

**ARTICLE I**

**PURPOSE AND AUTHORITY**

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**ARTICLE I**  
**PURPOSE AND AUTHORITY**

**1-1 TITLE**

This Ordinance shall be known and may be cited as the "Development Ordinance for the Town of Whitsett, North Carolina", except as referred to herein, where it shall be known as "this Ordinance".

**1-2 EFFECTIVE DATE**

The Effective Date of this Ordinance is September 15, 1993.

**1-3 PURPOSE**

**1-3.1 General Purpose:**

It is the purpose of this Ordinance to promote the health, safety, morals, and the general welfare of the residents of the Town of Whitsett through the regulations of this Ordinance.

**1-3.2 Zoning Regulation Purpose**

The zoning regulations, adopted and prescribed in this Ordinance, are found by the Town Council to be necessary and appropriate to:

- A. Lessen congestion in the streets;
- B. Secure safety from fire, panic, and other dangers;
- C. Provide adequate light and air;
- D. Prevent the overcrowding of land;
- E. Avoid undue concentration of population;
- F. Facilitate the adequate and economic provision of transportation, water, sewage, schools, parks, and other public services;

- G. Protect water quality within watershed critical areas
- H. Preserve and enhance visual attractiveness and economic vitality; and
- I. Require appropriate setbacks for buildings and other structures to facilitate the safe movement of vehicular and pedestrian traffic.
- J. Establish a zoning vested right upon the approval of a site specific plan pursuant to NCGS 160A-385.1.

### 1-3.3 Historic District Overlay Purpose

The Historic District Overlay regulations, adopted and prescribed in this Ordinance are found by the Town Council to be necessary and appropriate to:

- A. Protect, safeguard, and conserve the heritage of the community;
- B. Promote the sound and orderly preservation of historic areas as a whole, and of the individual properties therein, which embody important elements of social, economic, political or architectural history for the education, pleasure and enrichment of all citizens; and
- C. Enhance property values within historic areas.

### **1-3.4 Scenic Corridor Overlay Purpose**

The Scenic Corridor Overlay regulations adopted and prescribed in this Ordinance are found by the Town Council to be necessary and appropriate to:

- A. Preserve and enhance the appearance and operational characteristics of certain designated roadways, and
- B. Address development issues of special concern with specific requirements which relate to land use, traffic movement, access, environment, signage, landscaping, visual quality, and aesthetics.

### **1-3.5 Subdivision Regulation Purpose**

The subdivision regulations, adopted and prescribed in this Ordinance, are found by the Town Council to be necessary and appropriate to:

- A. Promote orderly growth and development
- B. Provide for suitable residential and nonresidential developments with adequate streets and utilities and appropriate building sites;
- C. Provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding;
- D. Provide for the coordination of streets within subdivisions with existing or planned streets and with other public facilities;
- E. Provide for the dedication or reservation of adequate spaces for easements for streets and utility purposes;
- F. Provide for the dedication or reservation of adequate spaces for public lands and buildings;
- G. Encourage design that is protective of environmental quality;
- H. Provide for the dedication or reservation of recreation, park, and greenway areas; and
- I. Provide proper land records for the convenience of the public and for better identification and permanent location of real property boundaries.

### **1-3.6 Sign Regulation Purpose**

The sign regulations, adopted and prescribed in this Ordinance, are found by the Town Council to be necessary and appropriate to:

- A. Encourage the effective use of signs as a means of visual communication;
- B. Promote a positive community appearance for the enjoyment of all citizens by eliminating physical and visual clutter;
- C. Maintain and enhance the aesthetic environment and the community's ability to attract sources of development and growth;
- D. Protect the public from damage or injury attributable to distractions and/or obstructions caused by improperly designed or located signs; and
- E. Protect existing property values in both residential and nonresidential areas.

### **1-3.7 Off-Street Parking and Loading Regulations Purpose**

The off-street parking and loading regulations, adopted and prescribed in this Ordinance, are found by the Town Council to be necessary and appropriate to:

- A. Ensure a sufficient amount of off-street parking and loading areas for various land uses;
- B. Ensure easy, convenient circulation of vehicles within parking and loading areas;
- C. Minimize the potential for conflict with traffic on public streets; and
- D. Permit the shared use of parking areas by establishments and/or activities which have different hours of operation.

### **1-3.8 Planting Yard Purpose**

The planting yard regulations, adopted and prescribed in this Ordinance, are found by the Town Council to be necessary and appropriate in order to:

- A. Create a better quality of life for the community by encouraging preservation of existing trees and vegetation;
- B. Provide visual buffering and enhance beautification;
- C. Establish appropriate separation between land uses;
- D. Provide the separation necessary to permit certain land uses to coexist harmoniously which might not do so otherwise;
- E. Safeguard and enhance property values and protect public and private investment;
- F. Enhance the community's competitive position in economic development and tourism by improving views particularly along streets;
- G. Reduce the negative impact of glare, noise, trash, odors, overcrowding, traffic, lack of privacy, and visual disorder when incompatible land uses adjoin one another; and
- H. Provide wildlife habitats within urban and suburban environs.

### **1-3.9 Watershed Protection Purpose**

The Watershed Protection Regulations, adopted and prescribed to in this Ordinance are found by the

Town Council to be necessary and appropriate to:

- A. Protect those portions of designated water supply watersheds which lie closest to the existing and proposed water supply reservoirs from activities which could degrade water quality in reservoirs;
- B. Reduce the volume of nutrients and other chemicals which could enter the water supply by reducing the amount of runoff which any given development will generate;
- C. Minimize land disturbance to reduce the amount of sediment washing into streams and lakes and to enhance the infiltration of runoff into soils, thus alleviating the sedimentation of water supply lakes which reduces their storage capacity, shortens their useful life, and makes them less able to withstand drought;
- D. Reduce the probability of the release of harmful chemicals into water supply reservoirs, either through natural catastrophe, or human error; and
- E. Provide for natural and engineered methods for managing the storm water which flushes contaminants off of impervious surfaces in the watershed critical areas and which may reach water supply reservoirs unless controlled.

#### **1-4 JURISDICTION**

The regulations set forth in this ordinance shall be applicable to all properties within the corporate limits of the Town of Whitsett and within any territory up to one mile beyond such corporate limits as might hereafter be fixed, as established by this Ordinance and Map adopted on September 14, 1993 by the Town Council of the Town of Whitsett in accordance with G. S. 160A-360. Bona fide farms are exempt from zoning regulation as provided in G.S. 153A-340.

#### **1-5 AUTHORITY**

This ordinance is adopted pursuant to portions of one or more of the following authorities in NCGS: Chapter 69 (Fire Protection), Chapter 74 (Environmental Controls), Chapter 95 (Department of Labor and Labor Regulations), Chapter 106 (Agricultural Regulations), Chapter 113A (Pollution Control and Environment), Chapter 119 (Gasoline and Oil Inspection and Regulations), Chapter 121 (Environmental Controls), Chapter 130A (Public Health), Chapter 133 (Public Works), Chapter 136 (Roads and Highways), Chapter 143 (State Departments, Institutions, and Commissioners), Chapter 157 (Housing Authorities), Chapter 160A (Cities and towns), Chapter 168 (Handicapped Persons). This Ordinance may be amended from time to time as required or allowed by subsequent legislative enactments.

## **1-6 ABROGATION**

This Ordinance is not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to the law.

## **1-7 INTERPRETATION OF ORDINANCE**

### **1-7.1 Minimum Requirements**

In the interpretation and application of this Ordinance, all provisions shall be considered to be minimum requirements and deemed neither to limit nor repeal any other powers granted under state statutes.

### **1-7.2 Greater Restrictions Govern**

These regulations shall be the minimum requirements for administration, enforcement, procedures, restrictions, standards, uses, variances, and all other areas addressed by this Ordinance. If any federal or state law or other existing ordinance or regulation allows lesser regulation this Ordinance shall govern so that, in all cases, the more restrictive limitation or requirement shall govern. Whenever regulations imposed by this Ordinance are less restrictive than regulations imposed by governmental authority through regulation, rule, or restriction, the regulations imposed by that authority shall govern. Regardless of any other provision of this Ordinance, no land shall be used and no structure shall be erected or maintained in violation of any state or federal regulation.

## **1-8 RULES OF CONSTRUCTION**

### **1-8.1 Word Interpretation**

Words not defined in this Ordinance shall be given their ordinary and common meaning.

### **1-8.2 Rules of Construction**

For the purposes of this Ordinance, the following rules of construction shall apply:

- A. Tense: Words used in the present tense include the future tense.



- B. Singular and Plural: Words used in the singular number include the plural number and the plural number includes the singular number unless the context of the particular usage clearly indicates otherwise.
- C. Mandatory Meaning: The words "shall", "will", and "must" are mandatory in nature implying an obligation or duty to comply with the particular provision:
- D. Gender: Words used in the male gender include the female gender.
- E. Any reference to an Article or Section shall mean an Article or Section of this Ordinance, unless otherwise specified.
- F. Person: The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.
- G. Used or Occupied: The words "used", or "occupied" include the words "intended, designed, or arranged to be used or occupied".
- H. Governing Body: Governing Body shall mean the Town Council of the Town of Whitsett, N.C.
- I. Town: The Town of Whitsett, North Carolina
- J. Lot: The word "lot" includes the words "plot or parcel".
- K. Structure: The word "structure" includes the word "building".

## **1-9 COMPLIANCE**

### **1-9.1 Compliance**

No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained, or moved, and no land use shall be commenced, maintained, or modified except as authorized by this Ordinance.

### **1-9.2 Voluntary Compliance**

Nothing in this Section shall be deemed to preclude voluntary compliance with the provisions of this Ordinance for development approved prior to the effective date of this Ordinance.

### **1-9.3 Conformance with Requirements**

Except as herein provided, no applicable permit shall be issued or granted that does not conform to the requirements of this Ordinance. Developments which have received Technical Review Committee or staff approval, Enforcement Officer approval, or a building permit prior to the effective date of this Ordinance, may proceed in accordance with such approval while that approval or permit remains in effect.

### **1-10 RELATION TO THE COMPREHENSIVE PLAN**

(Reserved)

### **1-11 ESTABLISHMENT OF OFFICIAL ZONING MAP**

#### **1-11.1 Official Zoning Map**

The Jurisdiction is hereby divided into zones or districts as established in Article IV of this Ordinance.

#### **1-11.2 Official Map Certification**

The Official Zoning Map shall be identified by the signature of the Mayor of the Town of Whitsett and attested to by the Clerk together with the effective date of this Ordinance.

#### **1-11.3 Map Changes**

If changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map.

#### **1-11.4 Unauthorized Changes**

No changes in zoning district boundaries shall be made on the Official Zoning Map except in conformance with the procedures set forth in this Ordinance. Any unauthorized changes shall be considered a violation of this Ordinance.

### **1-11.5 Map Location**

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the Office of the Town Clerk, shall be the final authority as to the current zoning of property within the Jurisdiction.

### **1-11.6 Map Damage and Replacement**

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Town Council may by resolution adopt a replacement Official Zoning Map which shall supersede the prior Official Zoning Map. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant remaining parts thereof, shall be preserved, together with all available records pertaining to its adoption or amendment.

### **1-11.7 Replacement of Official Zoning Map**

The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The replacement Official Zoning Map shall be identified by the signature of the Mayor of the Town of Whitsett and be attested by the Clerk.

## **1-12 INTERPRETATION OF DISTRICT BOUNDARIES**

### **1-12.1 Boundary Interpretation**

Where uncertainty exists as to the boundaries of any district on the Official Zoning Map, the following rules shall apply:

- A. Centerline: Where a boundary line lies within and follows a street or alley right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-way, or utility easement. If such street or alley right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated roadbed or utility easement.
- B. Edge Line: Where a boundary line follows the edge of a street or alley right-of-way, or utility easement, the boundary line shall be construed to be in the edge of such street or

alley right-of-way, or utility easement. If such a street or alley right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated roadbed or utility easement.

- C. Lot Line: Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which such part is located.
- D. City Limits: Boundaries indicated as approximately following city limits or extraterritorial boundary lines shall be construed as following the city limits or extraterritorial boundary lines.
- E. County Line: Boundaries indicated as following county lines shall be construed as following the county line.
- F. Watercourses: Boundaries indicated as approximately following the centerlines of rivers, streams, canals, lakes, or other bodies of water shall be construed as following such center lines.
- G. Extensions: Boundaries indicated as parallel to, or as extensions of street or alley rights-of-way, channelized waterways, utility easements, lot lines, city limits, county lines, or extraterritorial boundaries shall be so construed.
- H. Scaling: Where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the scale appearing on the map.

### **1-12.2 Interpretation by Board of Adjustment**

Where natural or manmade features existing on the ground are a variance with the Official Zoning Map, or are not covered by Section 1-12.1 (Boundary Interpretation), the Board of Adjustment shall interpret the district boundary.

### **1-12.3 Annexation**

If any portion of territory subject to county jurisdiction or the jurisdiction of another municipality shall be annexed by the Town the regulations and powers of enforcement of the county or other municipality shall remain in effect until:

- A. the Town has adopted regulations for said annexed areas, or
- B. a period of sixty (60) days has elapsed following the effective date of annexation.

## **1-13 SEVERABILITY**

### **1-13.1 Invalidation**

Should any section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional by a Court of competent jurisdiction of either the State of North Carolina or of the United States, such decision shall not affect, impair, or invalidate the validity of the remaining parts of this Ordinance which can be given effect without the invalid provision.

### **1-13.2 Prejudicial Application**

If any section, sentence, clause, phrase, or word of this Ordinance be held invalid on unconstitutional in its application to a particular case, such decision shall not affect or prejudice its application to other cases.

### **1-13.3 Lawful Presumption**

There shall be conclusive presumption when a board or the Town Enforcement Officer authorizes regulatory action, that such officer or board would not have authorized such action except in the belief that such action was lawful.