have enclosed foundation or underpinning.

4-6.4 Canopy Projections:

Gas station and convenience store pump canopies may be located in the street setback provided that no equipment or part of a canopy is located closer than fifteen (15) feet to a street right-of-way line. (Taken from Guilford County development ordinance 4-6. Supplementary Dimensional Requirements) [Adopted by the Whitsett Town Council July 12, 2011.]

4-6.5 – FENCES [4-6.5 adopted by Town Council 6/9/15.]

4-6.5.1 - Applicability.

This Section regulates all fences unless otherwise provided in this Ordinance.

4-6.5.2 - Permitted Fence Types.

The following fence types are permitted in all zoning districts:

- (A) Masonry or stone walls;
- (B) Ornamental iron;

- (C) Chain-link or woven wire; and
- (D) Wood or similar material.

4-6.5.3 - Prohibited Fence Types.

The following fence types are prohibited:

- (A) Fences constructed primarily of barbed or razor wire, except for the purpose of enclosing livestock in agricultural zoning districts;
- (B) Fences carrying electrical current, except for the purpose of enclosing livestock in agricultural zoning districts;
- (C) Fences constructed in whole or in part of readily flammable material such as paper, cloth or canvas;
- (D) Fences topped with barbed wire or metal spikes in residential zoning districts, except those serving a public institution requiring a security fence for public safety purposes; and
- (E) Fences constructed of concertina wire.

4-6.5.4 - Maintenance Required.

Any fence which, through neglect, lack of repair, type or manner of construction, method of placement or otherwise, constitutes a hazard or endangers any person, animal or property is hereby deemed a nuisance. If such conditions exist, the Enforcement Officer shall require the owner or occupant of the property upon which the fence is located to repair, replace or demolish the fence causing the nuisance.

4-6.5.5 - Height.

(A) *Residential Uses:*

- 1) Front Fence Height: No fence shall exceed four (4) feet in height up to the front setback line.
 - 1a) Fences are permitted in required setbacks provided there is no interference with any sight area.
 - 1b) Cannot extend into DoT right-of-way.
 - 1c) Minimum of one (1) foot setback from property line.
- 2) Side and Rear Fence Height: No fence shall exceed seven (7) feet in height behind the front setback line.
 - 2a) Minimum of one (1) foot setback from property line.
- 3) Exceptions:

- a) No fence shall exceed four (4) feet in height within fifteen (15) feet of any public or private street right-of-way line in a group housing development unless the sole purpose is to enclose a patio; a patio enclosure shall not exceed seven (7) feet in height.
 - b) On through lots where a front setback abuts a major or minor thoroughfare and there is no driveway access or sight distance interference, a fence may be seven (7) feet in height as long as such fence is no closer than fifteen (15) feet from the thoroughfare right-of-way.
- (B) *Recreational Uses*: No fence shall exceed twelve (12) feet in height if the fence is within the required setback. Otherwise, no fence shall exceed eight (8) feet in height.
- (C) *Commercial, Industrial, Institutional or Office Uses*: No fence shall exceed eight (8) feet in height.
- (D) *Measurement*:
- 1) Fence height shall be measured in the same manner as buildings. However, where fences are located on retaining walls or man-made berms, the height of the retaining wall or berm shall be considered as part of the overall height of the fence.
 - 2) Fence height limitations do not apply to fences built in conjunction with electric or gas substations, utility facilities, sewer plants or facilities, radio and television masts, towers and similar structures, municipal water storage facilities, public correctional and mental institutions, or military facilities, or hazardous or radioactive waste, storage, and disposal facilities.

4-6.5.6 - Temporary Fences.

Nothing in this Section shall preclude the installation of temporary fences around construction works, erected or maintained pursuant to the NC State Building Code or the Soil Erosion and Sedimentation Control regulations.

4-6.5.7 - General Fence Requirements.

- (A) *Obstruction of View*: No fence shall be placed or retained in such a manner as to obstruct vision at any intersection of public or private streets.
- (B) *Obstruction of Drainageway*: Fence construction shall not alter or impede the natural flow of water in any stream, creek, drainage swale or ditch.
- (C) *Historic Districts*: Fences in Historic Districts shall meet the guidelines for the particular Historic District in which it is located.
- (D) *Obstruction of Access*: No fence shall block access from doors or windows. Fences must have a clearance of at least two (2) feet from building walls, except where fences project from or to a building wall.

- (E) *Orientation of Barbed Wire:* On fences topped with barbed wire, the bottom strand must be at least six (6) feet above grade with vertical supports slanting inward away from the property line.
- (F) *Location Within Required Planting Yards:* The setback of fences within a required planting yard shall be subject to the approval of a landscaping plan.

4-7 DEVELOPMENT STANDARDS FOR INDIVIDUAL USES

4-7.1 Application of Development Standards

The development standards listed herein are additional to other requirements in this Ordinance. These development standards are use specific and apply to those uses designated with a "D" in the Permitted Use Schedule. Uses requiring approval of a Special Use Permit shall also meet these standards, and any additional standards or conditions required by the Special Use Permit.

4-7.2 Standards for All Uses

The following rules apply to all development standards and uses listed below:

- A. **Property Separation:** All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed use is to be located to the lot line of the closest use (or zoned property) from which the use is to be separated.
- B. **Use Separation:** All measurements shall be made by drawing straight lines from the nearest point on the wall of a proposed or existing principal building or edge of a proposed use to the nearest point on the wall of the principal building from which the subject building is to be separated, unless otherwise specified.

C. Outdoor Lighting: See Lighting Ordinance, Article X . [reference adopted 6/09/09]

4-7.3 Athletic Field

A. Where Required: AG

B. Access: All athletic Fields shall have access to collector or higher capacity streets.

4-7.4 Cemetery or Mausoleum

A. Where required: PI

B. Minimum Area: A minimum of three (3) contiguous acres shall be required to establish a cemetery or mausoleum not located on the same tract of land as a church.

C. Location: Principal access must be from a collector street or higher capacity street.

4-7.5 Day Care Center, Child or Adult

A. As a Home Occupation

1. Defined: An Adult or Child Day Care with five (5) or fewer attendees shall be operated as a Home Occupation and is subject to the development standards for a Home Occupation.

2. Where required: AG, RS40, RS30, NB, HB

B. As a Principal Use: An Adult or Child Day Care with six (6) or more attendees shall be operated as a principal use and is subject to the following development standards:

1. Where required : AG, NB, HB

2. Minimum Area: An indoor activity area shall be provided equivalent to at least twenty-five (25) square feet per attendee.

3. Open space and recreation: An outdoor activity area shall be provided equivalent to at least seventy-five (75) square feet per attendee and located outside street setback.

4. Security Fencing: Outside activity area(s) for children shall be enclosed by a security fence at least four (4) feet in height and located outside street setback.
5. Location: Centers on a site greater than three (3) acres shall have frontage on a collector or thoroughfare street.
6. Signs: An entrance sign shall be posted and maintained which lists the name and phone number of the current operator, the types of material accepted, the hours of operation, tipping charges, and any other pertinent information.

4-7.7 Junked Motor Vehicles

A. Where Required: All Districts

B. Requirements:

1. Residential districts - Any vehicle meeting the definition of “motor vehicle junked” shall be enclosed within a building which meet the dimensional requirements of the district in which it is located.
2. Non-residential districts - Any vehicle meeting the definition of “motor vehicle junked” shall be stored, parked on the property in such a manner so as to be totally screened from view from any street and/or from adjacent residentially or public institutionally zoned property. Total screening shall be effected by placement of the vehicle(s) either within or behind a building and/or by plant materials, fences, berms or a combination thereof with a minimum height of six (6) feet.

4-7.8 Manufactured Dwelling (Class AA)

A. Where Required: AG, RS-40, RS-30

B. General Requirements: See Article II Definitions, Manufactured Housing (Class AA)

C. Special use permit required per 4-6.3

[4-7.9 adopted by Town Council 6/9/09.]

4-7.9 Outdoor Storage (RVs, Campers, and Boats)

A. Where Required: HB

B. Maximum Size: Maximum size shall be three (3) acres.

- C. Requires site plan prior to rezoning.
- D. Site Plan:
 - (1) Use must meet any conditions of the “critical watershed” as set by NC or Guilford County
 - (2) “Buffer and barriers” will also apply to any highways that join the property. Details of landscaping shall be included in site plan.
- E. Storage:
 - (1) Use restricted to RV’s, campers, and boat trailers (with or without boat).
 - (2) All units must have current license tag and legal to travel on NC highways.
 - (3) Storage of hazardous, toxic, or explosive substances shall be prohibited.
 - (4) Units cannot be occupied during storage.

4-7.9a Produce Stand – Seasonal [4-7.9a adopted by Town Council 6/10/14.]

- A. Where Required: HB
- B. Nature of Business: Sale of seasonal fruits and vegetables
- C. Temporary canopies permitted outside DOT right-of-way.
- D. Must provide off-street customer parking.
- E. Permanent structures must meet Whitsett Development Ordinances including setback requirements and Guilford County inspections.

4-7.10 Public Park; Public Recreation Facility

- A. Where Required: PI
- B. Access: All parks greater than ten (10) acres shall have primary access to a collector or higher capacity street.
- C. Parking: Overflow parking (in addition to required parking) must be designated on the site plan and be kept available to handle all traffic from special events such as softball tournaments and outdoor concerts.

4-7.11 Radio, Television, Communication Towers (principal)

A. Where Required: AG

B. Location:

1. No tower shall be erected within a three (3) mile radius of an existing tower.
2. The distance of the nearest portion of the tower to an existing residence or RS zoned property shall be one and one half times the height of the tower for unguyed free-standing Towers; for guyed towers, the area necessary to contain all guy wires and apparatus plus the district's required setback for guyed towers.

C. Landscaping: Where adjacent to RS zoned property, the required planting yard shall be landscaped compatible to yards.

D. General:

1. Guy wires, anchors, and supporting cables shall be contained on the same zone lot with the tower and shall not encroach more than one-half the width of the planting yard.
2. The lot shall be of sufficient size to accommodate the intended use and the planting yard if required.
3. New towers shall be permitted only if there is no prudent or feasible method to share an existing tower. No triangular platforms greater than fifteen (15) feet on a side shall be permitted. Triangular or T-bar platforms shall not be permitted if mounting of required antennas can be accomplished without such platforms.

4-7.12 Satellite Dish/Communications Tower

A. Where Required: All Districts

B. Location:

- 1) All supporting cables and anchors shall be contained on the property.
- 2) In residential districts, structures shall not be located in any street yard or side yard.

4-7.13 Swimming Pool

A. Where required: AG, RS-40, RS-30

B. Use Separation:

- 1) Pools shall be located so as to comply with the minimum setback requirements for accessory structures for the district in which it is located.
- 2) Pools which are not an integral part of the principal building shall be located a minimum of ten (10) feet from the principal building.

C. Security Fencing: Swimming pools located outdoors shall be protected by a fence, or equal enclosure, four (4) feet in height and equipped with a self closing and positive self latching gate with hardware for permanent locking.

4-7.14 Tourist Home (Bed and Breakfast)

A. Where Required: AG, RS40, RS30, NB, HB

B. Use Separation: No such facility shall locate within four hundred (400) feet of a Rooming House or another Tourist Home

C. Operation:

1. The Tourist Home must be owned by the landowner who also resides on the property.
2. The use shall be located in a structure which was originally constructed as a dwelling.
3. Meals served on the premises shall be only for guest of the facility.

D. Signs: There shall be no exterior advertising except that which is permitted for a home occupation.

E. Privilege License: Privilege License required- must be renewed each year.

F. Special Use permit required in AG, RS40, RS30.

**** Note: Five (5) or less bedrooms requires GC Electrical Inspection

Over Five (5) bedrooms requires GC Commercial Planning Review

4-7.15 Twin Home, Duplex

A. Where required: AG

B. Approvals required:

- 1) Approval by the Guilford County Health Department is required and shall determine lot size and setbacks.

4-7.16 Utility Buildings and Carports [4-7.16 adopted by the Town Council 4/13/10.]

A. Where Required: HB

B. Distance from Highway: Any unit(s) or dwelling(s) shall be situated a minimum of 50 feet from the center line of adjacent highway(s).

C. Hours of Operation: Business hours may begin any time after daylight, and shall end by 10 p.m. each evening.

D. Sales Restriction: Only retail sales of new utility buildings and/or carports shall take place on the premises.

E. Privilege License: A privilege license must be obtained prior to any business being conducted; and the license must be renewed each year.

4-7.17 Veterinary Service

A. Where Required: AG, HB

B. Outside Storage: Pens and run lots located outdoors are prohibited.

4-7.18 Warehouse (Self-storage) [4-7.18 adopted by Town Council 4/8/03.]

A. Where Required: HB

B. Minimum Size: Minimum lot size shall be two (2) acres.

C. Maximum Size: Maximum size shall be five (5) acres.

D. Lot Coverage: The total ground area covered by the buildings shall not exceed fifty percent (50%) of the site.

F. Maximum Height: Maximum height of buildings shall be thirty-five (35) feet.

[Height increase adopted by Town Council 10/13/15.]

F. Storage:

1. No outside storage shall be permitted, with the exception of 4-7.9 specified use.

[Phrase following “,” above adopted by Town Council 6/14/16.]

2. Storage of hazardous, toxic or explosive substances shall be prohibited.

G. Operation:

1. No business activity other than the rental of storage units shall be conducted on the premises.

2. One residential dwelling unit shall be allowed on the same lot for use as a caretaker dwelling.

4-8 GENERAL REQUIREMENTS FOR ZONING LOTS

4-8.1 Principal Buildings Per Lot

Every building hereafter erected or moved shall be located on a zoning lot; and in no case shall there be more than one (1) principal building and its accessory buildings on a zoning lot except in the case of multifamily developments, or other unified developments (e.g. office complexes, shopping centers), if permitted.

4-8.2 Access to Streets

A. Access to Public Street Required: Every zoning lot shall abut and have direct access to a publicly maintained street, except as provided in this Section. No building or structure shall be constructed, erected, or placed on a zoning lot that does not abut and have direct access to a publicly maintained street, except as provided in this Section.

B. Dead-End Streets: For purposes of this Section the terminus of a dead-end street does not provide the required access to a publicly maintained street unless that terminus is a

circular turnaround or other turnaround consistent with the subdivision street requirements adopted by the Town.

C. Access from Public Street Prohibited: Access from a commercial, office, industrial, or institutional zoning district shall be prohibited through an R40 or R30 district, unless it is the sole access.

4-8.3 Landscaping Buffer and Barriers [4-8.3 adopted by Town Council 6/10/08.]

4-8.3.1 Landscape Buffer Requirements

The following regulations apply to properties where a landscape screen or buffer is required during the project approval process. Wherever and whenever property located in office, commercial, industrial, business, public or industrial districts, and multi-family developments, as defined in Whitsett Town Development Ordinance Article IV Zoning, abuts or is contiguous to property located in residentially zoned districts, such office commercial, industrial, business, public or institutional zoned properties shall be sufficiently and suitably buffered or screened by a barrier from the residential district zoned properties. Screens are required to protect against noise, lighting and other disruptive effects, to protect the character of residential areas, and to conserve property values:

- A. A minimum 15 foot wide buffer space will be provided.
- B. Required landscaping will consist of a minimum of 6 large maturing trees (minimum 50% evergreen) and 40 medium shrubs (minimum 75% evergreen) for each 100 linear feet, to provide continuous coverage.
- C. New trees and shrubs should be evenly spaced at planting, with trees having an 8-foot minimum installed height, and shrubs having a 36-inch minimum installed height.
- D. For dimensions of less than 100 feet, plantings and spacing will be in proportion to the basic ratio described above.
- E. A solid masonry wall, minimum 6' in height, may be substituted for required shrubs.
- F. Where a natural buffer exists, it is to remain undisturbed. No limbing up. Remove dead wood only. Do not remove undergrowth.
- G. All buffers required by the Lakes Mackintosh and Jordan watershed regulations (Section 4-3.4) will remain completely undisturbed.

- H. If used in addition to a landscape screen, chain link and similar fencing materials will have additional evergreen shrubs a minimum 3 feet in height and 6 foot on center when planted, on their (residential/subdivision) exterior side. No mechanical equipment such as air conditioner units are permitted within the buffer area.
- I. Permanent detention and temporary erosion and sedimentation control basins are prohibited in buffer yards.
- J. Where existing topography prevents the strict application of these standards, alternative screening methods which perform to the same or higher level will be considered.
- K. Utility easements may cross but not be placed within the long dimension of a buffer yard.
- L. Wherever practical, pedestrian access will be provided through the buffer yard. For example, neighborhoods adjacent to the rear of commercial development.

4-8.3.2 Planting Standards for Trees and Shrubs

- A. All new plant material will be of good quality, installed in a sound, workman-like manner and meet the standards set forth in the American Standard for Nursery Stock by the American Association of Nurserymen. The contractor or developer will warrant all new plant material for 2 years from time of installation.
- B. All trees will be properly guyed or staked and mulched (3-4 inch layer) in accordance with accepted practices in the landscape industry, to prevent winds from loosening the roots.
- C. Where large maturing trees are required and overhead utility lines exist, small maturing trees planted 1 per 15 linear feet will be substituted with the approval of the Enforcement Committee.
- D. The owner of the property is responsible for the continued proper maintenance of all landscaping materials and will keep them in a proper, neat and orderly appearance, free from refuse and debris. All dead or unhealthy plant material will be replaced within 180 days to maintain the quality of the landscaping. In no instance will the Town of Whitsett be responsible for the maintenance of any vegetation unless such vegetation is located within the public right of way of a Town maintained street or is located on property owned by the Town of Whitsett.
- E. Where new landscape materials are to be installed, the type of material used will be complementary to plant materials existing on the property and on adjoining properties. Use of native plant materials is encouraged.

- F. At installation, large maturing trees will not be less than 10 feet in height with a minimum 2 1/2 inch caliper. Small maturing trees will be a minimum of 1-1/4 inch caliper and have a minimum height of 8 feet. Installation and construction practices will be utilized which preserve and replace existing topsoil or amend the soil to reduce compaction.
- G. At installation, evergreen trees will not be less than 8 feet in height with a minimum 2 inch caliper.
- H. At installation, small shrubs will be a minimum 2 feet in height and medium or large shrubs a minimum of 3 feet in height. Installation and construction practices will be utilized which preserve existing topsoil or amend the soil to reduce compaction.
- I. No plants will be planted within the sight distance triangle at an intersection, or driveway access points unless an unobstructed view between 30 and 72 in height is maintained.
- J. Existing vegetation may be applied toward the requirements of this ordinance.
- K. Chain link and similar fencing materials, if used, will be landscaped on their exterior side with evergreen shrubs minimum 3 feet in height and 6 feet on center at installation.

4-8.3 Alternative Methods of Compliance

- A. Alternate landscaping plans, plant materials, or planting methods may be used where unreasonable or impractical situations would result from application of landscaping requirements, or where necessary to protect existing vegetation. Such situations may result from streams, natural rock formations, topography, or other physical conditions; or from lot Configuration, utility easements, unified development design, or unusual site conditions.
- B. The Planning Board may approve an alternate plan that proposes different plant materials or methods provided that quality, effectiveness durability, and performance equivalent to that required by this ordinance.
- C. The performance of alternate landscaping plans will be evaluated by the Enforcement Committee to determine if the alternate plan meets the intent and purpose of this ordinance. This determination will take into account the land use classification of adjacent property, number of plantings, species, arrangement and coverage, location of plantings on the lots, and the level of screening height, spread, and canopy of the planting at maturity.

- D. Decisions of the Enforcement Committee regarding alternate methods of compliance may be appealed to the Planning Board, then Town Council.

4-8.4 Revisions to Approved Landscape Plans

Due to seasonal planting problems and/or a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting plans may be approved by the Enforcement Committee if:

1. There is no reduction in the quantity of plant material.
2. There is no significant change in size or location of plant materials.
3. The new plants are of the same general category (i.e., shade tree, ornamental tree, evergreen, or shrub) and have the same general design characteristics (mature height, crown spread) as the materials being replaced.

4-8.5 Inspection of Sites

- A. The Enforcement Officer may periodically inspect sites subject to the provisions of this ordinance.
- B. If, through inspection, it is determined that a site has failed to comply or is no longer in compliance with the provisions of this ordinance, enforcement activities will commence.
- C. A certificate of occupancy for the development will not be issued unless the landscaping required under this section is installed in accordance with these standards and in accordance with the approved site plan or subdivision plat.

4-8.6 Emergencies

In the case of emergencies such as windstorms, ice storms, fire, or other disasters, the Town may waive the landscaping requirements of this ordinance during the emergency period so that the requirements of this ordinance will in no way hamper private or public work to restore order in the Town.

4-8.7 Replacement of disturbed and damaged vegetation

4-8.7.1 Re-Vegetation

- A. The disturbance of any landscaped area or vegetation required by this section will constitute a violation of this ordinance. All disturbed landscaped areas and vegetation will be replanted to meet the standards of this section as well as the approved site or master plan.
- B. Where the vegetation that has been disturbed or damaged existed on the site at the time the development was approved, all replacement vegetation will meet the standards set forth in this section taking into account any unique site conditions and significant vegetation remaining within the landscaped area. Trees or vegetation that die within one year of construction completion, because of contractor negligence, will be removed and replaced with new vegetation of equal or greater in size.
- C. Existing vegetation required to be preserved that has been damaged or destroyed during the course of development activity will be subject to civil penalties and replaced in accordance with the requirements of this section.
- D. A revegetation plan will be submitted that takes into consideration the development condition of the site, significant vegetation remaining within landscaped areas, and the replacement plant materials. The Town of Whitsett may require equal amounts of new vegetation to be installed equal to the size of the vegetation removed.
- E. Replacement consists of one or a combination of any of the following measures:
 - 1. Replant according to the requirements of this section. A replanting plan denoting the proposed installation will be submitted to the Town of Whitsett's Enforcement Committee for approval.
 - 2. Replace damaged or destroyed significant vegetation in both perimeter and or interior landscaped areas with an equal amount of new vegetation according to the size of vegetation removed. Any tree with a caliper of at least 8 inches that is damaged or removed will be replaced with one or more trees that have a caliper of at least two and one half inches and a cumulative caliper equal to or greater than the original tree. Trees damaged or destroyed less than 8 inches in diameter will be replaced to satisfy the performance criteria of this Section. Understory plantings may also be required to restore the buffer performance criteria for the disturbed area. A revegetation plan denoting the proposed installation will be submitted to the Enforcement Committee for approval.
- F. For all other cases where existing vegetation is damaged or removed, the type and amount of replacement vegetation will meet the requirements of this Section.
- G. Replanting should be located within the vicinity of the violation. If the area is too small for sufficient growth, a more suitable location on the site may be selected by the Enforcement Committee.

4-9 OVERLAY DISTRICT REQUIREMENTS

4-9.1 Historic Overlay District

(Reserved)

4-9.2 Scenic Corridor Overlay District

(Reserved)

4-9.3 Watershed Overlay District

(Reserved)

4-10 DIMENSIONAL REQUIREMENTS

4-10.1 TABLE OF AREA YARD AND HEIGHT REQUIREMENTS FOR PRINCIPAL BUILDING (Whitsett Version)

Area, yard, and height requirements for the various districts shall be as follows:

Max Ht	Minimum Lot Size (Sq Ft)		Minimum Yard Requirements (Ft)			Feet
Lot Area	Lot Area per Dwelling Unit	Lot Width	Front Yard Setback from Center of Road	Side Yard Setback	Rear Yard Setback	

Residential Districts:

AG Agricultural

Single Family	40,000 (e)	40,000	150	80 (f)	12 (a)	35**	35 (b)
Two Family	40,000 (e)	20,000	175	80 (f)	12 (a)	50	35 (b)
RS 40 Single Family	40,000 (e)	40,000	150	80 (f)	12 (a)	35**	35 (b)
RS 30 Single Family	30,000 (e)	30,000	100	80 (f)	12 (a)	35 *	35 (b)
LO Limited Office	30,000/9,000 (c)	-	60	80 (f)	12 or 25 (d)	50	35 (b)
NB Neighborhood Business	30,000/9,000 (c)	-	60	80 (f)	12 or 25 (d)	50	35 (b)
HB Highway Business	30,000/9,000 (c)	-	100	80 (f)	12 or 25 (d)	50	35 (b)
PI Public and Institution	30,000/9,000 (c)	-	100	80 (f)	12 or 25 (d)	50	35 (b)

Accessory Buildings- See Section 4-6.1 Canopies - See Section 4-6.4
 (a) Corner lots must have an additional twelve (12) feet along the side street line
 (b) From the highest buildable portion of the lot
 (c) First number assumes no public sewer/ second with public sewer-all subject to Health Dept Approval
 (d) First number if adjacent to non-residential district/ second adjacent to residential or on corner lot
 (e) Minimum in the absence of public sewer/Greater lot area may be required by the Health Dept or by the Watershed Protection Ordinance
 (f) Highway 70 (Burlington Road) requires 100 feet (amenda 6/8/04)
 (g) Flag Lots or others with adjoining property in front, setback is measured from property line. (Added 11/14/06)

* Amended 7/9/96
 ** Amended 7/8/97

4-11 NONCONFORMING LOTS, USES, AND STRUCTURES

4-11.1 Nonconforming Lots of Record:

A. Single Lot of Record

- 1) When a lot has an area or width which does not conform to the dimensional requirements of the district where located, but such lot was of record at the time of adoption of this Ordinance or any subsequent amendment which renders such lot nonconforming, then such lot may be used for a use permitted in the district where located, provided the setback dimensions and other requirements except area or width are complied with;
- 2) In residential zones, only a single family dwelling shall be permitted on the nonconforming lot;
- 3) Nothing contained herein exempts a lot from meeting the applicable provisions of the Guilford County Board of Health regulations.

B. Lots with Contiguous Frontage in One Ownership

- 1) When two (2) or more adjoining and vacant lots with contiguous frontage are in one ownership and said lots individually have area or width which does not conform to the dimensional requirements of the district where located, but such lots were of record at the time of adoption of this Ordinance or any subsequent amendment which renders such lots nonconforming, such lots shall be considered as a single buildable lot or several buildable lots for any use permitted in the district where located provided the setback and all other requirements, not involving width or area, are complied with.
- 2) Nothing contained herein exempts the contiguous lots considered as a single buildable lot or lots from meeting the applicable provisions of the Guilford County Board of Health regulations.

- C) Reduction of a Lot of Record: A lot of record reduced to less than the required area, width, or setback dimensions as the result of a condemnation or purchase by a local or state government agency shall become a nonconforming lot of record.

4-11.2 Nonconforming Use of Land

- A. Nonconforming Use of Land: Any nonconforming use legally existing at the time of adoption or amendment of this Ordinance or any nonconforming use created by the extension of the jurisdiction may be continued so long as it remains otherwise lawful subject to conditions provided in Section 4-11.2B below.
- B. Conditions for Continuance: Such nonconforming use of land shall be subject to the following conditions;
- 1) No nonconforming use shall be changed to another nonconforming use unless such use is determined to be of equal or less intensity. In determining whether a nonconforming use is of equal or less intensity, the Board shall consider:
 - a) probable traffic of each use;
 - b) parking requirements for each use
 - c) probable number of persons on the premises of each use during peak times of demand
 - d) off-site impacts of each use such as noise, glare, dust, vibration, or smoke.
 - 2) No such nonconforming use shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance. The number of dwelling units in a nonconforming residential use shall not be increased
 - 3) No such nonconforming use shall be moved in whole, or in part to any portion of the lot or parcel than that occupied at the time of adoption or amendment of this Ordinance.
 - 4) If any nonconforming use of land ceases for any reason for a continuous period of six (6) months, any subsequent use of such land must be a permitted use in the district in which such land is located.
 - 5) The resumption of a nonpermitted use of land shall not be permitted if such nonconforming use is superseded by a permitted use for any period of time.
 - 6) No additional structure(s) not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

4-11.3 Nonconforming Structures

- A. Continuanace of Nonconforming Structure: Any nonconforming structure legally existing at the time of adoption or amendment of this Ordinance or any nonconforming structure created by extension of jurisdiction may be continued so long as it remains otherwise lawful, subject to the conditions contained in 4-11.3B below.
- B. Conditions for Continuanace: Such nonconforming structures shall be subject to the following conditions:
- 1) No nonconforming structure may be enlarged or altered in any way which increases its dimensional deficiencies; however any nonconforming structure or portion thereof may be altered to decrease its dimensional deficiencies. Any enlargement shall conform to the current dimensional requirement.
 - 2) In the event of damage to the nonconforming structure by fire or other causes to the extent exceeding fifty (50) percent of its tax value prior to such damage as established by the County Tax Department, reconstruction of a nonconforming structure shall be permitted only in compliance with the dimensional provisions of this Ordinance.
 - 3) In the event of damage to a nonconforming structure by fire or other causes to the extent of less than fifty (50) percent of its tax value prior to such damage as established by the County Tax Department, reconstruction of a nonconforming structure shall be permitted provided it is constructed:
 - a) in the same manner in which it originally existed; or
 - b) in compliance with the current dimensional requirements of this Ordinance.
 - c) No nonconforming structure shall be moved or relocated unless it is made to comply with the dimensional and use requirements of the district in which it is relocated.

4-11.4 Nonconforming Situation Resulting from Governmental Acquisition

Any zone lot reduced in size by municipal or state condemnation or purchase of land shall obtain nonconforming lot or building status to the extent that said condemnation or purchase causes noncompliance with any provision of this Ordinance.

4-11.5 Historic Districts

Requests for changes in the zoning classification of property within a historic district shall be processed and considered in the same manner and procedure as set forth in this Ordinance for rezoning requests, except that the Historic District Commission shall forward a recommendation to the Town Council before the Town Council takes action on any such request.

4-12 ZONING VESTED RIGHTS

4-12.1 Establishment of a Zoning Vested Right

- A. A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the appropriate approval authority as specified in Section 4-12.2 of a site specific development plan, following notice and public hearing by the Town Council.
- B. Approval of Site Specific Development Plan:
 - 1) The approving authority may approve a site specific development plan upon such terms as may reasonably be necessary to protect the public health, safety, and welfare.
 - 2) Notwithstanding subsections (A) and (B) above, the approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless the necessary variance is obtained.
- C. Effective Date of Approval: A site specific development plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.
- D. Effect of Additional, New, or Amended Regulations: The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the Jurisdiction including, but not limited to building, fire, plumbing, electrical, and mechanical codes. Otherwise, the application of new or amended

regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this Ordinance.

- E. Vested Right Runs With Property: A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

4-12.2 Approval Procedures

- A. Notice and Public Hearing: Notice of any proposed approval for a zoning vested right shall be given and a public hearing shall be held in the same manner as provided for a zoning map amendment, Section 8-2.

- B. Approval by the Town Council: The following plans shall be vested for a period of two (2) years from the date of approval by the Town Council, whichever is appropriate, following notice and public hearing:
 - 1) A preliminary plat for a minor subdivision;
 - 2) A preliminary plat for a major subdivision;
 - 3) A plot plan;
 - 4) A master or common sign plan;
 - 5) A watershed control plan;
 - 6) A landscaping plan;
 - 7) A planned development-Residential or Planned development-Mixed unified development plan.

4-12.3 Plans Not Vested

- A. Conceptual Plans: Because the following plans often lack sufficient detail, they are not vested under this Ordinance:
 - 1) A planned development-residential or planned development-mixed sketch plan; or

2) A subdivision master plan or sketch plan.

B. Plans Not Relating to Type and Intensity of Use:

1) Soil erosion and sedimentation control plans;

2) Utility and street construction plans; or

3) Building and other construction plans.

4-12.4 Compliance

A. Conformance Review: Following approval or conditional approval of a site specific plan, nothing in this Ordinance shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approval are not inconsistent with the original approval.

B. Noncompliance: Nothing in this Ordinance shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this Ordinance.

C. Life of Building Permit: A building permit shall not expire or be revoked because of the running of time while a zoning vested right under this Section is outstanding.

4-12.5 Termination

A zoning right that has been vested in this Ordinance shall terminate:

A. At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit application has been filed;

B. With the written consent of the affected landowner;

C. Upon findings by the Town Council that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;

D. Upon payment to the affected landowner of compensation for all costs, expenses, and

other losses incurred by the landowner, including but not limited to all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultants fees incurred after approval by the Town Council, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;

- E. Upon findings by the Town Council that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development; or
- F. Upon the enactment of a State or Federal law or regulation that precludes development as contemplated in the site specific development plan, in which case, the approval authority may modify the affected provisions upon a finding that the change in State or Federal law has a fundamental effect on the plan.

4-13 MOBILE HOME SURVEY (reference 2/7/96 minutes)

FEBRUARY 7, 1996

TOWN OF WHITSETT - MOBILE HOME SURVEY
APPROVED MOBILE HOME SITES IN AREAS ZONED FOR MOBILE HOMES

1 SINGLE WIDE MOBILE HOME	7223 WHITSETT PARK ROAD
1 DOUBLE WIDE MOBILE HOME	7108 GUSENBURY ROAD
1 SINGLE WIDE MOBILE HOME	7115 GUSENBURY ROAD
1 DOUBLE WIDE MOBILE HOME	7126 GUSENBURY ROAD
1 SINGLE WIDE MOBILE HOME	500 HWY 61
1 SINGLE WIDE MOBILE HOME	502 HWY 61
1 SINGLE WIDE MOBILE HOME	504 HWY 61
1 SINGLE WIDE MOBILE HOME	612 HWY 61
1 SINGLE WIDE MOBILE HOME	613 HWY 61
1 DOUBLE WIDE MOBILE HOME	508-A HWY 100

1	SINGLE	WIDE	MOBILE	HOME	516	HWY	100
1	SINGLE	WIDE	MOBILE	HOME	538	HWY	100
1	DOUBLE	WIDE	MOBILE	HOME	579	HWY	100
1	SINGLE	WIDE	MOBILE	HOME	247	BRIGHTWOOD	CHURCH ROAD
1	SINGLE	WIDE	MOBILE	HOME	272	BRIGHTWOOD	CHURCH ROAD
1	VACANT	SITE			305-A	BRIGHTWOOD	CHURCH ROAD
1	DOUBLE	WIDE	MOBILE	HOME	6757	FERNWAY	ROAD
1	SINGLE	WIDE	MOBILE	HOME	7004	KIVETTE	HOUSE ROAD
1	SINGLE	WIDE	MOBILE	HOME	7012	KIVETTE	HOUSE ROAD
1	SINGLE	WIDE	MOBILE	HOME	7014	KIVETTE	HOUSE ROAD
1	SINGLE	WIDE	MOBILE	HOME	7034	KIVETTE	HOUSE ROAD
1	SINGLE	WIDE	MOBILE	HOME		BURLINGTON	ROAD
TOTAL	15	SINGLE	WIDE	MOBILE	HOMES		
	6	DOUBLE	WIDE	MOBILE	HOMES		
	1	VACANT	MOBILE	HOME	SITE		