

**ARTICLE III**

**PERMITS AND PROCEDURES**

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## **ARTICLE III**

### **PERMITS AND PROCEDURES**

#### ***3-1 PERMITS REQUIRED***

No person shall undertake any development activity subject to this Ordinance without first obtaining the necessary permits from the Town of Whitsett enforcement officer or the appropriate Guilford County enforcement officer. The provisions of this Article designate which enforcement authority is responsible for issuance of each permit or certificate provided for below.

##### **3-1.1 Development Clearance Certificate**

A development clearance certificate shall be issued by the Town of Whitsett enforcement officer for any project requiring a building permit. The zoning permit verifies that the lot where the use is proposed is zoned for the intended use and that the structures on the lot will meet the dimensional and setback requirements of this Ordinance. The zoning permit shall be issued by the Town before application is made to the Guilford County Inspections Department for a building permit. The Town of Whitsett enforcement officer shall not grant a zoning permit except in conformity with this Ordinance unless a variance is granted by the Board of Adjustment.

[Sections 3-1.2, 3-1.3, and 3-1.4 amended and adopted June 11, 2002.]

##### **3-1.2 Building Permit**

The applicant shall be responsible for first obtaining a development clearance certificate from the Town of Whitsett. Building permits for construction within the Town of Whitsett shall be issued by the Guilford County Inspections Department.

##### **3-1.3 Grading Permit**

The applicant shall be responsible for first obtaining a development clearance certificate from the Town of Whitsett. Grading permits shall be obtained from the Guilford County Inspections Department. (Required if over 1 acre if “grubbing stumps.” Not required if clean cutting and leaving stumps. All south of Hwy 70 to be reviewed.) [Phrase in parentheses is subject to change in accordance with Guilford County specifications.]

### **3-1.4 Health Department Permit**

The applicant shall be responsible for first obtaining a development clearance certificate. Permits for wells or on-site sewage disposal systems shall be obtained from the Guilford County Health Department.

### **3-1.5 Special Events Permit**

Permits for non-permanent facilities and activities which will last at least 3 and no more than 30 days shall be obtained from the Town enforcement officer.

### **3-1.6 Sign Permit**

Permits for signs requiring permits shall be obtained from the Town of Whitsett enforcement officer.

### **3-1.7 Lighting Permit**

Permits for lighting plan must be submitted to the Town enforcement officer. Details of requirements are listed in the lighting ordinance section. [Section 3-1.7 added June 9, 2009.]

## ***3-2 PERMIT EXEMPTIONS***

### **3-2.1 Building Permit Exemptions:**

Guilford County has jurisdiction for issuance and enforcement of building permits. The following exemptions, contained in the Guilford County Uniform Development Ordinance, are noted for informational purposes:

- A. Farm buildings (other than residences) for farm use.
- B. Facilities of a public utility or an electric or telephone membership corporation (except buildings).
- C. Accessory buildings, less than one hundred (100) square feet, and
- D. Federal or state owned buildings

### **3-2.2 Grading Permit Exemptions:**

Guilford County has jurisdiction for issuance and enforcement of grading permits. The following exemptions, contained in the Guilford County Uniform Development Ordinance, are noted for informational purposes:

- A. For the purpose of fighting fires
- B. Areas that do not exceed one (1) acre in surface area
- C. Those undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to: forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts, dairy animals and dairy products, poultry and poultry products, livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats including the breeding, grazing of any such animals, bees and aviary products, fur animals.
- D. Those undertaken on forest land for the production and harvesting of timber and timber products and which are conducted in accordance with Forest Practice Guidelines Related to Water Quality (best management practices) as adopted by the Department DEHNR.

### **3-2.3 Sign Permit Exemptions**

See Article VII, Signs.

## ***3-3 PERMIT APPLICATIONS AND ISSUANCE***

### **3-3.1 Development Clearance Certificate Applications**

- A. Application for a development clearance certificate shall be submitted to the Town enforcement officer by the owner of the property or the authorized agent of such owner. The enforcement officer may require reasonable proof of agency from any person submitting application as an agent.
- B. Applicants may submit the same documentation to the Town that is required by the Guilford County Inspections Department for a building permit. The County requires plot plans for single and two-family dwellings and site plans for all other structures. Specifications for these submissions may be obtained from the County.
- C. At a minimum, an application for a zoning permit from the Town shall be accompanied by plot plans, in duplicate, showing the following:

- 1) The actual dimensions of the lot to be built upon.

- 2) The construction type and dimensions of the building to be erected. [Amended June 11, 2002.]
- 3) The location of the building on the lot.
- 4) The location of existing structures on the lot, if any.
- 5) The approximate setback lines of buildings on adjoining lots.
- 6) The number of dwelling units the building is designed to accommodate.
- 7) Such other information as may be essential for determining whether the provisions of this Ordinance are being observed.
- 8) Planned use of building. [Item Added June 11, 2002.]

D. After issuance of the development clearance certificate, the applicant will then be directed to the Guilford County Inspections Department for issuance of a building permit. [Section 3-3.1D added and original 3-3.2 deleted June 9, 2009.]

### **3-3.2 Sign Permit Applications**

Application to erect or place a sign shall be made to the enforcement officer. Requirements are specified in the “sign ordinance,” Article VII. [Sentence added June 9, 2009.]

### **3-3.3 Event Permit Applications**

A. Application: Application for an event permit shall be made to the enforcement officer at least ten (10) working days prior to the start of the event. [Changed to ten (10) on June 9, 2009.]

B. Purpose of permit: The purpose of the Event Permit is to authorize a specific use for a defined period of time and to coordinate health, traffic, and other code specific inspections necessary to the safe and healthful operation of the event.

C. Maximum Number of Permits: No more than three (3) permits may be issued for the same type event, on the same property, in one calendar year.

### **3-3.4 Grading Permit**

Application for a grading permit shall be made to the Guilford County Inspections Department, in accordance with provisions of the Guilford County Soil Erosion and Sedimentation Control Ordinance. (Required if over 1 acre if “grubbing stumps.” Not required if clean cutting and leaving stumps. All south of Hwy 70 to be reviewed.) [Phrase in parentheses is subject to change in accordance with Guilford County specifications.]

### **3-3.5 Floodplain Development Permit**

Application for a Certificate of Occupancy and/or building permit in a floodplain shall be made to the Guilford County Inspections Department on appropriate forms before any development activities occur, and shall include by not be limited to the nature, location, dimensions and elevations of the area in questions, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

### **3-3.6 Lighting Permit**

Application to install outdoor lighting shall be made to the enforcement officer. Requirements are listed in the Lighting Ordinance, Article X. [Section 3-3.6 on June 9, 2009.]

## ***3-4 FEES ESTABLISHED***

### **3-4.1 Fees**

The Town Council shall establish a schedule of fees, charges, and expenses, and a collection procedure for zoning permits, sign permits, special event permits, certificates of appropriateness, variances, waivers, appeals and other matters pertaining to this Ordinance. No permit, certificate, variance, etc. shall be issued unless or until such costs, charges, fees, or expenses established have been paid in full. Nor shall any action be taken on proceedings before the Board of Adjustment unless, or until charges and fees have been paid in full.

## ***3-5 PERMIT APPEALS***

### **3-5.1 Permit Denial**

Any owner or occupant who has been denied a permit by the Town's enforcement officer may appeal

the denial by giving notice of appeal, in writing, to the enforcement officer within fifteen (15) days.

### **3-5.2 Appellant Body**

An appeal from a permit denial shall be heard by the Board of Adjustment in accordance with Section 8-5.7.

## ***3-6 INSPECTIONS AND INVESTIGATIONS***

### **3-6.1 Periodic Inspections**

The Town enforcement officer shall have the right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the Town at any reasonable hour for the purposes of inspection, determination of compliance with permits issued by the Town or other enforcement action.

### **3-6.2 Investigation**

The enforcement officer shall have the power to conduct such investigation as he may reasonably deem necessary to carry out his duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this Ordinance.

### **3-6.3 Written Statements**

The Town Council or its agent shall also have the power to require written statements and/or the filing of reports under oath, with respect to pertinent questions relating to complaints or alleged violations of this Ordinance.

## ***3-7 PERMIT EXPIRATION***

### **3-7.1 Expiration of Development Clearance Certificate, Sign and Special Event Permits**

A. Development Clearance Certificate: A Development Clearance Certificate issued by the Town

Enforcement officer shall be valid for six months and may be reissued one time, at no additional cost, for an additional six months, as long as there is no change in the proposed use of the property. Thereafter, if construction has not begun, or if there is a change in the proposed use, the applicant shall pay all applicable fees to apply for a zoning permit on the same site.

B. Sign Permit: If a sign authorized by a sign permit has not begun within one-hundred eighty (180) days from the date of issuance, the permit shall be void, and a new permit, consistent with all provisions of this Ordinance shall be required. See Article VII

If, after the start of construction, the work is discontinued for a period of one (1) year, the permit shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

The sign permit must be posted in a prominent place on the site at all times that it is in effect.

C. Special Events Permit: A special events permit shall be valid for three (3) months, after which time a new permit for the same or similar event shall be applied for.

### ***3-8 CERTIFICATE OF OCCUPANCY and COMPLIANCE [Combined on June 9, 2009.]***

No building shall be occupied until a Certificate of Occupancy is issued by the Guilford County Inspections Department for any building or use for which the County has issued a building permit.

### ***3-9 CERTIFICATE OF APPROPRIATENESS***

A Certificate of Appropriateness issued by the Town shall be required for all activities in the Historic District, as specified in Section 4-9.1 Historic Overlay District, whether or not a building permit is otherwise required.

### ***3-10 RECORDS***

A record of all permits and certificates issued by the Town shall be kept on file by the enforcement officer for a reasonable time period as required by the Public Records Law.

### ***3-11. CONDITIONAL USE DISTRICTS (Replaced prior section 3-12 with new***

### **3-11 on June 9, 2009)**

#### **3-11.1 Purpose of Conditional Use Districts**

If the regulations and restrictions of a zoning district permitting a proposed use are inadequate to ensure the compatibility of the proposed development with the immediately surrounding neighborhood in accordance with the principles of this ordinance and applicable adopted plans, the property owner may apply for rezoning to a Conditional Use District bearing the same designation as a standard zoning district but subject to additional conditions. The owner shall in such application specify the nature of the proposed development and shall propose conditions to ensure compatibility between the development and the surrounding neighborhood.

#### **3-11.2 General Requirements**

- A. *Conditional Use District Application* – The applicant must submit a Conditional Use Application (See Appendix). A Conditional Use District application shall be considered only upon request by the property owner(s).
- B. *Other Regulations Apply* - Within a Conditional Use District, all standards and requirements of the corresponding zoning district shall be met, except to the extent that the conditions imposed are more restrictive than those standards.
- C. *Uses Within District* - Within an approved Conditional Use District, no use shall be permitted except pursuant to the conditions imposed on the Conditional Use District in the approval of the rezoning.
- D. *Conditions:* The conditions imposed may limit the uses which are permitted on the property to one or more use(s) otherwise permitted in the zone. Such conditions may further specify the location on the property of the proposed use, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways, and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of right-of-ways and other areas to be dedicated for public purposes, and other such matters as the applicant may propose as conditions upon the request.
- E. *Non-Compliance to District Conditions:* Any violation of a condition included in the approval of a Conditional Use District shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation. Any violation of such a condition shall be deemed to be the same type of violation as the use of a property for a use not permitted

under the district regulations, for the reason that any use permitted in a Conditional Use District is permitted only subject to the specified conditions.

### **3-11.3 Procedure**

Applications for Conditional Use Districts shall be processed, considered, and voted upon in the same procedure as that required for a rezoning. See Article VIII Administration [Section 3-11 added June 9, 2009.]

## **Section 3: Guidelines**

The following section contains guidelines as a minimum requirements for three conditional uses which may be encountered in the Whitsett zoning area. They are not intended, however, to limit the review authority of the Planning Board in any way.

### **A) Unified Business Development (Shopping Center)**

Unified business developments, consisting of one or more principal structures with (2) two or more tenants, or buildings and accessory structures or buildings to be constructed on a lot or plot not subdivided into the customary streets and lots and which will not be so subdivided, may be permitted subject to the following regulations:

- 1) No unified business development shall contain less than (3) three acres and there shall be a minimum lot width of (250) two hundred fifty feet.
- 2) Such developments shall abut a major highway or a collector street and shall have direct access thereto.
- 3) Such developments shall have a minimum front yard of (50) fifty feet, which shall be used only for driveways, landscaping, and screening.
- 4) Points of ingress and egress shall consist of a driveway or roadway at least (20) twenty feet in width and shall be located a sufficient distance from highway intersections to minimize traffic hazards, inconvenience, and congestion.
- 5) The number, width, and location of curb cuts shall be such as to minimize traffic hazards, inconvenience, and congestion.
- 6) Parking areas shall have a paved surface and all parking areas and traffic lanes shall be clearly marked.

7) Storm and sanitary sewerage shall be provided as approved by the Town Council and the Guildford County Health Department.

8) If the property adjoins a residential district the following requirements shall comply with the Town of Whitsett buffer ordinance (4-8.3).

**PLANS SHALL BE SUBMITTED SHOWING:**

- 1) Topography of the site, at contour interval no greater than (5) five feet.
- 2) Location and approximate size of all existing and proposed buildings and structures within the site and existing buildings and structures within (500) five hundred feet adjacent thereto.
- 3) Proposed points of ingress and egress together with the proposed pattern of internal circulation.
- 4) Proposed parking areas.
- 5) Proposed provision for storm and sanitary sewerage, including both natural and manmade features, and the proposed treatment of ground cover, slopes, banks and ditches.

**SPECIAL NOTES**

Uses shall be limited to those permitted by right in the district in which the development will be located.

Off street parking shall be in accordance with Town of Whitsett Article V.

Signs on premises shall be regulated as follows in Town of Whitsett Article VII.

**B) Outdoor Storage Yards**

Lumber yards, coal yards, wood yards, sand and gravel yards, junked automobile yards and storage of building materials such as pipe, bricks, concrete products and similar outdoor storage may be permitted subject to the following requirements:

- 1) Suitable landscaping, screening and fencing shall be required for the protection of neighboring properties and view from the public right-of-way.
- 2) Refer to Town of Whitsett Buffer Ordinance if the property adjoins a residential district.

C) Multi-family projects of over (4) four units

- 1) Multi-family projects of over (4) four units must be located on a minimum of (15000) fifteen thousand square feet of usable area.
- 2) In no case shall the density of any multi-family project exceed (10) ten dwelling units per acre.
- 3) Off-street parking shall be provided in accordance with Town of Whitsett Article V.
- 4) The proposed plan for any project shall show all curb cuts, driveways, off-street parking areas, walkways and open areas to be set aside for special uses; the location, height, and material for any proposed wall, fences and screen planting; the types of paving or other surfacing to be used in the various areas, and such other site information as may be necessary to describe completely the proposed development.
- 5) Each application for a permit for a multi-family project of over (4) four units must make reasonable provision for the following:
  - a) Adequate traffic pattern for ingress and egress.
  - b) Provision for ingress and egress of emergency vehicles.
  - c) Provision for garbage and waste disposal.
  - d) Provision for public or approved water and sewer facilities.
  - e) Recreation and open space where appropriate.
  - f) Screening and fencing where necessary to protect adjacent property.
  - g) Building must be at least (25) twenty-five feet apart.

***3-12 SPECIAL USES [Section 4-7 moved to become Section 3-12 June 9, 2009.]***

Within the various zoning districts 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. By means of controls exercised

through the Special Use Permit procedures these uses can be developed to minimize any bad effects

they might have on surrounding properties.

The uses designated with an "S" in the Permitted Use Schedule must comply with the Development Standards for that use, Section 4-6, and in addition, be granted a Special Use Permit according to the following procedures.

### **3-12.1 Application Procedure**

- A. The owner(s) or anyone with a possessory interest entitled to exclusive possession or anyone with a contractual interest soon to be a freehold interest in the property shall submit an application to the Town of Whitsett Enforcement Officer at least 30 days before the meeting of the Board of Adjustment at which it is to be heard.
- B. The application shall show that the applicable standards for the use listed under Development Standards, Section 4-6, will be met; and if requested by the Enforcement Officer, the application shall include site plans.
- C. At the time of submission, applicants shall pay a fee set by the Town Council.

### **3-12.2 Procedure for Obtaining Special Use Permit**

A. Upon receipt (at least 30 days before Board of Adjustment meeting) of a complete application for a Special Use Permit a public hearing shall be scheduled for a meeting of the Board of Adjustment.

Notice of a public hearing at the Board of Adjustment meeting shall be provided as set forth in Section 8-2 Public Hearing and Notice.

### **3-12.3 Action by Board of Adjustment -- Conditions and Findings**

- A. After the public hearing, the board shall act on the applicant's request by either granting or denying the applicant's request. When voting on the applicant's request for a Special Use Permit, a *majority (adopted 12/10/13)* vote of the Board of Adjustment membership shall be required to grant the request.
- B. An application for a Special Use Permit shall be approved only if the following conditions have been met:
  - (1) The proposed use is represented by and "S" in the column for the district in which it is located on the Permitted Use Schedule.

- (2) The proposed conditions meet or exceed applicable development standards, Section 4-6.
  - (3) Either the use as proposed, or the use as proposed subject to additional conditions imposed by the Board of Adjustment and agreed to by the applicant, is consistent with the purposes of the district and compatible with surrounding uses.
- C. The Special Use Permit shall be granted when each of the following Findings of Fact has been made by the Board of Adjustment:
- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted;
  - (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 submitted, will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Town and its environs.

There shall be competent, material and substantial evidence in the record to support these conclusions and the Board of Adjustment must find that all of the above exist or the application will be denied.

- D. In granting a Special Use Permit, the Board, with the consent of the applicant, may impose more restrictive requirements upon the permit in order that the purpose and intent of this Ordinance are served.
- E. If the Board of Adjustment fails to make the findings required by paragraph C or makes other findings inconsistent with the required findings, the proposed permit shall be denied.
- F. Any Special Use Permit that is approved shall be perpetually binding on the property unless the permit is later changed or amended through application for a new or amended Special Use Permit.
- G. No building permit or other approval shall be issued for any development on property subject to a Special Use Permit except in accordance with the terms of the permit and the district.
- H. The Board of Adjustment may change or amend any Special Use Permit subject to the

same consideration as provided for the original issuance of a Special Use Permit.

- I. If the Enforcement Officer notifies the owner in writing that the terms or conditions of a Special Use Permit have been violated and the owner fails to correct the violations in a reasonable time, then the Special Use Permit, after a hearing, may be revoked by the Board of Adjustment. The Board of Adjustment shall revoke the permit on all or part of a development if it finds that there has been a violation that: was intentional; or continued for an unreasonable time after the owner had notice of it; or was substantially inconsistent with the purposes of the district and continued for any time after the owner had notice of the inconsistency and the opportunity to cure. All of the remedies of this Ordinance for a zoning violation shall apply to violation of the terms of a Special Use Permit.

### **3-12.4 Appeal of Decisions of the Board of Adjustment**

No appeal may be taken from the action of the Board of Adjustment in granting or denying a Special Use Permit, except through Superior Court of Guilford County. Any petition for review shall be filed with the Clerk of Superior Court within 30 days after decision of the Board of Adjustment is filed in the office of the Town Clerk, or after a written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the clerk at the time of the hearing of the case, whichever is later. The decision of the Board of Adjustment may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.