



## **Agenda**

### **Greenville City Council**

**June 21, 2021**

**6:00 PM**

**This meeting will be virtual and conducted via Zoom. See the City's website ([www.greenvillenc.gov](http://www.greenvillenc.gov)) for details.**

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Assistive listening devices are available upon request for meetings held in the Council Chambers. If an interpreter is needed for deaf or hearing impaired citizens, please call 252-329-4422 (voice) or 252-329-4060 (TDD) no later than two business days prior to the meeting.

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- I. Call Meeting To Order**
- II. Invocation - Council Member Smiley**
- III. Pledge of Allegiance**
- IV. Roll Call**
- V. Approval of Agenda**
- VI. Public Comment Period**

The Public Comment Period is a period reserved for comments by the public. Items that were or are scheduled to be the subject of public hearings conducted at the same meeting or another meeting during the same week shall not be discussed. A total of 30 minutes is allocated with each individual being allowed no more than 3 minutes. Individuals who registered with the City Clerk to speak will speak in the order registered until the allocated 30 minutes expires. If time remains after all persons who registered have spoken, individuals who did not register will have an opportunity to speak until the allocated 30 minutes expires.

- VII. Old Business - Public Hearings Held on June 17, 2021**

1. Ordinance requested by Happy Trail Farms, LLC to rezone 17.2 acres located along the eastern right-of-way of Port Terminal Road and 350+/- feet north of East 10th Street from R6A (Residential [Medium Density Multi-family]) to R6 (Residential [High Density Multi-family])
2. Ordinance requested by the City of Greenville to rezone 5.2345 acres located between East 1st Street and the Tar River roughly between North Greene Street and Baker Street from OR (Office-Residential [High Density]) and R6 (Residential [High Density Multi-family]) to CD (Downtown Commercial)
3. Ordinance requested by the Planning and Development Services Department to amend Title 9 Chapter 4 Article U, Appendix A Table of Uses of the City Code to add (8)(x) "dance studio" as a permitted use in the following districts: CDF (Downtown Commercial Fringe), CG (General Commercial), and CH (Heavy Commercial) and add (13)(e) "parcel delivery service" as a permitted use in the following districts: CG (General Commercial) and CN (Neighborhood Commercial)
4. Ordinance requested by the Planning and Zoning Commission amending Title 9 of the City Code to be in compliance with North Carolina General Statutes Chapter 160D

## **VIII. New Business**

### **Public Hearings**

5. Ordinance to annex Allen Ridge Section 3, Phase 1 & 2 involving 27.54 acres located at the current terminus of Allen Ridge Road

## **IX. City Manager's Report**

## **X. Comments from Mayor and City Council**

## **XI. Adjournment**



# City of Greenville, North Carolina

Meeting Date: 06/21/2021

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**Title of Item:** Ordinance requested by Happy Trail Farms, LLC to rezone 17.2 acres located along the eastern right-of-way of Port Terminal Road and 350+/- feet north of East 10th Street from R6A (Residential [Medium Density Multi-family]) to R6 (Residential [High Density Multi-family])

**Explanation:** **Required Notices:**

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on May 4, 2021.  
On-site sign(s) posted on May 4, 2021.  
City Council public hearing notice (property owner and adjoining property owner letter) mailed on June 1, 2021.  
Public hearing legal advertisement published on June 7, 2021 and June 14, 2021.

**Comprehensive Plan:**

The Future Land Use and Character Map recommends commercial (C) at the northeastern corner of the intersection of East 10th Street and Port Terminal Road transitioning to traditional neighborhood, medium-high density (TNMH) to the east along E. 10th Street. To the north, traditional neighborhood, low-medium density (TNLM) is recommended further transitioning to potential conservation/open space (PCOS).

**Commercial:**

Primarily community and regional-scale commercial development situated near and along major roadway corridors. Existing development is characterized by buildings set back from streets behind surface parking. That existing pattern should evolve to become more walkable with shorter blocks, buildings near streets, shared parking and connections to surrounding development.

Intent:

- Provide connectivity to nearby uses (paths, streets)

- Locate new buildings near street on at least one side and accommodate parking to the side or rear of buildings
- Improve/provide public realm features such as signs, sidewalks, landscaping
- Reduce access-points into development for pedestrian and vehicular safety
- Reduce and consolidate surface parking

Primary uses:

Commercial (small and large format)

Office

Secondary uses:

Institutional/civic

### Traditional Neighborhood, Low-Medium Density

Residential area with a mix of housing types on small lots with a single-family neighborhood appearance. Traditional neighborhoods should have a walkable street network of small blocks, a defined center and edges, and connections to surrounding development.

Intent:

- Provide streetscape features such as sidewalks, street trees, and lighting
- Introduce neighborhood-scale commercial centers at key intersections

Primary uses:

Single-family residential

Two-family residential

Attached residential (townhomes)

Secondary uses:

Multi-family residential

Small-scale Institutional/Civic (churches and school)

Traditional Neighborhood, Medium-High Density

Primarily residential area featuring a mix of higher density housing types ranging from multi-family, townhomes, and small-lot single-family detached. They are typically located within a walkable distance to a neighborhood activity center. Traditional neighborhoods should have a walkable street network of small blocks, a defined center and edges, and connections to surrounding development.

Intent:

- Provide streetscape features such as sidewalks, street trees, and lighting
- Allow neighborhood-scale commercial or mixed use centers at key intersections within neighborhoods

Primary uses:

Multi-family residential

Single-family residential attached (townhomes) and detached (small-lot)

Secondary uses:

Institutional (neighborhood scale)

Potential Conservation/Open Space

Potential conservation/open space land is typically located in areas that contain existing parkland, needed land buffers, exhibit potential for flooding, or are deemed inappropriate for development due to physical or environmental barriers. Some land within this area may not contain barriers to development, or there may be reasonable mitigation. Site analysis is needed to determine development capabilities in these areas.

The Future Land Use and Character Map identifies certain areas as potential conservation/open space. Much of this area is designated based upon data on flood-prone land and environmental constraints that may not correspond precisely with conditions on the ground. Seeing an area designated this way is the beginning of a conversation. When considering rezoning requests or other development proposals, some areas classified as potential conservation/open space may be determined not to contain anticipated limitations on development,

or that existing concerns can reasonably be mitigated. In such cases, the future preferred land use should be based on adjacent Land Use and Character designations, contextual considerations, and the general policies of the comprehensive plan.

Intent:

- Conserve environmentally-sensitive land
- Buffer incompatible land uses with open space
- Provide open space network through the city for recreation
- Conservation/open space buffers adjacent to industrial development should be maintained at a width based on the type of industry and its potential to create compatibility problems
- Greenways and greenway connectors should be maintained to be consistent with the Greenway Plan.

There is a designated community activity center at the intersection of East 10th Street and Port Terminal Road. These centers are intended to provide 50,000-250,000 square feet of commercial space serving an area approximately 3 miles.

**Thoroughfare/Traffic Report Summary (Engineering Department):**

Based on the possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 831 trips to and from the site on East 10th Street, which is a net increase of 238 additional trips per day.

During the review process, measures to mitigate the traffic will be determined.

**History/Background:**

In 1976, the property was incorporated into the City's extra-territorial jurisdiction (ETJ) and zoned RA20 as part of a large-scale ETJ extension.

In March 2019, the subject property was rezoned from RA20 (Residential-Agricultural) to R6A-RU (Residential [Medium Density])-Restricted Residential Overlay District.

In January, 2020, the subject property was rezoned from R6A-RU (Residential [Medium Density])-Restricted Residential Overlay District to R6A (Residential

[Medium Density Multi-family]).

**Existing Land Uses:**

Wooded

**Water/Sewer:**

Water will be provided by Eastern Pines Water Corporation. Sanitary sewer design plans are in process to extend sanitary sewer service to this parcel.

**Historic Sites:**

There are no known effects on historic sites.

**Environmental Conditions/Constraints:**

The property is located in the Hardee Creek Watershed. If stormwater rules apply, it would require 10-year detention and nitrogen and phosphorous reduction.

A portion of the northwest corner of the property is located in the Special Flood Hazard Area (SFHA). A Floodplain Development Permit and Erosion Control Plan will be required for impacts in the floodplain. Jurisdictional wetlands may exist on the property. Jurisdictional streams and riparian buffers may exist on the property.

**Surrounding Land Uses and Zoning:**

North: RA20 - Wooded (City-owned)

South: CG - Two (2) vacant lots; CN - One (1) outbuilding; RA20 - One (1) single-family residence and two (2) vacant lots

East: RA20 - Farmland and wooded

West: CH - Three (3) single-family residences and RA20 - East Carolina Masonry and one (1) single-family residence and one (1) vacant lot

**Density Estimates:**

Under the current zoning, the site could accommodate 145-150 multi-family

units (1, 2 and 3 bedrooms).

Under the proposed zoning, the site could accommodate 220-230 multi-family units (1, 2 and 3 bedrooms).

The anticipated build-out is within 2-3 years.

**Additional Staff Comments:**

Under North Carolina General Statutes 160D-605, if the governing board wishes to approve a rezoning request that is not in compliance with the adopted comprehensive plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan, and no additional request or application for a plan amendment shall be required. Also, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. The required findings are provided in the attached ordinance.

**Fiscal Note:**

No cost to the City.

**Recommendation:**

In staff's opinion, the request is not in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

"Not in compliance with the comprehensive plan" should be construed as meaning the requested zoning (i) is specifically noncompliant with plan objectives and recommendations including the range of allowable uses in the proposed zone, etc... and/or is of a scale, dimension, configuration or location that is not objectively in keeping with plan intent and (ii) does not promote or preserve the desired urban form. The requested zoning is considered undesirable and not in the public interest, and staff recommends denial of the requested rezoning.

The Planning and Zoning Commission voted to approve (4:2) the request at its May 18, 2021 meeting.

If City Council determines to approve the request, a motion to adopt the attached rezoning ordinance will accomplish this. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why Council considers the action taken to be

reasonable and in the public interest.

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

"Motion to deny the proposed amendment and to make a finding and determination that, the request is inconsistent with the comprehensive plan and to adopt the staff report which addresses plan consistency and other matters. "

Note: In addition to the other criteria, the Planning and Zoning Commission and City Council shall consider the entire range of permitted and special uses for the existing and proposed districts as listed under Title 9, Chapter 4, Article D of the Greenville City Code.

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## ATTACHMENTS

-  [Ordinance\\_-\\_HTF.pdf](#)
-  [P&Z\\_MIN-\\_HAPPY\\_TRAIL\\_FARMS\\_RZ.pdf](#)
-  [21-03 RZ Happy Trail Farms LLC.pdf](#)
-  [21-03 HTF, LLC survey.pdf](#)
-  [Traffic HTF.pdf](#)
-  [Density and Veg Charts.pdf](#)



LOCATION: Located along eastern right-of-way of Port Terminal Road and 350+/- feet north of East 10<sup>th</sup> Street

DESCRIPTION: Beginning at a point on the eastern right-of-way of NCSR 1533 (Port Terminal Road), said point being the northwestern corner of the Koehler S. Queen Property as described in Deed Book 2088, Page 500 of the Pitt County Register of Deeds. From the above described beginning, so located, running thence as follows:

With the eastern right-of-way of NCSR 1533 (Port Terminal Road) N 25°16'53" E 362.65', N 24°43'25" E 220.37', and N 24°09'57" E 244.37', thence leaving the eastern right-of-way of NCSR 1533 (Port Terminal Road) S 67°06'02" E 701.27', thence S 26°11'50" W 708.44', thence S 25°50'01" W 515.19', thence N 61°23'22" W 196.82', thence N 12°31'53" W 98.90', thence S 87°40'40" W 156.30', thence N 05°44'32" W 59.97', thence N 65°41'14" W 101.00', thence N 25°18'19" E 100.01', thence S 65°42'04" E 24.50', thence N 26°16'10" E 104.78', thence N 24°01'18" E 98.26', thence N 65°46'38" W 174.17' to the point of beginning containing 17.2 acres.

Section 2. The Future Land Use and Character Map is hereby amended by re-designating the "Traditional Neighborhood, Low to Medium" category to the "Traditional Neighborhood, Medium to High" category for the area described in Section 1.

Section 2. That the Director of Planning and Development Services is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

Section 3. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. That this ordinance shall become effective upon its adoption.

ADOPTED this 21<sup>st</sup> day of June, 2021.

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P. J. Connelly, Mayor

ATTEST:

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Valerie Shiuwegar, City Clerk

1147754

**Excerpt from the draft Planning & Zoning Commission Minutes (5/18/2021 and 5/20/2021)**

REQUEST BY HAPPY TRAIL FARMS, LLC TO REZONE 17.2 ACRES LOCATED ALONG EASTERN RIGHT-OF-WAY OF PORT TERMINAL ROAD AND 350+/- FEET NORTH OF EAST 10TH STREET FROM R6A (RESIDENTIAL [MEDIUM DENSITY MULTI-FAMILY]) TO R6 (RESIDENTIAL [HIGH DENSITY MULTI-FAMILY]).

Chantae Gooby presented for staff. Of the 17.2 acres, 3.3 acres are in wetlands. The property is located in the Hardee Creek Watershed. If stormwater rules apply, it would require 10-year detention. A Flood Plain Development Permit and an Erosion Control Plan are required. There are wetlands that have been mapped on the survey and there may be streams and buffers located on the property. This rezoning could generate a net increase of 238 trips per day. In 2019, this property was rezoned from RA20 to R6A-RU. The "RU" is an overlay that only allows single-family and duplexes. In 2020, there was a request to rezone the property to R6A, which allows single-family, duplexes and multi-family uses. For this request, staff recommended denial. Ultimately, the request was approved by Council. Under the current zoning, the property could accommodate 115-125 multi-family units. Under the proposed zoning, the site could accommodate 145-150 multi-family units. The R6 is a high density multi-family district and is not a part of the traditional neighborhood low to medium density. The Future Land Use and Character Map recommends traditional neighborhood low to medium density (TNLM) in this area. The R6 district is a high density multi-family district. In staff's opinion, the request is not in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map. Staff recommends denial.

Ashley Elks spoke in favor. He stated under the current zoning they will be able to have 144 units. With the R6 zoning, they would be able to have 216 units. This area is experiencing growth and there is a need for market-rate apartments.

No one spoke in opposition.

**Excerpt from the draft Planning & Zoning Commission Minutes (5/20/2021)**

Mr. Maxwell stated he is concerned about the environmentally-sensitive land at this location and it is not the appropriate place for market rate apartments.

**Motion made by Mr. Maxwell, seconded by Mr. Collins, to recommend denial of the proposed amendment, to advise that it is inconsistent with the comprehensive plan and to adopt the staff report which addresses plan consistency and other matters. Motion failed (2:4).**

**Motion made by Mr. Joyner, seconded by Mr. Overton, to recommend approval of the proposed amendment, to advise that, although the proposed amendment is not consistent with the comprehensive plan, in this instance it is an appropriate zoning classification, and to adopt the staff report which addresses plan consistency. Motion passed (4:2).**

# Happy Trail Farms, LLC

From: R6A

To: R6

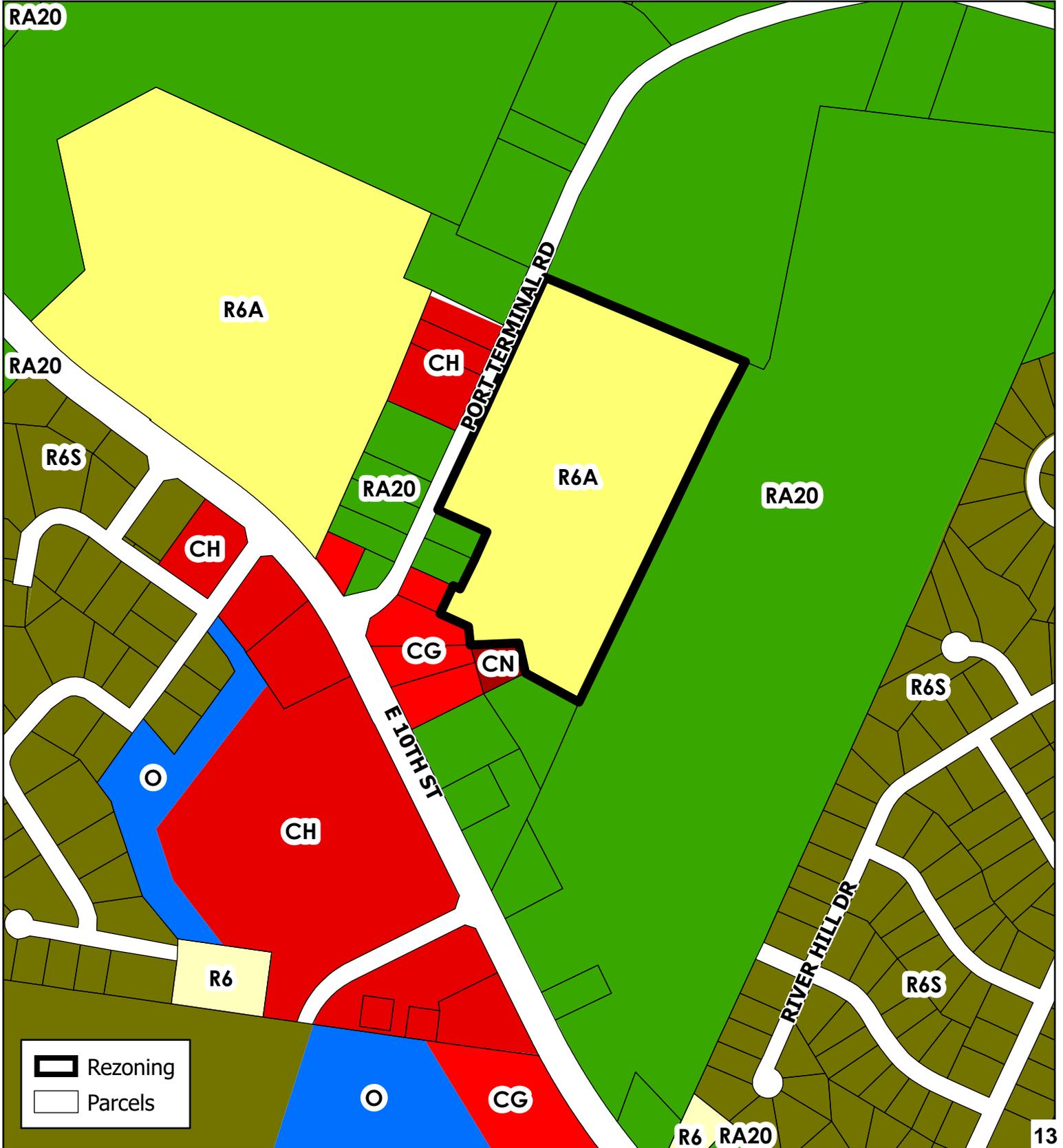
Acres: 17.2 Acres

April 6th, 2021

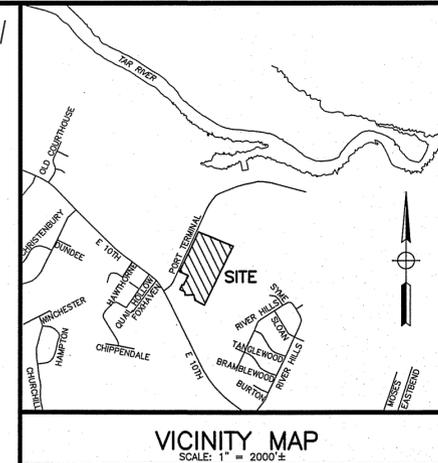
N



0 0.03 0.06 0.11 Miles



Y:\DRAWINGS\2015 Drawings\15-129 HT FARMS-PORT TERMINAL\HTF REZONING-2.dwg Mon, Mar 22, 2021 8:54am MHERREJON

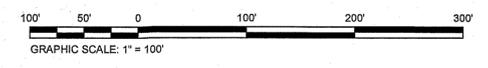


LEGEND

- R/W = RIGHT-OF-WAY
- EIP = EXISTING IRON PIPE
- EIS = EXISTING IRON STAKE
- SIP = SET IRON PIPE
- ECM = EXISTING CONCRETE MONUMENT
- C/L = CENTERLINE
- DB = DEED BOOK
- NPS = NO POINT SET
- EPKN = EXISTING PARKER KALON NAIL
- - - = NOT TO SCALE
- (Dashed circle) = ZONING EXISTING
- (Solid circle) = ZONING PROPOSED

NOTE: WETLANDS DELINEATED BY LAND MANAGEMENT GROUP IN APRIL 2019.

NOTE: THE BEARINGS AND DISTANCES SHOWN ON THIS MAP WERE TAKEN FROM INFORMATION PROVIDED BY THE PITT COUNTY OPIS WEBSITE AND DOES NOT REPRESENT AN ACTUAL SURVEY BY THIS FIRM.



SHEET 1 OF 1 REZONING MAP PARCEL #02481 TAX MAP #5607-04-5695

HAPPY TRAIL FARMS, LLC

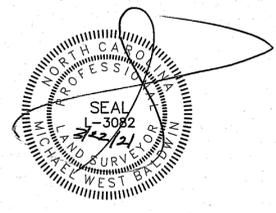
REFERENCE: DEED BOOK 3367, PAGE 289 OF THE PITT COUNTY REGISTER OF DEEDS

GREENVILLE TOWNSHIP, PITT COUNTY, NC

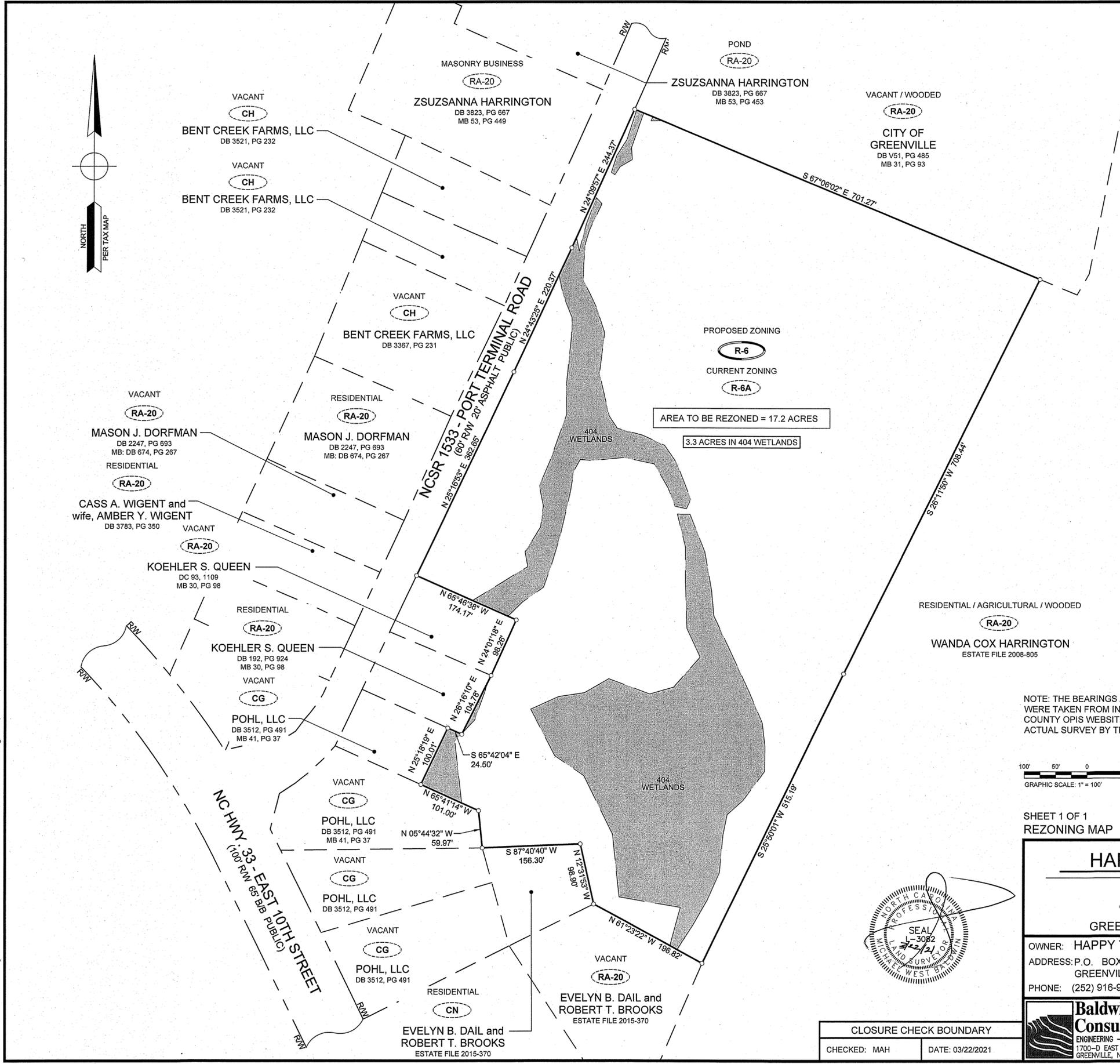
OWNER: HAPPY TRAIL FARMS, LLC  
ADDRESS: P.O. BOX 1863 GREENVILLE, NC 27835  
PHONE: (252) 916-9028

**Baldwin Design Consultants, PA**  
 LICENSE# C-3498  
 ENGINEERING - SURVEYING - PLANNING  
 1700-D EAST ARLINGTON BOULEVARD  
 GREENVILLE, NC 27858 252.756.1390

SURVEYED: N/A	APPROVED: MWB
DRAWN: MAH	DATE: 03/22/2021
CHECKED: MWB	SCALE: 1" = 100'



CLOSURE CHECK BOUNDARY	
CHECKED: MAH	DATE: 03/22/2021



# REZONING THOROUGHFARE/TRAFFIC VOLUME REPORT

**Case No:** 21-03

**Applicant:** Happy Trail Farms, LLC

**Property Information**

**Current Zoning:** R6A (Residential [Medium Density Multi-Family])

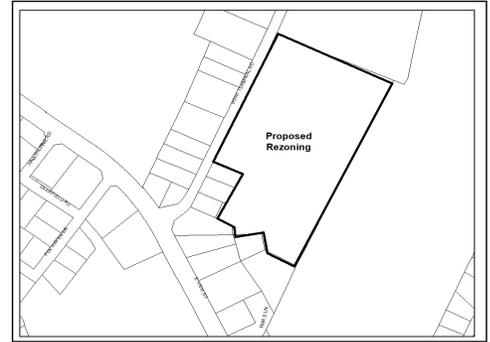
**Proposed Zoning:** R6 (Residential [High Density Multi-Family])

**Current Acreage:** 17.6 acres

**Location:** Port Terminal Rd, north of E. 10th St

**Points of Access:** E. 10th St

**Location Map**



**Transportation Background Information**

**1.) E. 10th St- State maintained**

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	5-lane with curb & gutter	no change
Right of way width (ft)	100	no change
Speed Limit (mph)	50	no change
<b>Current ADT:</b>	26,420 (*)	
<b>Design ADT:</b>	32,200 vehicles/day (**)	
<b>Controlled Access</b>	No	
<b>Thoroughfare Plan Status</b>	Major Thoroughfare	

**Other Information:** There are sidewalks along E. 10th St that service this property.

**Notes:** (\*) 2014 NCDOT count adjusted for a 2% annual growth rate  
 (\*\*) Traffic volume based on operating Level of Service D for existing geometric conditions  
 ADT – Average Daily Traffic volume

**Transportation Improvement Program Status:**

**Trips generated by proposed use/change**

**Current Zoning: 831** -vehicle trips/day (\*)                      **Proposed Zoning: 998** -vehicle trips/day (\*)

**Estimated Net Change: increase of 167 vehicle trips/day (assumes full-build out)**

(\* - These volumes are estimated and based on an average of the possible uses permitted by the current and proposed zoning.)

**Impact on Existing Roads**

The overall estimated trips presented above are distributed based on current traffic patterns. The estimated ADTs on E. 10th St are as follows:

**1.) E. 10th St , West of Site (70%):**                      **“No build” ADT of 26,420**

Estimated ADT with Proposed Zoning (full build) – 27,119  
 Estimated ADT with Current Zoning (full build) – 27,002  
**Net ADT change =**                      117 (<1% increase)

2.) E. 10th St , East of Site (30%): "No build" ADT of 26,420

Estimated ADT with Proposed Zoning (full build) – 26,719

Estimated ADT with Current Zoning (full build) – 26,669

Net ADT change = 50 (<1% increase)

#### **Staff Findings/Recommendations**

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 998 trips to and from the site on E. 10th St, which is a net increase of 167 additional trips per day (over current zoning).

During the review process, measures to mitigate the traffic will be determined.

# RESIDENTIAL DENSITY CHART

Density Level	Future Land Use and Character Type	Applicable Zoning District(s)	Units per Acre***
High	Uptown Edge (UE)	CDF and CD*	17 units per acre
	Mixed Use, High Intensity (MUHI)	OR	17 units per acre
		R6, MR	17 units per acre
	Residential, High Density (HDR)	R6, MR, OR	17 units per acre
		R6MH	17 units per acre
Medical-Transition (MT)	MR	17 units per acre	
High to Medium	Mixed Use (MU)	OR	17 units per acre
		R6, MR	17 units per acre
		R6A	9 units per acre
	Uptown Neighborhood (UN)	R6S	7 units per acre
	Traditional Neighborhood, Medium-High Density (TNMH)	R6	17 units per acre
		R6A	9 units per acre
		R6S	7 units per acre
Medium to Low	Traditional Neighborhood, Low-Medium Density (TNLM)	R9	6 units per acre
		R9S	5 units per acre
		R15S	3 units per acre
	Residential, Low-Medium Density (LMDR)	R9S	5 units per acre
		R15S	3 units per acre
		RA20	4 units per acre
		MRS	4 units per acre

\* The residential density of the CD zoning district is based on the size of the mechanically conditioned floor area. See Section 9-4-153 in the City Code for development standards.

\*\*\* Maximim allowable density in the respective zoning district.

## BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

**Bufferyard Requirements:** Match proposed land use with adjacent permitted land use or adjacent vacant zone/nonconforming use to determine applicable bufferyard.

PROPOSED LAND USE CLASS (#)	ADJACENT PERMITTED LAND USE CLASS (#)					ADJACENT VACANT ZONE OR NONCONFORMING USE		PUBLIC/PRIVATE STREETS OR R.R.
	Single-Family Residential (1)	Multi-Family Residential (2)	Office/Institutional, light Commercial, Service (3)	Heavy Commercial, Light Industry (4)	Heavy Industrial (5)	Residential (1) - (2)	Non-Residential (3) - (5)	
Multi-Family Development (2)	C	B	B	B	B	C	B	A
Office/Institutional, Light Commercial, Service (3)	D	D	B	B	B	D	B	A
Heavy Commercial, Light Industry (4)	E	E	B	B	B	E	B	A
Heavy Industrial (5)	F	F	B	B	B	F	B	A

### Bufferyard A (street yard)

Lot Size	Width	For every 100 linear feet
Less than 25,000 sq.ft.	4'	2 large street trees
25,000 to 175,000 sq.ft.	6'	2 large street trees
Over 175,000 sq.ft.	10'	2 large street trees

Street trees may count toward the minimum acreage.

### Bufferyard B (no screen required)

Lot Size	Width
Less than 25,000 sq.ft.	4'
25,000 to 175,000 sq.ft.	6'
Over 175,000 sq.ft.	10'

### Bufferyard C (screen required)

Width	For every 100 linear feet
10'	3 large evergreen trees 4 small evergreens 16 evergreen shrubs

Where a fence or evergreen hedge (additional materials) is provided, the bufferyard width may be reduced to eight (8) feet.

### Bufferyard D (screen required)

Width	For every 100 linear feet
20'	4 large evergreen trees 6 small evergreens 16 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

### Bufferyard E (screen required)

Width	For every 100 linear feet
30'	6 large evergreen trees 8 small evergreens 26 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

### Bufferyard F (screen required)

Width	For every 100 linear feet
50'	8 large evergreen trees 10 small evergreens 36 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Parking Area: Thirty (30) inch high screen required for all parking areas located within fifty (50) feet of a street right-of-way.



# City of Greenville, North Carolina

Meeting Date: 06/21/2021

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**Title of Item:** Ordinance requested by the City of Greenville to rezone 5.2345 acres located between East 1st Street and the Tar River roughly between North Greene Street and Baker Street from OR (Office-Residential [High Density]) and R6 (Residential [High Density Multi-family]) to CD (Downtown Commercial)

**Explanation:** **Required Notices:**

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on May 4, 2021.  
On-site sign(s) posted on May 4, 2021.  
City Council public hearing notice (property owner and adjoining property owner letter) mailed on June 1, 2021.  
Public hearing legal advertisement published on June 7, 2021 and June 14, 2021.

**Comprehensive Plan:**

The Future Land Use and Character Map shows potential conservation /open space (PCOS) between East First Street and the Tar River roughly between N. Greene Street and Baker Street transitioning to urban core (UC) and university/institutional (UI) to the south and traditional neighborhood, medium high density (THMH) to the east.

Potential Conservation/Open Space

Potential conservation/open space land is typically located in areas that **contain existing parkland**, needed land buffers, exhibit potential for flooding, or are deemed inappropriate for development due to physical or environmental barriers. Some land within this area may not contain barriers to development, or there may be reasonable mitigation. Site analysis is needed to determine development capabilities in these areas.

The Future Land Use and Character Map identifies certain areas as potential conservation/open space. Much of this area is designated based upon data on flood-prone land and environmental constraints that may not correspond precisely with conditions on the ground. Seeing an area designated this way is

the beginning of a conversation. When considering rezoning requests or other development proposals, some areas classified as potential conservation/open space may be determined not to contain anticipated limitations on development, or that existing concerns can reasonably be mitigated. In such cases, the future preferred land use should be based on adjacent Land Use and Character designations, contextual considerations, and the general policies of the comprehensive plan.

Intent:

- Conserve environmentally-sensitive land
- Buffer incompatible land uses with open space
- Provide open space network through the city for recreation
- Conservation/open space buffers adjacent to industrial development should be maintained at a width based on the type of industry and its potential to create compatibility problems
- Greenways and greenway connectors should be maintained to be consistent with the Greenway Plan.

Smart Growth Principles

#### **1. Mix Land Uses**

By putting residential, commercial and recreational uses in close proximity to one another, alternatives to driving, such as walking or biking, become viable. Mixed land uses also provide a diverse and sizable commercial base for supporting transit.

#### **2. Take advantage of compact building design.**

Compact building design suggests that communities be laid out in a way that preserves more open space, and that individual buildings make more efficient use of land and resources. For example, by encouraging development to grow vertically rather than horizontally, and by incorporating structured rather than surface parking, communities can reduce the footprint of new construction, and preserve more green space.

#### **4. Create walkable neighborhoods.**

As the personal and societal benefits of pedestrian-friendly communities are realized - benefits that include lower transportation costs, greater social interaction, improved personal and environmental health, and expanded consumer choice - many are calling upon the public and private sectors to facilitate development of walkable places. By building places with multiple destinations within close proximity, where the streets and sidewalks balance multiple forms of transportation, communities have the basic framework for walkability.

#### **6. Preserve open space, farmland, natural beauty and critical environmental areas.**

Open space refers to natural areas that provide important community space,

habitat for plants and animals, and recreational opportunities. Farmland, places of natural beauty, and critical environmental areas (e.g. wetlands) can also serve as important amenities. Open space preservation bolsters local economies, preserves critical environmental areas, improves community quality of life, and guides new growth into existing communities.

#### **7. Strengthen and direct development towards developed areas.**

Directing development towards areas already served by infrastructure keeps communities compact. This development pattern uses the resources that existing neighborhoods offer and conserves open space and irreplaceable natural resources on the edges. Development in existing neighborhoods represents a cost-effective approach to growth that can improve the quality of life for residents.

Infill development is one strategy that fills the lots that have been left as empty or underused holes in between existing buildings. Redevelopment is another strategy that replaces existing buildings with new types of development. Both of these present significant opportunities for neighborhoods, cities, and developers to improve existing areas in the city and promote revitalization.

#### Principles

##### **1. Development of underutilized land within the city's existing urban footprint that is served by infrastructure is a priority over undeveloped land on the city's edge.**

It is preferable to accommodate growth in locations within the existing urban area that are appropriate for and can support increased development densities. Infill and redevelopment will occur in a strategic manner that considers community needs like access to amenities, transportation service, and the quality and quantity of open space.

- Areas for future development are identified for infill, redevelopment and greenfield opportunities. Though infill and redevelopment are priorities, that does not imply that all infill or redevelopment capacity must be consumed prior to support for any greenfield development, or that there cannot be strategically targeted new areas for growth.
- Infill or redevelopment will promote a high quality of life for existing residents by encouraging appropriate building placement and size, minimizing traffic impacts, and avoiding other undue negative consequences.
- When new growth occurs on the edge of the community, it will be done in a manner to minimize demand for new infrastructure and community services. Such greenfield development should be clustered to preserve open space and avoid negative impacts on environmentally sensitive areas and waterways. The scenic quality of the area should be preserved.

##### **3. A greater intensity of development that integrates a mix of uses (residential, commercial, office, institutional, civic, etc.) and connects with existing developed areas is encouraged in strategic locations.**

Places will be created with multiple uses - residential, commercial, and

institutional, among others - in proximity to each other, perhaps on the same site and/or in the same structure. Close attention will be given to the compatibility of those uses and their surroundings. Uses will be arranged in a manner that maximizes pedestrian activity.

- Mixed use centers will be an encouraged development pattern in the city. These places mix retail, residences, offices and civic uses at various scales.
- Special districts will be designated for uses that are not appropriate in a mixed use setting (such as industrial).

**5. Uptown features a vibrant mix of businesses, residences, education, recreation, entertainment, and civic uses, and a distinctive character that is appealing to residents, visitors and investors.**

As the historic and civic heart of Greenville, Uptown will be a focus for revitalization efforts, strengthening community pride and the city's image. Revitalization efforts will include both public and private investment.

- ECU's Main and Millennial Campuses will be leveraged to attract new development and help strengthen the city's core.
- Adaptive reuse of underutilized buildings will be encouraged.
- Development of buildings on existing surface parking areas will be encouraged, while parking needs will be addressed through sharing arrangements and parking structures.
- Policies will encourage investment in neighborhoods at the edge of Uptown.

**7. A network of connected greenways and green infrastructure will protect wildlife habitat and sensitive natural areas and provide recreational opportunities.**

Future development will contribute to expanding the quantity, quality, access to, and connections between the city's parks, open space, and recreational amenities.

- As feasible, wooded areas and stream corridors will be protected, integrated into new developments, and connected to create a continuous open space system.
- Convenient and accessible recreational opportunities will be provided for all ages.
- Existing recreational, green space, public areas, open space, and natural spaces will be maintained. New areas will be set aside that connect people to the natural environment and promote recreational opportunities. The network of spaces will support healthy active lifestyles.

**8. Environmentally-sensitive and sustainable practices will be encouraged in future developments.**

Development will be designed to reduce potentially negative impacts on environmental features such as stream corridors, wetlands, and significant stands of mature trees.

- The city will continue efforts to protect watersheds, wetlands and floodplain areas when development or redevelopment occurs.
- New construction will employ context-sensitive design to reduce impacts

- on existing site features and the natural environment.
- Green building practices will be encouraged. Projects will minimize the consumption of resources, employ recycling of building materials, and promote quality indoor living and working environments.
- Green stormwater and graywater management options will be encouraged. Sites will retain and reuse stormwater to reduce surface runoff and prevent negative impacts on the watershed.
- Infill and redevelopment will maintain or enhance the urban tree canopy.

## Goals and Policies

### **Policy 1.3.1. Support Infill and Redevelopment**

Promote development and redevelopment throughout the city with a concentration of these projects in the Uptown Core of the Future Land Use and Character map and the Primary Service Area of the Tiered Growth Map in order to balance the city's tax base, reduce service and maintenance expenditures, and make smart long term investments that use taxpayer dollars wisely. This is generally preferred over new peripheral development.

### **Goal 1.4. A Vibrant Uptown**

Greenville will have a beautiful and vibrant Uptown with active public spaces. Safe and exciting streets will be active throughout the morning and evening. Diverse housing choices will be offered in Uptown for people of all ages where there will be many shopping opportunities, a unique connection to River Park North, reused historical structures, and a variety of employment spaces for companies large and small.

### **Policy 3.1.1. Promote Infill Development on Underutilized Sites in the Core**

Promote the development of underutilized sites within the urban core of the city through development incentives and active advertisement to potential developers or business tenants. The city will investigate any current barriers to development and identify solutions to make infill development a more feasible and valued option.

### **Policy 3.1.2. Encourage Development to Locate Near Existing or Planned Infrastructure**

Encourage new development to occur in areas that can be served by existing or planned infrastructure, particularly public water and wastewater while still respecting limits of what the land and adjacent waterways can sustain.

### **Goal 4.5. A High Quality of Life**

Quality of life is a critical component of Greenville's economic development strategy. Greenville will retain skilled workers and entrepreneurs for business, research, medicine, advanced manufacturing, and other industries. Greenville will be a vibrant, diverse, and inclusive city with myriad cultural opportunities, exciting places, and healthy living options for residents and visitors of all ages, backgrounds, and abilities.

### **Policy 4.5.1 Expand Walkable Development**

Implement the *Horizons 2026* Future Land Use and Character Map, which

encourages walkable mixed use development, connected street patterns, and nodal activity centers. There are many indirect benefits to creating a walkable city, including improvements to workforce retention that come from making Greenville a more desirable city in which to live.

**Policy 5.2.3 Improve Access to Civic Sites**

Redevelopment and new development projects should improve access to civic sites including parks, squares, playgrounds, and schools. Ideally, most residential properties will be within a quarter-mile of at least one future or existing civic site. Civic sites should occupy prominent parcels in new development and redevelopment projects, including central locations in neighborhoods, elevated areas, and parcels located at the end of a corridor that provides opportunity to create a quality terminating vista.

Action Plan

**Priority Implementation Action #1:**

**Adopt Mixed Use Zoning Districts**

*Action 1.1.*

Mixed use development is not a current part of Greenville’s zoning and subdivision ordinances, but vertically mixed use buildings and mixed use developments are a part of the vision of the Future Land Use and Character map of this plan. Having districts for Mixed Use High Intensity and Mixed Use defined within the ordinances will expedite the ability of City staff to deploy the plan in areas where that designation has been given on the map. Along with other regulations, incentives, and programs, mixed use districts can also help preserve and grow the vibrant uptown neighborhoods. This action adds to the City’s too kit for overall implementation. This action was a top ten priority at the public open house.

**Priority Implementation Action #14:**

**Develop an Iconic Pedestrian Bridge that Connects the North of the River to Uptown**

*Action 7.8.*

An iconic pedestrian bridge is the type of large scale thinking that can change the City of Greenville and become a fixture of the City’s identity. This action may take the form of allowing or supporting private efforts to fundraise and develop a plan. This action was a top ten priority at the public open house.

**Priority Implementation Action #15:**

**Redevelop Properties Along First Street**

*Action 1.7.*

The Town Common is an important civic resource for Greenville. The properties that front it along first street serve to frame the space, and more attention to these properties can help them develop in a way that preserves the openness of the Common while providing services and amenities that enliven the City's front door to the Tar River. This action was a top ten priority at the public open house.

**Priority Implementation Action #17:**

**Develop Strategies to Stabilize and Revitalize the University Neighborhood**

*Action 5.8.*

The University Neighborhood is a key interface between Greenville and ECU. Developing strategies to stabilize and revitalize the neighborhood can have a major impact on the character of the City and serve as a healthy example of City-University cooperation and citizen-student coexistence. The need for this action was identified based on feedback from the public open house and guidance.

Town Common Master Plan

This plan is referenced in Horizons 2026: Greenville's Community Plan.

Recommendations and Opportunities:

Principle A - Activate edges and entrances of park

Recommendation:

Provide civic building, retail kiosks, an education center, kayak rentals and other uses along First Street.

Principle C - Make river more accessible and visible

Recommendation:

Improve the existing fishing pier by enlarging it and lengthening it. Provide a

structure at the end of the pier that could provide shade and act as a gathering space, kayak launch and ferry departure and arrival.

#### Principle H - Spur Private Enterprise

##### Recommendations:

Encourage/promote the idea of private entities supporting the redevelopment of the Town Common through carefully constructed agreements.

Consider a multitude of potential enterprises that could play a role in the revitalization of the park, including: cultural museums, art galleries, cafes, express service retail, canoe/kayak/bicycle rentals, restaurants, gift shops, newsstands, and arts and crafts.

Provide a multi-purpose civic building that includes flexible meeting space, kitchen/dining capabilities, outdoor patio, restrooms, and an interpretive bell tower integrated in to the structure.

#### Principle K - Link to the Greenway and River Park North

##### Recommendation:

Provide clear, accessible connections to the Greenway trailhead.

#### **Thoroughfare/Traffic Report Summary (Engineering Department):**

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 65 trips to and from the site on East First Street, which is a net increase of 350 additional trips per day.

During the review process, measures to mitigate the traffic will be determined.

#### **History/Background:**

In 1969, the property was zoned to its current zoning.

At the 2019 City Council Planning Session, a presentation was made to City Council on the future development of an event space / restaurant at the Town Common on a 1.4 acre piece of property. The area was located at the eastern end of the park and adjacent to the river. The East Group had performed a study of the property, and a schematic design was presented as to the look of a potential project. In addition, this project was one of City Council's strategic priorities based on its established goals. After the Council Planning Session in 2019, the eastern end of the Town Common, specifically the parking lot, became the lay-down area for the Town Creek Culvert project. This took that area of the park out of operation for about 1.5 years so the City did not pursue the project at that

time. In addition, COVID-19 was the top priority in the later part of 2020 and in to 2021. Now that the Town Creek Culvert project is complete and we are settling in with moving on from COVID, the City is positioning itself to take another look at this project for the future. The rezoning would be a step in this process.

**Existing Land Uses:**

Portion of Town Common and Town Creek Bridge

**Water/Sewer:**

Water and sanitary sewer are available to the property.

**Historic Sites:**

There are no known effects on historic sites.

**Environmental Conditions/Constraints:**

The property drains to Town Creek and directly to the Tar River. If stormwater rules apply, it would require 10-year detention, nitrogen and phosphorus reduction.

If developed under current stormwater rules or vested before the stormwater ordinance is updated, Nutrient (Nitrogen and Phosphorus) are not required as this property is part of the Center City Revitalization Area. If after the ordinance is updated (expected 2022), both Nitrogen and Phosphorus reductions may be required.

A portion of the property is located in the Special Flood Hazard Area and Floodway. A Floodplain Development Permit and Erosion Control Plan will be required for impacts in the floodplain. A No-Rise certification will be required for any impacts in the Floodway. No jurisdictional wetlands exist on the property. Jurisdictional streams and riparian buffers do exist on the property along the Tar River and Town Creek. A stormwater constructed wetland is located on the property.

**Surrounding Land Uses and Zoning:**

North: Tar River; R6 - one (1) vacant lot  
South: R6 - three (3) duplex buildings; CD: East Carolina University parking lot and Willis Building  
East: R6: one (1) single-family residence and three (3) duplex buildings  
West: OR - Town Common

**Density Estimates:**

Under the current zoning, the site could accommodate 40 multi-family units (1, 2

and 3 bedrooms).

Under the proposed zoning, the site could accommodate a mixed use center containing 5,000 square feet of restaurant space, 2,000 square feet of convention center space and kayak/canoe rentals.

The anticipated build-out is within 2-3 years.

**Fiscal Note:** No cost to the City.

**Recommendation:** In staff's opinion, the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map. Therefore, staff recommends approval.

"In compliance with the comprehensive plan" should be construed as meaning the requested zoning is (i) either specifically recommended in the text of the Horizons Plan (or addendum to the plan) or is predominantly or completely surrounded by the same or compatible and desirable zoning and (ii) promotes the desired urban form. The requested district is considered desirable and in the public interest, and staff recommends approval of the requested rezoning.

The Planning and Zoning Commission voted (4:3) to deny the request at its May 20, 2021 meeting.

If City Council determines to approve the request, a motion to adopt the attached rezoning ordinance will accomplish this. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why Council considers the action taken to be reasonable and in the public interest.

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

"Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest."

Note: In addition to the other criteria, the Planning and Zoning Commission and City Council shall consider the entire range of permitted and special uses for the existing and proposed districts as listed under Title 9, Chapter 4, Article D of the Greenville City Code.

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## ATTACHMENTS

-  [Ordinance\\_-\\_COG\\_Town\\_Common\\_rezoning.pdf](#)
-  [EXCERPT\\_P&Z\\_MIN-\\_COG\\_RZ.pdf](#)
-  [Written\\_comments\\_Town\\_Common\\_rezoning.pdf](#)

-  [21-06 RZ COG.pdf](#)
-  [2021.5.18.TRAFRPTCASE21-06.pdf](#)
-  [OR, R6 to CD.pdf](#)
-  [Density and Veg Charts.pdf](#)

ORDINANCE NO. 21-  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREENVILLE  
REZONING TERRITORY LOCATED WITHIN THE PLANNING AND ZONING  
JURISDICTION OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 6, Chapter 160D, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on the 17<sup>th</sup> day of June, 2021, at 6:00 p.m., conduct an electronic meeting and conduct a public hearing on the adoption of an ordinance rezoning the following described territory;

WHEREAS, the City Council has been informed of and has considered all of the permitted and special uses of the districts under consideration;

WHEREAS, in accordance with the applicable provisions of North Carolina General Statute 160D-605, the City Council does hereby find and determine that the adoption of the ordinance zoning the following described property is consistent with the adopted comprehensive plan and other officially adopted plans that are applicable and that the adoption of the ordinance zoning the following described property is reasonable and in the public interest due to its consistency with the comprehensive plan and other officially adopted plans that are applicable and, as a result, its furtherance of the goals and objectives of the comprehensive plan and other officially adopted plans that are applicable;

WHEREAS, as a further description as to why the action taken is consistent with the comprehensive plan and other officially adopted plans that are applicable in compliance with the provisions of North Carolina General Statute 160D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of this ordinance is consistent with provisions of the comprehensive plan including, but not limited to, Policy 1.1.1 guide development with the Future Land Use and Character Map and Policy 1.1.6 guide development using the Tiered Growth Approach; and

WHEREAS, as a further explanation as to why the action taken is reasonable and in the public interest in compliance with the applicable provisions of North Carolina General Statute 160D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of this ordinance will, in addition to the furtherance of other goals and objectives, promote the safety and general welfare of the community because the requested zoning is consistent with the recommended Future Land Use and Character Map and is located in a Preferred Growth Area;

THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DOES HEREBY ORDAIN:

Section 1. That the following described territory is rezoned from OR (Office-Residential) and R6 (Residential) to CD (Downtown Commercial).

TO WIT: City of Greenville

LOCATION: Located between East 1st Street and the Tar River roughly between North Greene Street and Baker Street

DESCRIPTION: Beginning at a point located in the northern right of way of First Street with said point being an "X" chiseled in the concrete sidewalk with a drill hole and being referenced N 78° 31'51" W – 1512.11 from an iron pipe located in the intersection of the northern right of way of First Street and the eastern right of way of Greene Street; thence from said located Point of Beginning and running along a line, N11°28'09"E – 217.00 feet to an iron pipe; thence N78°31'51"E – 132.00 feet to an iron pipe; thence N78°31'51"E – 132.00 feet to an iron pipe; thence N11°28'09"E – 174.79 feet to a point on the northern face of a metal retaining wall; thence running along the retaining wall, S74°30'24"E – 208.97' to the point of curvature of a curve, thence continuing with the metal retaining wall and running along a curve to the right, having a radius of 66.36 feet, being measured along the long chord of S49°50'55"E – 67.76 feet to a point located in the mean high water line of the Tar River; thence running along the mean high water line of the Tar River the following courses: S 84°24'45" E – 46.48 feet, N89°07'59"E – 59.13 feet, S52°52'09"E – 30.73 feet, S68°49'40"E – 31.93 feet, S24°11'47"E – 27.84 feet, S08°27'55"W – 24.59 feet, N77°22'33"E – 71.39 feet to a point in the center of the Town Creek; thence leaving mean high water line of the Tar River and running along the center of Town Creek the following courses: S12°56'47"E – 101.57 feet, S05°25'46"W – 31.64 feet, S10°15'48"W – 25.66 feet, S21°55'28"E – 7.47 feet, S07°49'46"E – 15.31 feet, S17°00'51"E – 19.95 feet; thence leaving the center of Town Creek, N83°20'28"E – 30.00 feet to an iron pipe; thence N83°20'28"E – 87.20 feet to an iron pipe; thence S18°27'13"E – 56.20 feet to an iron pipe; thence S18°27'13"E – 28.69 feet to an iron pipe; thence N83°33'32"E – 108.73 feet to an iron pipe in the western right of way of Baker Street; thence running along the right of way Baker Street, S06°00'51"E – 55.15 to an iron pipe; thence S06°00'51"E – 15.86 feet to an iron pipe; thence leaving the right of way of Baker Street, S83°33'32"W – 111.50 feet to an iron pipe; thence S05°44'48"W – 157.42 feet to an iron pipe in the northern right of way of First Street; thence running along the right of way of First Street the following courses, N75°08'21"W – 130.26 feet to an iron pipe, N75°08'21"W – 45.33 feet to an iron pipe, N75°08'21"W – 119.36 feet to an iron pipe; N78°31'51"W – 193.36 feet to an "X" chiseled in the concrete walk, the Point of Beginning, with said above described parcel being the 5.2345 acre tract shown on the map titled "Recombination Survey for City of Greenville", recorded in Map Book 84, Page 37, of the Pitt County Registry to which reference is made for a more detailed description.

Section 2. That the Director of Planning and Development Services is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

Section 3. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. That this ordinance shall become effective upon its adoption.

ADOPTED this 21<sup>st</sup> day of June, 2021.

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P. J. Connelly, Mayor

ATTEST:

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Valerie Shiuwegar, City Clerk

1147826

**Excerpt from the draft Planning & Zoning Commission Minutes (5/18/2021 and 5/20/2021)**

REQUEST BY CITY OF GREENVILLE TO REZONE 5.2345 ACRES LOCATED BETWEEN EAST 1<sup>ST</sup> STREET AND THE TAR RIVER ROUGHLY BETWEEN NORTH GREENE STREET AND BAKER STREET FROM OR (OFFICE-RESIDENTIAL [HIGH DENSITY]) TO CD (DOWNTOWN COMMERCIAL).

Chantae Gooby presented for staff. The property is centrally located and is a part of the Town Common. The entire Town Common area is approximately 20 acres. Of that area, 14 acres cannot be developed. The area in question does not have those same limitations. The area is located in the Tar River watershed. If stormwater rules apply, it would require 10-year detention. This property is located in a special flood hazard area and flood way. If this area were to be developed a Flood Plain Development Permit, an Erosion Control Plan, and a No Rise Certification would be required. There are some jurisdictional streams and riparian buffers that exist on the property. This request could generate a net increase of 350 trips per day. The property could accommodate a mixed use center. It could consist of commercial space, a conventional center space and/or canoe/kayak rentals. In staff's opinion, the request is in compliance with the Future Land Use Plan and the Horizons 2026: Greenville's Community Plan. Staff recommends approval.

Mr. Maxwell asked for an explanation of a No Rise Certification.

Mr. Welborn stated the No Rise Certification is when a surveyor or engineer certifies that the development will not have impact on properties upstream by causing the base flood elevation to increase.

Mr. Collins asked what kind of protections are for greenways and the old bridge linking the Town Commons to Baker Street.

Ms. Gooby stated she is not aware of any particular development plans. The Town Creek Bridge is an important element of the greenways because it is a trail head.

Mr. Collins stated there is no reassurance that it won't be impacted and there are many things that could be allowed in the CD district.

Mr. Faison asked if the city would sublease the area or is it the City's intent to build what would go there.

Ms. Gooby stated she is not aware of specific plans. While the property is owned by the City, the zoning has to allow for the property to be developed and the current zoning has standards that restrict the ability for the property to be developed.

Mr. Robinson asked what prompted this request.

Ms. Gooby stated this was something that was initiated through the City Manager's office.

No one spoke in favor.

No one spoke in opposition.

**Excerpt from the draft Planning & Zoning Commission Minutes (5/20/2021)**

Mr. Maxwell stated Greenville does not have a great deal of green open space and he is concerned about turning part of the Town Common into commercial space.

**Motion made by Mr. Maxwell, seconded by Mr. Collins, to recommend denial of the proposed amendment, to advise that, although it is consistent with the comprehensive plan, there is a more appropriate zoning classification, and to adopt the staff report which addresses plan consistency. Voting in favor: Maxwell, Collins, Thomas, and Robinson. Voting in opposition: Overton, Parker, Joyner. The vote was tied and the Chair cast the deciding vote. Motion passed 4 to 3.**

WRITTEN COMMENTS FOR THE PLANNING AND ZONING COMMISSION

REQUEST BY CITY OF GREENVILLE TO REZONE 5.2345 ACRES LOCATED BETWEEN EAST 1ST STREET AND THE TAR RIVER ROUGHLY BETWEEN NORTH GREENE STREET AND BAKER STREET FROM OR (OFFICE-RESIDENTIAL [HIGH DENSITY]) AND R6 (RESIDENTIAL [HIGH DENSITY MULTI-FAMILY]) TO CD (DOWNTOWN COMMERCIAL).

IN OPPOSITION

1. Rev. Ann Harrington Priest/Pastor  
Free Spirit Inclusive Catholic Community  
Greenville, NC 27834

I have just read the article in today's Daily Reflector about rezoning a section of the Town Commons for commercial development. I am strongly opposed to this and I urge you to change the zoning to whatever will insure no further development of this sacred space. Let us embrace conservation of our green spaces.

2. Earl Trevathan, 100 Hickory Street, Greenville, NC.

I am expressing my opposition to any plans to allow commercial development in the area of The Town Commons. I served on the Town Council in the 1965 when the unanimous vote of Council and the vote of a City referendum declared that the area in question was to be used as a city park and open space.

3. Carol and Lynis Dohm  
3909 Clover Street  
Greenville, NC 27834

In regard to rezoning the town common for commercial development, we are **STRONGLY OPPOSED!** On the many occasions that we have gone to the town common, we have found it to be heavily used. This is not a large area and one of the few green areas that is accessible for exercise and leisure activities for the public in the downtown area. Many families who live in apartment complexes don't have access to this type of open area.

The positives of the town common are: the new playground which includes facilities for handicapped children, the band shelter, the kayak launch, the fishing pier, activities on the bridge, access to the greenway and the beautiful new memorial for the Sycamore Hill Baptist Church. Access to all of these wonderful areas will be adversely affected by commercial development. We encourage the town council to reject this suggestion for commercial development.

4. Gene Prescott

The city manager should be focusing on increasing the open area adjacent to downtown!

5. Mark Harrington  
412 W 4th St.

I am opposed to this rezoning. There is already limited space in the Town Common and two recent projects have already taken place, the Sycamore Hill Memorial and the playground. We should maintain as much of the remaining space for public use as possible. Carving off almost a quarter of the remaining space for commercial use does not serve the citizens

6. Jenag Kerns

No, nada, horrible idea...what ARE you thinking?! Go to Washington, NC, and see what THEIR waterfront looks like!

7. Carol Hardy  
3905 Ashcroft  
Winterville, NC 28590

Please do not destroy the one common area in the city where all peoples, ages, races and walks of life enjoy an experience. The town common is just that, a common space for everyone. It is not supposed to be for a convention center (there is already one), nor a dining experience (there are several within a few blocks), nor a boat launch for a privately held company. Please get the priority of all peoples held to a higher level than individual development. And to put permanent structures in a flood plain is irresponsible.

8. Cindy Barakat

Please DO NOT turn our beautiful town common into a commercial area. Leave it natural and beautiful.

9. Glyn Young  
2107 Westminster Court  
Greenville, NC

Commercial development on OUR Town Common. You must be kidding. This is the one nice green space in downtown Greenville. Please do not destroy it with some developer's greed. There are already many vacant properties downtown and all over Greenville. I would like to know who had this brainstorm.....the response of "the city manager's office" leads me to believe it is another effort of our mayor to appease his development friends. Please do not proceed with this.

10. Kent Nelson  
2353 Kay Rd  
Greenville, NC 27858

I am very much opposed to the rezoning of the Commons. Facilitating development of this section of land will limit public use as well as degrade the remainder of the Commons which has already been fragmented with structures. If anything the land should be designated as a conservation area and a green space or park in perpetuity. Developers should look elsewhere than the banks of the Tar River where people come to relax, let their children play and listen to music.

11. Polly Piland  
3910 Fernwood Ln  
Greenville, NC 27834

Hope this e-mail finds you doing well. In reading the Daily Reflector this morning, I was surprised at the City's request to rezone the Town Commons area. The Town Commons is the only park area in uptown Greenville. With new industries and new people moving into Greenville, the Town Commons is an essential and vital part of our uptown community.

At the park, there are several events throughout the year that bring the community together such as: Sunday in the Park, Concert on the Commons, Fourth of July fireworks and several other events. I have sponsored the Concert on the Commons since the event started and I have received a lot of positive feedback from sponsoring the event.

If you could please explain why someone would suggest building commercial properties at the Town Commons? I feel this proposed rezoning is against everything Greenville is trying to do to involve our community in events uptown, and also our city has spent so much money in improving the park for recreational activities. Again, why this request?

I am asking you to please reconsider this rezoning for the Town Commons.

12. Ruth Leggett  
1706 Forest Hill Drive

I am writing as a private citizen but I draw on my educational experience with a BS in Urban and Regional Planning and a Master of Public Administration, five years on P&Z in the 80s, a member of the planning committee that developed the first Horizons Plan, and chair of the Horizons Planning Committee for the plan prior to the current edition. I worked for the NC Dept. of Commerce, Division of Community Assistance where I retired as the manager of the Northeast Regional Office.

I am writing in strong opposition to a rezoning request before the Planning and Zoning Commission tomorrow, May 20, 2021, to rezone 5.2 acres (approximately one-fourth of the Town Commons acreage) to permit commercial development. This is a terrible idea, such an action will take away full public access to a portion of Town Commons. I had hoped to read the request online today but if it is there I could not find it and I did not realize the City offices are working on a partial schedule, so I could not talk to Ms. Chantae Gooby before writing this letter. My information comes from a front-page article in today's Daily Reflector.

Before you vote I hope you have a complete understanding of all of the uses that will be allowed in the new zoning district, any of those uses can be permitted on the Town Common that will erode full public access to a portion of the Town Commons with the potential of incompatible uses. The Town Commons is a wonderful resource for the City of Greenville, and surrounding areas. If you approve this request you are setting a precedent for future efforts to erode the size of the Town Commons, believe me, many other cities would do anything to have such a jewel in their downtown.

Most people do not have enough money to buy a waterfront lot on the Tar River. They don't have the option of boating from their property and enjoying the beauty of the Tar River from their gazebo. But all of us can enjoy the Town Commons. We have had, before the pandemic, community events such as the New Year's Eve celebration, the Pirate Fest, Fourth of July celebration, Sunday in the Park, the childrens' playground, and many more activities. Adding commercial uses will take up space for parking and remove acres of open space for families to picnic and enjoy the park, throw a fishing line over the railing and just have a time of private reflection near the water and the trailhead of the Greenway. It also has the potential to increase flooding by covering the ground with impervious surfaces caused by building and parking lot footprints. It has the potential to increase traffic that can interfere with the childrens' playground, increase congestion on First Street that can spill over to the very downtown you are trying to grow.

In the early development of cities their town fathers created Town Commons that enhanced the beauty of the town and provided open space with access to commercial activities. We can still see them today in Tarboro, Farmville, Bath and Edenton, NC, to name a few still viable in eastern NC. I don't think that Greenville had a town commons until after the 1970s US Urban Renewal and Revitalization grant money that in Greenville destroyed a Black community and left this open space. We, the citizens of Greenville, are stewards of this Town Commons that is ours to protect.

I urge each of you to vote NO to this rezoning request. Thank you for your time.

13. Frances Swanson

Please do NOT commercialize our beautiful Town Common! We are fortunate enough to have a river flowing through our city. The Town Common provides a relaxing place where everyone can enjoy the river and nature as well as occasional music. It is a unique area for our city. Let's not destroy that in search of making money.

14. Suzanne Morris

I am totally opposed to and concerned about rezoning a portion of the Town Commons. This is Greenville's last GREEN, open air, easily accessible spaces to be enjoyed by all. This space is gradually having development creep in. There are vacant commercial spaces in existence Uptown/Downtown which have been in existence for a while. Why do we need more?? Once more, I am totally opposed to any further commercialization on the Town Commons. I hope City Council will choose the right vote and vote NO on this matter.

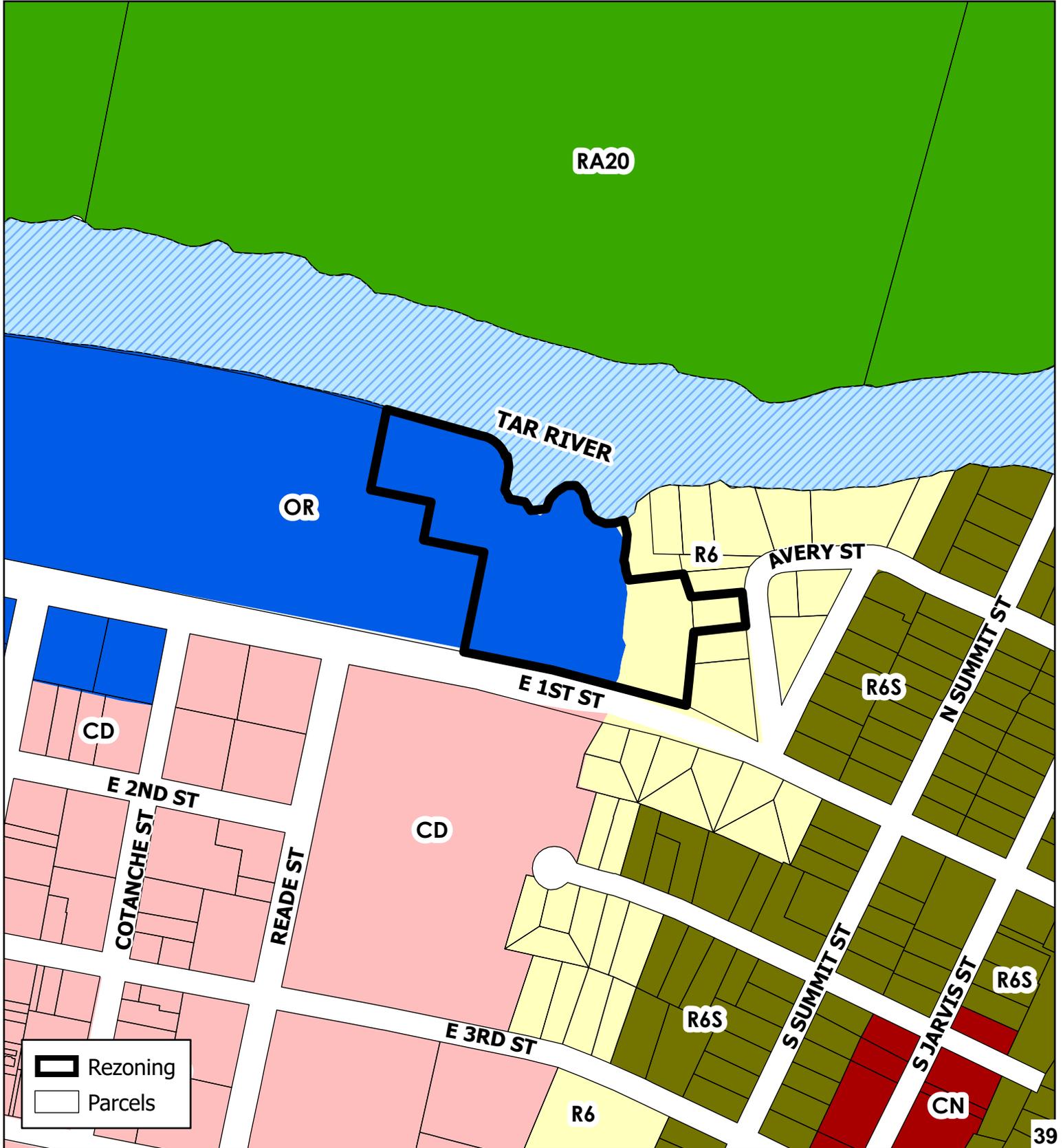
15. Chris Mansfield  
408 S. Harding St.  
Greenville, NC

I strongly advise the Planning and Zoning Commission to table or deny the request for rezoning any portion of the Town Common or adjacent property, pending acquisition of more information regarding who wants it rezoned, why, and for what specific purpose the rezoning is sought. Such a decision deserves more time for due diligence and public input. In addition to the aforementioned questions, many questions need to be openly and transparently addressed, including but not limited to 1. whether the public property would be sold or leased, 2. would city taxpayer or federal ARPA money be used to develop or add value to the property, 3. how does the request fit with previously developed plans for the Town Common, and, 4. how would the decision affect future generations? As a resident, former member of the Planning and Zoning Commission, former Chair of the City of Greenville Redevelopment Commission, and member of an advisory group for a recent plan for the Town Common, I urge the Planning and Zoning Commission to deny or table the current request for rezoning.

City of Greenville  
From: OR / R6  
To: CD  
Acres: 5.2345 Acres  
May 4th, 2021



0 0.02 0.04 0.07 Miles



# REZONING THOROUGHFARE/TRAFFIC VOLUME REPORT

**Case No:** 21-06

**Applicant:** City of Greenville

**Property Information**

**Current Zoning:** OR (Office-Residential) and R6 (Residential)

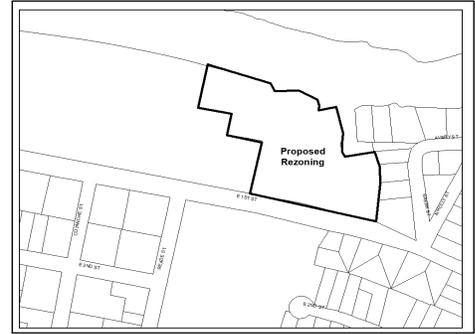
**Proposed Zoning:** CD (Downtown Commercial)

**Current Acreage:** 5.2345

**Location:** E. 1st St, town commons

**Points of Access:** E. 1st St

**Location Map**



**Transportation Background Information**

**1.) E. 1st St- City maintained**

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	2-lane, with painted median, bike lanes	no change
Right of way width (ft)	80	no change
Speed Limit (mph)	35	no change
<b>Current ADT:</b>	6,459 (*)	
<b>Design ADT:</b>	11,500 vehicles/day (**)	
<b>Controlled Access</b>	No	

**Thoroughfare Plan Status** minor thoroughfare

**Other Information:** There are sidewalks along E. 1st St that service this property.

**Notes:** (\*) 2016 NCDOT count adjusted for a 2% annual growth rate  
 (\*\*) Traffic volume based on operating Level of Service D for existing geometric conditions  
 ADT – Average Daily Traffic volume

**Transportation Improvement Program Status:**

**Trips generated by proposed use/change**

**Current Zoning: 265** -vehicle trips/day (\*)                      **Proposed Zoning: 615** -vehicle trips/day (\*)

**Estimated Net Change: increase of 350 vehicle trips/day (assumes full-build out)**

(\* - These volumes are estimated and based on an average of the possible uses permitted by the current and proposed zoning.)

**Impact on Existing Roads**

The overall estimated trips presented above are distributed based on current traffic patterns. The estimated ADTs on E. 1st St are as follows:

**1.) E. 1st St , West of Site (60%):                      “No build” ADT of 6,459**

Estimated ADT with Proposed Zoning (full build) – 6,828  
 Estimated ADT with Current Zoning (full build) – 6,618  
**Net ADT change = 210 (3% increase)**

2.) E. 1st St , East of Site (40%): "No build" ADT of 6,459

Estimated ADT with Proposed Zoning (full build) – 6,705

Estimated ADT with Current Zoning (full build) – 6,565

Net ADT change = 140 (2% increase)

#### **Staff Findings/Recommendations**

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 615 trips to and from the site on E. 1st St, which is a net increase of 350 additional trips per day (over current zoning).

During the review process, measures to mitigate the traffic will be determined.

**EXISTING ZONING**

**OR (OFFICE-RESIDENTIAL) - PERMITTED USES**

(1) General	
	a. Accessory use or building
	b. Internal service facilities
	c. On-premise signs per Article N
	f. Retail sales; incidental
(2) Residential	
	b. Two-family attached dwelling (duplex)
	c. Multi-family development per Article I
	k. Family care homes (see also 9-4-103)
	n. Retirement center or home
	o. Nursing, convalescent or maternity home; major care facility
	p. Boarding or rooming house
	q. Room renting
(3) Home Occupations - None	
(4) Governmental	
	b. City of Greenville municipal government building or use (see also section 9-4-103)
	c. County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
	d. Federal government building or use
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	g. Private noncommercial recreation; indoor only, not otherwise listed
(7) Office/Financial/Medical	
	a. Office; professional and business, not otherwise listed
	b. Operation/processing center
	c. Office; customer service, not otherwise listed, including accessory service delivery vehicle parking and indoor storage
	d. Bank, savings and loans or other savings or investment institutions
	e. Medical, dental, ophthalmology or similar clinic, not otherwise listed
(8) Services	
	c. Funeral home
	e. Barber or beauty salon
	f. Manicure, pedicure or facial salon
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
	j. College and other institutions of higher learning
	k. Business or trade school
	n. Auditorium
	o. Church or place of worship (see also section 9-4-103)
	p. Library

	q.	Museum
	r.	Art gallery
	u.	Art studio including art and supply sales
	v.	Photography studio including photo and supply sales
	w.	Digital broadcast studio (see also section 9-4-103)
	x.	Dance studio
	y(2)	TV and/or radio broadcast facilities, including receiving and transmission equipment and towers not exceeding 120 feet in height or cellular telephone and wireless communication towers not exceeding 120 feet in height (see also section 9-4-103)
	y(4)	Distributed Antenna System (See also 9-4-103 (Q))
	bb.	Civic organizations
	cc.	Trade or business organizations
(9) Repair - None		
(10) Retail Trade		
	s.	Book or card store, news stand
	w.	Florist
	ee.	Christmas tree sales lot; temporary only (see also section 9-4-103)
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None		
(12) Construction		
	a.	Licensed contractor; general electrical, plumbing, mechanical, etc... excluding outside storage
	c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None		
(14) Manufacturing/Warehousing - None		
(15) Other Activities (not otherwise listed - all categories) - None		
<b>OR (OFFICE-RESIDENTIAL) - SPECIAL USES</b>		
(1) General - None		
(2) Residential		
	d.	Land use intensity multi-family (LUI) development rating 50 per Article K
	e.	Land use intensity multi-family (LUI) development rating 67 per Article K
	i.	Residential quarters for resident manager, supervisor or caretaker; excluding mobile home
	m.	Shelter for homeless or abused (see also section 9-4-103)
	o(1).	Nursing, convalescent or maternity home; minor care facility
	r.	Fraternity or sorority house
(3) Home Occupations - None		
(4) Governmental		
	a.	Public utility building or use
(5) Agricultural/Mining - None		
(6) Recreational/Entertainment		
	c(1).	Tennis club; indoor and outdoor facilities
	h.	Commercial recreation; indoor only, not otherwise listed
	m(1).	Dining and entertainment establishment (see also section 9-4-103)
(7) Office/Financial/Medical		

	f. Veterinary clinic or animal hospital (see also animal boarding; outside facility, kennel and stable)
(8) Services	
	a. Child day care facilities
	b. Adult day care facilities
	l. Convention center; private
	s. Hotel, motel bed and breakfast inn; limited stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)
	ff. Mental health, emotional or physical rehabilitation day program facility
	ff(1). Mental health, emotional or physical rehabilitation day program facility
(9) Repair- None	
(10) Retail Trade - None	
	h. Restaurant; conventional
	j. Restaurant and/or dining and entertainment establishment; regulated outdoor activities
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation	
	h. Parking lot or structure; principal use
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories)	
	a. Other activities; personal services not otherwise listed
	b. Other activities; professional services not otherwise listed
<b>R6 (RESIDENTIAL) - PERMITTED USES</b>	
(1) General	
	a. Accessory use or building
	c. On-premise signs per Article N
(2) Residential	
	a. Single-family dwelling
	b. Two-family attached dwelling (duplex)
	b(1). Master Plan Community per Article J
	c. Multi-family development per Article I
	f. Residential cluster development per Article M
	k. Family care homes (see also 9-4-103)
	q. Room renting
(3) Home Occupations - None	
(4) Governmental	
	b. City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
	l. Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	g. Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	

	o. Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
	c. Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
<b>R6 (RESIDENTIAL) - SPECIAL USES</b>	
(1) General - None	
(2) Residential	
	d. Land use intensity multi-family (LUI) development rating 50 per Article K
	e. Land use intensity multi-family (LUI) development rating 67 per Article K
	l. Group care facility
	n. Retirement center or home
	o(1). Nursing, convalescent or maternity home; minor care facility
	p. Board or rooming house
	r. Fraternity or sorority house
(3) Home Occupations	
	a. Home occupation; not otherwise listed
	b. Home occupation; barber and beauty shop
	c. Home occupation; manicure, pedicure or facial salon
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining - None	
(6) Recreational/Entertainment	
	a. Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1). Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1). Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
	a. Child day care facilities
	b. Adult day care facilities
	d. Cemetery
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
	m. Multi-purpose center
	t. Guest house for a college or other institution of higher learning
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	

(15) Other Activities (not otherwise listed - all categories) - None	
<b>CD (DOWNTOWN COMMERCIAL) - PERMITTED USES</b>	
(1) General	
	a. Accessory use or building
	b. Internal service facilities
	c. On-premise signs per Article N
	e. Temporary uses; of listed district uses
	f. Retail sales; incidental
	g. Incidental assembly of products sold at retail or wholesale as an accessory to principal uses
(2) Residential	
	c. Multi-family development per Article I
	i. Residential quarters for resident manager, supervisor or caretaker; excluding mobile home
	n. Retirement center or home
	o. Nursing, convalescent or maternity home; major care facility
	q. Room renting
(3) Home Occupations - None	
(4) Governmental	
	a. Public utility building or use
	b. City of Greenville municipal government building or use (see also section 9-4-103)
	c. County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
	d. Federal government building or use
	g. Liquor store, state ABC
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	g. Private noncommercial recreation; indoor only, not otherwise listed
	h. Commercial recreation; indoor only, not otherwise listed
	j. Bowling alley
	o. Theater; movie or drama, including outdoor facilities
	s. Athletic club; indoor only
(7) Office/Financial/Medical	
	a. Office; professional and business, not otherwise listed
	b. Operation/processing center
	c. Office; customer service, not otherwise listed, including accessory service delivery vehicle parking and indoor storage
	d. Bank, savings and loans or other savings or investment institutions
	e. Medical, dental, ophthalmology or similar clinic, not otherwise listed
	f. Veterinary clinic or animal hospital (see also animal boarding; outside facility, kennel and stable)
	g. Catalogue processing center
(8) Services	

	c. Funeral home
	e. Barber or beauty salon
	f. Manicure, pedicure or facial salon
	j. College and other institutions of higher learning
	k. Business or trade school
	n. Auditorium
	o. Church or place of worship (see also section 9-4-103)
	p. Library
	q. Museum
	r. Art gallery
	s. Hotel, motel bed and breakfast inn; limited stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)
	u. Art studio including art and supply sales
	v. Photography studio including photo and supply sales
	w. Digital broadcast studio (see also section 9-4-103)
	x. Dance studio
	y. TV and/or radio broadcast facilities, including receiving and transmission equipment and towers or cellular telephone and wireless communication towers
	y(4) Distributed Antenna System (see also 9-4-103 (Q))
	z. Printing or publishing service including graphic art, maps, newspapers, magazines and books
	aa. Catering service including food preparation (see also restaurant; conventional and fast food)
	bb. Civic organizations
	cc. Trade or business organizations
	hh. Exercise and weight loss studio; indoor only
	kk. Laundrette; household users
	ll. Dry cleaners; household users
	oo. Clothes alteration or shoe repair shop
	qq. Pet grooming facility (see also section 9-4-103)
(9) Repair	
	f. Appliance; household and office equipment repair
	g. Jewelry, watch, eyewear or other personal item repair
(10) Retail Trade	
	a. Miscellaneous retail sales; non-durable goods, not otherwise listed
	d. Pharmacy
	e. Convenience store (see also gasoline sales)
	f. Office and school supply, equipment sales
	h. Restaurant; conventional
	i. Restaurant; fast food
	l. Electronic; stereo, radio, computer, TV, etc... sales and accessory repair
	m. Appliance; household use, sales and accessory repair, excluding outside storage
	p. Furniture and home furnishing sales not otherwise listed
	q. Floor covering, carpet and wall covering sales
	r. Antique sales, excluding vehicles

	s.	Book or card store, news stand
	t.	Hobby or craft shop
	u.	Pet shop (see also animal boarding; outside facility)
	v.	Video or music store; records, tape, CD and the like sales
	w.	Florist
	x.	Sporting goods sales and rental shop
	y.	Auto part sales (see also major and minor repair)
	ee.	Christmas tree sales lot; temporary only (see also section 9-4-103)
<b>(11) Wholesale/Rental/Vehicle-Mobile Home Trade</b>		
	c.	Rental of clothes and accessories; formal wear, and the like
	d.	Rental of automobiles, noncommercial trucks or trailers, recreational vehicles, motorcycles and boats
<b>(12) Construction</b>		
	a.	Licensed contractor; general electrical, plumbing, mechanical, etc... excluding outside storage
	c.	Construction office; temporary, including modular office (see also section 9-4-103)
	f.	Hardware store
<b>(13) Transportation</b>		
	b.	Bus station; passenger and related freight
	c.	Taxi or limousine service
	e.	Parcel delivery service
	h.	Parking lot or structure; principal use
<b>(14) Manufacturing/Warehousing</b>		
	g.	Cabinet, woodwork or frame shop; excluding furniture manufacturing or upholstery
	h.	Engraving; metal, glass or wood
<b>(15) Other Activities (not otherwise listed - all categories) - None</b>		
<b>CD (DOWNTOWN COMMERCIAL) - SPECIAL USES</b>		
<b>(1) General - None</b>		
<b>(2) Residential</b>		
	e(1).	Dormitory Development
<b>(3) Home Occupations - None</b>		
<b>(4) Governmental - None</b>		
<b>(5) Agricultural/Mining - None</b>		
<b>(6) Recreational/Entertainment</b>		
	d.	Game center
	l.	Billiard parlor or pool hall
	m.	Public or private club
	m(1).	Dining and entertainment establishment (see also section 9-4-103)
	t.	Athletic club; indoor and outdoor facilities
<b>(7) Office/Financial/Medical - None</b>		
<b>(8) Services</b>		
	a.	Child day care facilities
	b.	Adult day care facilities
	i.	School; nursery and kindergarten (see also section 9-4-103)

	i. Convention center; private
	ff(1). Mental health, emotional or physical rehabilitation day program facility
(9) Repair	
	b. Minor repair; as an accessory or principal use
(10) Retail Trade	
	b. Gasoline or automotive fuel sales; accessory or principal use, retail
	c. Wine shop; including on-premise consumption (see also section 9-4-103)
	g. Fish market; excluding processing or packing
	j. Restaurant and/or dining and entertainment establishment; regulated outdoor activities
	n. Appliance; commercial use, sales and accessory repair; excluding outside storage
	aa. Pawnbroker
	ff. Tobacco shop (Class 1) (see also section 9-4-103)
	hh. Hookah café (see also section 9-4-103)
	ii. Microbrewery (see also section 9-4-103)
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing	
	y. Recycling collection station or facilities
(15) Other Activities (not otherwise listed - all categories)	
	a. Other activities; personal services not otherwise listed
	b. Other activities; professional services not otherwise listed
	c. Other activities; commercial services not otherwise listed
	d. Other activities; retail sales not otherwise listed

# RESIDENTIAL DENSITY CHART

Density Level	Future Land Use and Character Type	Applicable Zoning District(s)	Units per Acre***
High	Uptown Edge (UE)	CDF and CD*	17 units per acre
	Mixed Use, High Intensity (MUHI)	OR	17 units per acre
		R6, MR	17 units per acre
	Residential, High Density (HDR)	R6, MR, OR	17 units per acre
		R6MH	17 units per acre
Medical-Transition (MT)	MR	17 units per acre	
High to Medium	Mixed Use (MU)	OR	17 units per acre
		R6, MR	17 units per acre
		R6A	9 units per acre
	Uptown Neighborhood (UN)	R6S	7 units per acre
	Traditional Neighborhood, Medium-High Density (TNMH)	R6	17 units per acre
		R6A	9 units per acre
		R6S	7 units per acre
Medium to Low	Traditional Neighborhood, Low-Medium Density (TNLM)	R9	6 units per acre
		R9S	5 units per acre
		R15S	3 units per acre
	Residential, Low-Medium Density (LMDR)	R9S	5 units per acre
		R15S	3 units per acre
		RA20	4 units per acre
		MRS	4 units per acre

\* The residential density of the CD zoning district is based on the size of the mechanically conditioned floor area. See Section 9-4-153 in the City Code for development standards.

\*\*\* Maximim allowable density in the respective zoning district.

## BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

**Bufferyard Requirements:** Match proposed land use with adjacent permitted land use or adjacent vacant zone/nonconforming use to determine applicable bufferyard.

PROPOSED LAND USE CLASS (#)	ADJACENT PERMITTED LAND USE CLASS (#)					ADJACENT VACANT ZONE OR NONCONFORMING USE		PUBLIC/PRIVATE STREETS OR R.R.
	Single-Family Residential (1)	Multi-Family Residential (2)	Office/Institutional, light Commercial, Service (3)	Heavy Commercial, Light Industry (4)	Heavy Industrial (5)	Residential (1) - (2)	Non-Residential (3) - (5)	
Multi-Family Development (2)	C	B	B	B	B	C	B	A
Office/Institutional, Light Commercial, Service (3)	D	D	B	B	B	D	B	A
Heavy Commercial, Light Industry (4)	E	E	B	B	B	E	B	A
Heavy Industrial (5)	F	F	B	B	B	F	B	A

### Bufferyard A (street yard)

Lot Size	Width	For every 100 linear feet
Less than 25,000 sq.ft.	4'	2 large street trees
25,000 to 175,000 sq.ft.	6'	2 large street trees
Over 175,000 sq.ft.	10'	2 large street trees

Street trees may count toward the minimum acreage.

### Bufferyard B (no screen required)

Lot Size	Width
Less than 25,000 sq.ft.	4'
25,000 to 175,000 sq.ft.	6'
Over 175,000 sq.ft.	10'

### Bufferyard C (screen required)

Width	For every 100 linear feet
10'	3 large evergreen trees 4 small evergreens 16 evergreen shrubs

Where a fence or evergreen hedge (additional materials) is provided, the bufferyard width may be reduced to eight (8) feet.

### Bufferyard D (screen required)

Width	For every 100 linear feet
20'	4 large evergreen trees 6 small evergreens 16 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

### Bufferyard E (screen required)

Width	For every 100 linear feet
30'	6 large evergreen trees 8 small evergreens 26 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

### Bufferyard F (screen required)

Width	For every 100 linear feet
50'	8 large evergreen trees 10 small evergreens 36 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

**Parking Area:** Thirty (30) inch high screen required for all parking areas located within fifty (50) feet of a street right-of-way.



# City of Greenville, North Carolina

Meeting Date: 06/21/2021

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**Title of Item:** Ordinance requested by the Planning and Development Services Department to amend Title 9 Chapter 4 Article U, Appendix A Table of Uses of the City Code to add (8)(x) "dance studio" as a permitted use in the following districts: CDF (Downtown Commercial Fringe), CG (General Commercial), and CH (Heavy Commercial) and add (13)(e) "parcel delivery service" as a permitted use in the following districts: CG (General Commercial) and CN (Neighborhood Commercial)

**Explanation:** This amendment contains two (2) items:

Item 1: Add "dance studio" as a permitted use in the following districts: CDF (Downtown Commercial Fringe), CG (General Commercial), and CH (Heavy Commercial).

Item 2: Add "parcel delivery service" as a permitted use in the following districts: CG (General Commercial) and CN (Neighborhood Commercial).

**Fiscal Note:** No cost to the City.

**Recommendation:** In staff's opinion, the proposed Zoning Ordinance Text Amendment is in compliance with the Horizons 2026: Greenville's Community Plan, Chapter 4, Growing the Economic Hub, Goal 4.3 A Stable & Resilient Economy.

*Policy 4.3.1 Modernize and Diversify Local Economy. Support the growth of a variety of employment opportunities and businesses that diversify Greenville's economy and provide workers with a range of skill sets and training. Encourage business growth within incorporated areas to expand and diversify Greenville's tax base.*

Therefore, staff recommends approval.

The Planning and Zoning Commission voted unanimously to approve the request at its May 20, 2021 meeting.

If City Council determines to approve the request, a motion to adopt the attached ordinance will accomplish this. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the

comprehensive plan and explaining why Council considers the action taken to be reasonable and in the public interest.

If City Council determines to deny the request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

"Motion to deny the requested text amendment, to make a finding and determination that the required text amendment is inconsistent with the comprehensive plan or other applicable plans, including but not limited to Horizons 2026: Greenville's Community Plan, Chapter 4, Growing the Economic Hub, Goal 4.3 A Stable & Resilient Economy. *Policy 4.3.1 Modernize and Diversify Local Economy. Support the growth of a variety of employment opportunities and businesses that diversify Greenville's economy and provide workers with a range of skill sets and training. Encourage business growth within incorporated areas to expand and diversify Greenville's tax base.*"

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#### ATTACHMENTS

-  [Ordinance\\_dance\\_studio\\_and\\_parcel\\_delivery.pdf](#)
-  [EXCERPT\\_P&Z\\_MIN dance and parcel.pdf](#)
-  [Dance and parcel table.pdf](#)

ORDINANCE NO. 21-  
AN ORDINANCE AMENDING THE CITY CODE  
OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 6, Chapter 160D, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on the 17<sup>th</sup> day of June, 2021, at 6:00 p.m., conduct an electronic meeting and conduct a public hearing on the adoption of an ordinance amending the City Code;

WHEREAS, in accordance with the provisions of North Carolina General Statute D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of the ordinance involving the text amendment is consistent with the adopted comprehensive plan and other officially adopted plans that are applicable and that the adoption of the ordinance involving the text amendment is reasonable and in the public interest due to its consistency with the comprehensive plan and other officially adopted plans that are applicable and, as a result, its furtherance of the goals and objectives of the comprehensive plan and other officially adopted plans that are applicable;

WHEREAS, as a further description as to why the action taken is consistent with the comprehensive plan and other officially adopted plans that are applicable in compliance with the applicable provisions of North Carolina General Statute 160D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of this ordinance is consistent with provisions of the comprehensive plan, including, but not limited to, Horizons 2026: Greenville's Community Plan, Chapter 4, Growing the Economic Hub, Goal 4.3 A Stable & Resilient Economy. *Policy 4.3.1 Modernize and Diversify Local Economy. Support the growth of a variety of employment opportunities and businesses that diversify Greenville's economy and provide workers with a range of skill sets and training. Encourage business growth within incorporated areas to expand and diversify Greenville's tax base.*

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY GREENVILLE, NORTH CAROLINA, DOES HEREBY ORDAIN:

Section 1. That Title 9, Chapter 4, Article U, Appendix A Table of Uses, of the City Code is hereby amended by allowing use code (8)(x) Dance Studio as a permitted use in the following districts: CDF (Downtown Commercial Fringe), CG (General Commercial), and CH (Heavy Commercial).

Section 2. That Title 9, Chapter 4, Article U, Appendix A Table of Uses, of the City Code is hereby amended by allowing use code (13)(e) Parcel delivery service as a permitted use in the following districts: CG (General Commercial) and CN (Neighborhood Commercial).

Section 3: That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4: Any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.

Section 5: That this ordinance shall become effective upon its adoption.

ADOPTED this 21<sup>st</sup> day of June, 2021.

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P. J. Connelly, Mayor

ATTEST:

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Valerie Shiuwegar, City Clerk

1147258

**Excerpt from the draft Planning & Zoning Commission Minutes (5/18/2021 and 5/20/2021)**

ORDINANCE REQUESTED BY THE PLANNING AND DEVELOPMENT SERVICES DEPARTMENT TO AMEND TITLE 9 CHAPTER 4 ARTICLE U, APPENDIX A TABLE OF USES OF THE CITY CODE TO ADD (8)(X) "DANCE STUDIO" AS A PERMITTED USE IN THE FOLLOWING DISTRICTS: CDF (DOWNTOWN COMMERCIAL FRINGE), CG (GENERAL COMMERCIAL), AND CH (HEAVY COMMERCIAL) AND ADD (13)(E) "PARCEL DELIVERY SERVICE" AS A PERMITTED USE IN THE FOLLOWING DISTRICTS: CG (GENERAL COMMERCIAL) AND CN (NEIGHBORHOOD COMMERCIAL).

Chantae Gooby presented for staff. The current zoning ordinance is dated. There have been some uses that would benefit from being allowed in other zoning districts and would not have a negative impact. For the dance studio, it is allowed in some of the office districts but is not allowed in all of the commercial districts. Dance studio required a special use permit in the Downtown Commercial Fringe. Its staff's opinion, there is no need to require a special use permit for this district. Part of this request is to change a dance studio as a permitted permit in this Commercial Downtown Fringe, General Commercial and Heavy Commercial district. The other request is allow parcel delivery service such as FedEx or smaller service in the General Commercial and Neighborhood Commercial districts. The use is already allowed in Downtown Commercial, Downtown Commercial Fringe and Heavy Commercial districts. The Horizons plan speaks to modernizing and diversifying local economy, growth and variety of employment opportunities, and assisting businesses. In staff's opinion, the request is in compliance with the Horizons 2026: Greenville's Community Plan. Staff recommends approval.

No one spoke in favor.

No one spoke in opposition.

**Excerpt from the draft Planning & Zoning Commission Minutes (5/20/2021)**

**Motion made by Mr. Thomas, seconded by Mr. Collins, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.**

USE	LUC #	RA 20	R 15 S	R 9 S	R 6 S	R 6 N	R 9	R 6	R 6 A	R 6 M H	M I	M S	M O	M C G	M R	M C H	M R S	O R	O	C D	C D F	C G	C N	C H	I U	I U	P I	P I
s.	Hotel, motel, bed and breakfast inn; limited stay lodging (see also residential quarters for resident manager, supervisor or caretaker and § 9-4-103)	3									S	S			P		S		P	P	P			P	P	P	P	P
s(1).	Hotel, motel, bed and breakfast inn; extended stay lodging (see also residential quarters for resident manager, supervisor or caretaker and § 9-4-103)	3									S	S			S										S	S	S	S
t.	Guest house for a college or other institution of higher learning	3				S			S	S																		
u.	Art studio including art and supply sales	3											P			P		P	P	P	P	P	P	P	P			
v.	Photography studio including photo and supply sales	3											P		P		P	P	P	P	P	P	P	P	P			
w.	Recording studio	3															P	P	P	P	P							
x.	Dance studio	3															P	P	P	P	P	P	P	P	P			

(13) *Transportation.*

USE	LUC #	RA 20	R 15 S	R 9 S	R 6 S	R 6 N	R 9	R 6	R 6 A	R 6 M H	M I	M S	M O	M C G	M R	M C H	M R S	O R	O	C D	C D F	C G	C N	C H	I U	I U	P I	P I	
a.	Railroad freight or distribution and/or passenger station	5																								P	P	P	P
b.	Bus station; passenger and related freight	4																			P	P							
c.	Taxi or limousine service	3																			P	P	P		P	S			
d.	Truck terminal or distribution center	4																								P	P	P	
e.	Parcel delivery service	4																			P	P	P	P	P	P	P	P	



# City of Greenville, North Carolina

Meeting Date: 06/21/2021

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**Title of Item:** Ordinance requested by the Planning and Zoning Commission amending Title 9 of the City Code to be in compliance with North Carolina General Statutes Chapter 160D

**Explanation:** In 2019, the North Carolina General Assembly adopted the long-debated complete reorganization of the State's planning and development regulation statutes, Chapter 160D. Originally introduced as Senate Bill 422 and House Bill 448, the legislation was adopted as Part II of S.L. 2019-11 (Senate Bill 355). To conform to this new statutory framework, every city and county development regulation in the state will need to be updated by July 1, 2021.

**Fiscal Note:** No direct fiscal impact.

**Recommendation:** The Planning and Zoning Commission voted unanimously to recommend approval of the request at its May 20, 2021 meeting.

Staff recommends approval of the proposed text amendment.

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## ATTACHMENTS

-  [Peak 160 D.pdf](#)
-  [EXCERPT\\_P&Z\\_MIN-\\_160D.pdf](#)

ORDINANCE NO. 21-  
AN ORDINANCE AMENDING THE CITY CODE  
OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 6, Chapter 160D, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on the 17<sup>th</sup> day of June, 2021, at 6:00 p.m., conduct an electronic meeting and conduct a public hearing on the adoption of an ordinance amending the City Code;

WHEREAS, in accordance with the provisions of North Carolina General Statute 160D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of the ordinance involving the text amendment is consistent with the adopted comprehensive plan and is reasonable and in the public interest;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY GREENVILLE, NORTH CAROLINA, DOES HEREBY ORDAIN:

Section 1. That Title 9 of the Code of Ordinances of the City of Greenville is hereby amended and by replacing the strikethrough text with red bold text to read as follows:

INSERT ATTACHED NEW TITLE 9

Section 2: That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 3: Any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.

Section 4: That this ordinance shall become effective upon its adoption.

ADOPTED this 21<sup>st</sup> day of June, 2021.

\_\_\_\_\_  
P. J. Connelly, Mayor

ATTEST:

\_\_\_\_\_  
Valerie Shiuwegar, City Clerk

1147328

**TITLE 9**  
**NEW (NCGS 160D-Update)**

**BUILDING, PLANNING AND DEVELOPMENT REGULATIONS**

- Chapter 1. Inspections and Code Enforcement
- Chapter 2. Planning and Zoning Commission
- Chapter 3. Airport Zoning
- Chapter 4. Zoning
- Chapter 5. Subdivisions
- Chapter 6. Flood Damage Prevention
- Chapter 7. Historic Preservation Commission
- Chapter 8. Soil Erosion and Sedimentation Control
- Chapter 9. Stormwater Management and Control

***Editor's note:***

*Ordinance No. 1153 amended the Greenville City Code by deleting Title 9, former Chapter 7, relating to mobile homes and mobile home parks.*



## CHAPTER 1: INSPECTIONS AND CODE ENFORCEMENT

### Section

#### *Article A. Adoption of Regulatory Codes by Reference*

- 9-1-1 Scope of chapter and codes
- 9-1-2 Building Code adopted
- 9-1-3 Plumbing Code adopted
- 9-1-4 Mechanical Code adopted
- 9-1-5 Electrical Code adopted
- 9-1-6 Residential Building Code
- 9-1-7 Amendments to codes; generally
- 9-1-8 Same; Electrical Code; conduits, steel, metallic tubing or metal molding required in fire district and public buildings
- 9-1-9 Same; temporary electric service structures
- 9-1-10 Copies of codes filed with Clerk
- 9-1-11 Compliance with codes

#### *Article B. Fire Limits*

- 9-1-21 Fire district
- 9-1-22 Restrictions within fire limits
- 9-1-23 Structures partly within and partly without fire district
- 9-1-24 Same; correction of defects upon notice

#### *Article C. Inspection Division*

- 9-1-31 Organization of Division
- 9-1-32 General duties of Division and inspectors
- 9-1-33 Conflicts of interest
- 9-1-34 Reports and records
- 9-1-35 Inspection procedure
- 9-1-36 Oversight not to legalize violation
- 9-1-37 Powers of inspection officials

#### *Article D. Enforcement*

- 9-1-51 Enforcement of building inspection services and housing standards in extraterritorial jurisdiction of city
- 9-1-52 Registration of contractors
- 9-1-53 Permits required
- 9-1-54 Application for permit
- 9-1-55 Plans and specifications
- 9-1-56 Limitations on issuance of permits
- 9-1-57 Issuance of permit
- 9-1-58 Revocation of permits
- 9-1-59 Time limitations on validity of permits
- 9-1-60 Changes in work
- 9-1-61 Permit fees
- 9-1-62 Penalties for violation of regulatory codes

#### *Article E. Repair, Closing or Demolition of Abandoned Structures*

- 9-1-71 Finding; intent
- 9-1-72 Duties of Code Enforcement Coordinator and officer
- 9-1-73 Powers of Code Enforcement Coordinator and officer
- 9-1-74 Standards for enforcement

- 9-1-75 Procedure for enforcement
- 9-1-75.1 Vacated and closed structures
- 9-1-76 Methods of service of complaints and orders
- 9-1-77 In rem action by Code Enforcement Coordinator or officer; placarding
- 9-1-78 Costs; a lien on premises
- 9-1-79 Alternative remedies

***Article F. Minimum Housing Code***

- 9-1-91 Finding; purpose
- 9-1-92 Definitions
- 9-1-93 Minimum standards of fitness for dwellings and dwelling units
- 9-1-94 Minimum standards for structural conditions
- 9-1-95 Minimum standards for basic equipment and facilities
- 9-1-96 Minimum standards for smoke detectors
- 9-1-97 Minimum standards for ventilation
- 9-1-98 Minimum standards for space, use, and location
- 9-1-99 Minimum standards for safe and sanitary maintenance
- 9-1-100 Minimum standard to means of egress
- 9-1-101 Minimum standards for porches or raised platform
- 9-1-102 Minimum standards for stairs and steps
- 9-1-103 Minimum standards for control of insects, rodents, and infestations
- 9-1-104 Minimum standards applicable to rooming houses; exceptions
- 9-1-105 Responsibilities of owners and occupants
- 9-1-106 Special historic buildings and districts
- 9-1-107 Duties of Code Enforcement Coordinator or officer
- 9-1-108 Powers of the Code Enforcement Coordinator or officer
- 9-1-109 Inspections; duty of owners and occupants
- 9-1-110 Procedure for enforcement
- 9-1-111 Vacated and closed dwellings
- 9-1-112 Methods of service of complaints and orders
- 9-1-113 In rem action by the Code Enforcement Coordinator or officer
- 9-1-114 Costs, a lien on premises
- 9-1-115 Filing of ordinances
- 9-1-116 Alternative remedies
- 9-1-117 Board of Adjustment to hear appeals
- 9-1-118 Conflict with other provisions
- 9-1-119 Violations; penalty

***Article G. Nonresidential Building or Structure Code***

- 9-1-121 Title
- 9-1-122 Purpose
- 9-1-123 Definitions
- 9-1-124 Applicability and compliance
- 9-1-125 Maintenance standards for nonresidential buildings and structures
- 9-1-126 Duties of the Enforcement Officer
- 9-1-127 Powers of Enforcement Officer
- 9-1-128 Inspections
- 9-1-129 Procedure for enforcement
- 9-1-130 Limitations on orders and ordinances; historic landmark or historic district
- 9-1-131 Limitations on orders and ordinances; vacant manufacturing facility or vacant industrial warehouse
- 9-1-132 Vacated and closed nonresidential buildings or structures
- 9-1-133 Methods of service of complaints and orders
- 9-1-134 In rem action by the Enforcement Officer
- 9-1-135 Costs, a lien on premises
- 9-1-136 Ejectment
- 9-1-137 Filing of ordinances
- 9-1-138 Alternative remedies
- 9-1-139 Board of adjustment to hear appeals
- 9-1-140 Temporary injunction remedy for aggrieved person
- 9-1-141 Conflict with other provisions
- 9-1-142 Violations; penalty

**Article H. Closing or Securing Vacated and Closed Buildings**

- 9-1-145     Applicability
- 9-1-146     Standards
- 9-1-147     Penalty

**Article I. Housemovers**

- 9-1-151     Use of bond for damages or expenses
- 9-1-152     Return of unused bond

**Editor's note:**

*For former Art. H, Regulation of the Use, Handling and Storage of Gas, G.S. 119-55 authorizes municipalities to adopt and enforce safety codes dealing with the use, handling and storage of liquefied petroleum gases, provided local safety codes are in accordance with the standards as set forth by the state.*

**Statutory reference:**

*Inspection department, see G.S. ~~160A-441~~ 160D-1102 et seq.*

*Minimum housing standards, see G.S. ~~160A-441~~ 160D, 1201 et seq.*

*Repair or demolition of dwellings unfit for human habitation, see G.S. ~~160A-441~~ 160D-1203 and S.L.2005-200*

**ARTICLE A. ADOPTION OF REGULATORY CODES BY REFERENCE**

**SEC. 9-1-1 SCOPE OF CHAPTER AND CODES.**

The provisions of this chapter and of the regulatory codes herein adopted shall apply to the following:

- (A) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use and occupancy of every building or structure or any appurtenances connected or attached to the building or structure;
- (B) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems and all fixtures and appurtenances thereof;
- (C) The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel burning equipment and appurtenances thereof; and
- (D) The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof.

**SEC. 9-1-2 BUILDING CODE ADOPTED.**

The current edition of the North Carolina State Building Code, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein.

**SEC. 9-1-3 PLUMBING CODE ADOPTED.**

The current edition of the North Carolina Plumbing Code, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein.

The current edition of the North Carolina Mechanical Code as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein.

**SEC. 9-1-5 ELECTRICAL CODE ADOPTED.**

The current edition of the North Carolina Electrical Code, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein.

**SEC. 9-1-6 RESIDENTIAL BUILDING CODE.**

The current edition of the North Carolina Residential Building Code, as adopted by the North Carolina Building Code Council is hereby adopted by reference as fully as though set forth herein.

**SEC. 9-1-7 AMENDMENTS TO CODES; GENERALLY.**

Amendments to the regulatory codes adopted by reference herein, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the city at the time such amendments are filed with the City Clerk or Building Inspector as provided in section 9-1-10.

**SEC. 9-1-8 SAME; ELECTRICAL CODE; CONDUITS, STEEL, METALLIC TUBING OR METAL MOLDING REQUIRED IN FIRE DISTRICT AND PUBLIC BUILDINGS.**

All electrical repairs or permanent interior work done within the fire district and public buildings of the city shall be done either in conduit, steel or metallic tubing or metal molding.

**SEC. 9-1-9 SAME; TEMPORARY ELECTRIC SERVICE STRUCTURES.**

(A) All temporary electric service structures shall be strongly built to withstand the strains imposed by the service wires and attached equipment under all existing conditions, and may be either of two types, as follows:

(1) *Pole type, minimum standards.* Pole 25 to 30 feet overall, set five feet in the ground, bottom diameter ten inches, top diameter six inches. Meter six feet above ground.

(2) *Built-up type, minimum standards.* Upright four inches by six inches or equivalent, supported by 2 two-inch by six-inch braces properly located, with braces locked six feet above the ground. Meter six feet above ground.

(B) All temporary service structures shall be located within 75 feet of the pole from which service connection is to be made.

(C) The height of all temporary service structures and wires shall be such that a minimum clearance of 19 feet shall, at all times, be maintained over all streets, driveway, alleys and areas accessible to motor vehicles, and a minimum clearance of ten feet over sidewalks and lawns.

(D) The specifications and requirements as to the installation of meters, groundings, clearance and wiring methods shall be the same as is provided by law for permanent installation.

(E) Each temporary electrical service structure shall have at least one 115-volt three-pole grounded receptacle and at least one 230-volt polarized grounded receptacle. Any additional receptacles shall be three-pole grounded or polarized type receptacles.

(F) All temporary electrical structures shall be inspected by the electrical inspector before any connection is made with any

electrical service line.  
(Ord. No. 2641, § 1, passed 6-10-1993)

**SEC. 9-1-10 COPIES OF CODES FILED WITH CLERK.**

An official copy of each regulatory code adopted herein, and official copies of all amendments thereto, shall be kept on file in the office of the City Clerk or Chief Building Inspector. The copies shall be the official copies of the codes and the amendments.

(1971 Code, § 9-1-12)

**SEC. 9-1-11 COMPLIANCE WITH CODES.**

(A) All buildings or structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished or moved shall conform to the requirements, minimum standards, and other provisions of either the North Carolina State Building Code or the North Carolina State Residential Building Code, whichever is applicable, or of both if both are applicable.

(B) Every building or structure intended for human habitation, occupancy or use shall have plumbing, plumbing systems or plumbing fixtures installed, constructed, altered, extended, repaired or reconstructed in accordance with the minimum standards, requirements and other provisions of the North Carolina Plumbing Code.

(C) All mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel burning equipment and appurtenances shall be installed, erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the North Carolina Mechanical Code.

(D) All electrical wiring, installations and appurtenances shall be erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the North Carolina Electrical Code.

***ARTICLE B. FIRE LIMITS***

**SEC. 9-1-21 FIRE DISTRICT.**

Pursuant to and for the purposes of G.S. ~~460A-435~~ **160D-1128**, the fire limits are hereby declared to be all areas designated as such on the official map of the City of Greenville, North Carolina, which is on file in the office of the City Clerk. Each time the City Council takes action establishing, altering or abolishing any part of the fire limits the City Manager shall promptly direct an appropriate city officer to amend the official map to reflect the action of the City Council.

**SEC. 9-1-22 RESTRICTIONS WITHIN FIRE LIMITS.**

(A) As provided in G.S. ~~460A-436~~ **160D-1128**, within the primary fire limits, no frame or wooden building or structure or addition thereto may be erected, altered, repaired or moved (either into the limits or from one place to another within the limits) except in accordance with a permit issued by the building inspector approved by the city council and by the Commissioner of Insurance or designee.

(B) As provided in G.S. 160A-437 **160D-1128**, within the secondary fire limits, no frame or wooden building or structure or addition thereto may be erected, altered, repaired, or moved, except that Type V construction, as defined by the North Carolina state Building Code, may be used in:

- (1) Nonresidential buildings if sprinkler systems are installed in accordance with the standards set forth in N.F.P.A. 13.
- (2) Buildings that combine residential and nonresidential uses if sprinkler systems are installed in accordance with N.F.P.A. 13.
- (3) Multi-family residential buildings if sprinkler systems are installed in accordance with N.F.P.A. 13-R.  
(Ord. No. 14-042, passed 6-12-2014)

#### **SEC. 9-1-23 STRUCTURES PARTLY WITHIN AND PARTLY WITHOUT FIRE DISTRICT.**

Whenever any warehouse, residence or other structure of any kind shall be erected within the city, any part of which shall be within the fire limits when completed, then each and every part of the building and the land upon which the building shall be erected shall, for the purposes of this section and the following section, be considered to be within the fire limits, and the construction of the warehouse, residence or other structure shall be subject to the restrictions set forth in section 9-1-22.

(Ord. 14-042, passed 6-12-2014)

#### **SEC. 9-1-24 SAME; CORRECTION OF DEFECTS UPON NOTICE.**

It shall be unlawful for the owner or builder erecting any warehouse, residence or other structure, which when completed shall be partly in the fire limits and partly outside the limits, upon notice from the Building Inspector, to fail or refuse to comply with the terms of the notice by correcting the defects pointed out in the notice, so as to make the entire building comply with the law as regards new buildings. Every week during which any defect in the building is willfully allowed to remain after notice from the local Building Inspector shall constitute a separate and distinct offense.

### ***ARTICLE C. INSPECTION DIVISION***

#### **SEC. 9-1-31 ORGANIZATION OF DIVISION.**

The Inspection Division of the city shall consist of building inspectors, and may also include a plumbing inspector, a mechanical inspector, an electrical inspector and such other inspectors or deputy or assistant inspectors as may be authorized by the governing body.

(Ord. No. 1930, § 1, passed 12-8-1988)

#### **SEC. 9-1-32 GENERAL DUTIES OF DIVISION AND INSPECTORS.**

It shall be the duty of the Inspection Division to enforce all of the provisions of this chapter and of the regulatory codes adopted herein, and to make all inspections necessary to determine whether or not the provisions of this chapter and those codes are being met, excepting for the provisions of this chapter designated to be enforced by the Code Enforcement Coordinator or officer.

(Ord. No. 97-89, § 16, passed 8-14-1997)

**SEC. 9-1-33 CONFLICTS OF INTEREST.**

**In accordance with G.S. 160A-109, no officer or employee of the Inspection Division shall make a final administrative decision if the outcome of the decision would have a direct, substantial, and readily identifiable financial impact on the officer or employee, or if the applicant or other person subject to that decision is a person with whom the officer or employee has a close familial, business, or other associational relationship. A “close familial relationship” shall include a spouse, parent, child, brother, sister, grandparent, or grandchild, the terms including step, half, and in-law relationships.**

**In accordance with and consistent with the above-referenced Statute, no** officer or employee of the Inspection Division shall be financially interested in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building or any part thereof, or in the making of plans or specifications within the city’s jurisdiction or the ETJ, unless he or she is the owner of the building. No officer or employee of the Inspection Division shall engage in any work which is inconsistent with his or her duties or with the interests of the city.

**SEC. 9-1-34 REPORTS AND RECORDS.**

The Inspection Division, and each inspector, shall keep complete, permanent and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, and all other work and activities of the Inspection Division. Periodic reports shall be submitted to the City Council, and to other agencies, as required.

**SEC. 9-1-35 INSPECTION PROCEDURE.**

(A) *Inspections.* The Inspection Division shall inspect all buildings and structures and work therein for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with this chapter and the appropriate codes.

(1) When deemed necessary by the appropriate inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved and recognized inspection organizations; provided, no approval shall be based upon reports of such organizations unless the same are in writing and certified by a responsible officer of the organization.

2016 S-8



(2) All holders of permits, or their agents, shall notify the Inspection Division and/or the appropriate inspector at each stage of construction as outlined in the *North Carolina Administrative Code and Policies* so that approval may be given before work is continued.

(B) *Calls for inspection.*

(1) *Requests.* Request for inspections may be made to the office of the Inspection Division or to the appropriate inspector. The Inspection Division shall make inspections as soon as practicable after request is made therefor, provided the work is ready for inspection at the time the request is made.

(2) *Reinspections may be made at the convenience of the inspector.* No work shall be inspected until it is in proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate inspector in the form of a notice posted on the building or given to the permit holder or his or her agent. Failure to call for inspections or proceeding without approval at each stage of construction shall be deemed a violation of this chapter.

(3) *Street or alley lines.* Where the applicant for a permit proposes to erect any building or structure on the line of any street, alley or other public place, he or she shall secure a survey of the line of the street, alley or other public place, adjacent to the property upon which the building or structure is to be erected before proceeding with construction of the building or structure. It shall be the duty of the Building Inspector to verify that the building does not encroach upon the street, alley or other public place.

(4) *Certificate of occupancy.* No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the Inspection Division has issued a certificate of occupancy therefor. A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building. Application for a certificate of occupancy may be made by the owner or his or her agent after all final inspections have been made for new buildings, or, in the case of existing buildings, after supplying the information and data necessary to determine compliance with this article, the appropriate regulatory codes and the Zoning Ordinance for the occupancy intended. The Inspection Division shall issue a certificate of occupancy when, after examination and inspection, it is found that the building in all respects conforms to the provisions of this article, the regulatory codes and the Zoning Ordinance for the occupancy intended.

**SEC. 9-1-36 OVERSIGHT NOT TO LEGALIZE VIOLATION.**

No oversight or dereliction of duty on the part of any inspector or other official or employee of the Inspection Division or the Code Enforcement Division of the Planning and Development Services Department shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code herein adopted.

(Ord. No. 97-89, § 17, passed 8-14-1997; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-1-37 POWERS OF INSPECTION OFFICIALS.**

(A) *Authority.* Inspectors are hereby authorized, empowered and directed to enforce all the provisions of this chapter and the regulatory codes herein adopted, excepting for the provisions of this chapter designated to be enforced by the Code Enforcement Coordinator or officer.

(B) *Right-of-entry.* With an appropriate warrant or permission from the owner or occupant, inspectors shall have the right-of-entry on any premises within the jurisdiction of the regulatory codes herein adopted at reasonable hours for the purpose of inspection or enforcement of the requirements of this chapter and the applicable regulatory codes.

(C) *Stop orders.* Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered or repaired in a hazardous manner, or in violation of any provision of this part or any other city ordinance, or in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit or permits issued therefor, or in such manner as to endanger life or property, the appropriate inspector may order the work to be immediately stopped. Such order shall be in writing to the owner of the property or to his or her agent, or to the person doing the work, and shall state the reasons therefor and the conditions under which the work may be resumed. **Such order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the Planning and Development Services Director or their designee that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1112 (Changes in Work) and G.S. 160D-1208 (Remedies), a stop work order may be appealed pursuant to G.S. 160D-405. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.**

(Ord. No. 97-89, § 18, passed 8-14-1997)

#### **ARTICLE D. ENFORCEMENT**

##### **SEC. 9-1-51 ENFORCEMENT OF BUILDING INSPECTION SERVICES AND HOUSING STANDARDS IN EXTRATERRITORIAL JURISDICTION OF CITY.**

Pursuant to G.S. Chapter ~~160A, Article 19~~ **160D, Article 2** of the General Statutes of North Carolina, the City Council hereby authorizes the extension and enforcement of building inspection services and minimum housing standards into the City's extraterritorial jurisdiction.

*Statutory reference:*

*Extraterritorial jurisdiction, see G.S. ~~160A-360~~ **160D-201***

##### **SEC. 9-1-52 REGISTRATION OF CONTRACTORS.**

Every person carrying on the business of building contractor, plumbing contractor, heating-air conditioning contractor or electrical contractor within the city shall register at the office of the Inspection Division, giving name and place of business.

##### **SEC. 9-1-53 PERMITS REQUIRED.**

(A) *Building permit.*

(1) No person shall commence or proceed with the construction, reconstruction, alteration, repair, removal or demolition of any building or other structure, or any part thereof, without a written permit therefor from the Inspection Division; provided, however, that no building permit shall be required for work the total cost of which does not exceed \$5,000 and which does not involve any change of the load bearing structural parts or the stairways, elevators, fire escapes or other means of egress of the building or the structure in question. County Board of Health approval of a septic tank is required.

(2) In all cases of removal or demolition of a building or structure, a good and sufficient bond may be required to be posted by the property owner or by his or her contractor at the time of application for a permit, to insure complete removal or demolition, including all rubble and debris. Failure on the part of the property owner or his or her contractor to completely demolish, remove and clear the premises, after 30 days notice by the Building Inspector, shall be cause for forfeiture of the bond.

(B) *Plumbing permit.* No person shall commence or proceed with the installation, extension or general repair of any plumbing system without a written permit therefor from the Inspection Division; provided, however, no permit shall be required for minor repairs or replacements on the house side of a trap to an installed system of plumbing if the repairs or replacements do not disrupt the original water supply or the waste or ventilating systems.

(C) *Mechanical permit.* No person shall commence or proceed with the installation, extension, alteration or general repair of any heating or cooling equipment system without a written permit from the Inspection Division; provided, however, no

permit shall be required for minor repairs or minor burner services or filter replacements of warm air furnaces or cooling systems.

(D) *Electrical permit.* No person shall commence or proceed with the installation, extension, alteration or general repair of any electrical wiring, devices, appliances or equipment without a written permit therefor from the Inspection Division; provided, however, no permit shall be required for minor repair work such as the replacement of lamps or the connection of portable devices to suitable receptacles which have been permanently installed; provided, further, no permit shall be required for the installation, alteration or repair of the electrical wiring, devices, appliances and equipment installed by or for an electrical public utility corporation for the use of the corporation in the generation, transmission, distribution or metering of electrical energy.

**Statutory reference:**

*Permits for construction, alteration or demolition of buildings, see G.S. ~~160A-417~~ 160D-1110 et seq.*

**SEC. 9-1-54 APPLICATION FOR PERMIT.**

(A) Written application shall be made for all permits required by this chapter, and shall be made on forms provided by the Inspection Division.

(B) Such application shall be made by the owner of the building or structure affected or by his or her authorized agent or representative, and, in addition to such other information as may be required by the appropriate inspector to enable him or her to determine whether the permit applied for should be issued, shall show the following:

- (1) Name, residence and business address of owner;
- (2) Name, residence and business of authorized representative or agent, if any; and
- (3) Name and address of the contractor, if any, together with evidence that he or she has obtained a certificate from the appropriate state licensing board for such contractors, if such be required for the work involved in the permit for which application is made.

**SEC. 9-1-55 PLANS AND SPECIFICATIONS.**

Detailed plans and specifications shall accompany each application for a permit when the estimated total cost of the building or structure is in excess of \$90,000 and for any other building or structure where plans and specifications are deemed necessary by the appropriate inspector in order for him or her to determine whether the proposed work complies with the appropriate regulatory codes. Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this chapter and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work until all authorized operations have been completed and approved by the appropriate inspector.

**SEC. 9-1-56 LIMITATIONS ON ISSUANCE OF PERMITS.**

(A) No building permit shall be issued for any building or structure, the estimated total cost of which is more than \$30,000 unless the work is to be performed by a licensed general contractor.

(B) No building permit shall be issued for any building or structure, other than a one- or two-family dwelling, if the estimated total cost of which is more than that outlined in section 302.4 of the North Carolina Administration and Enforcement Requirements Code, unless the plans bear the North Carolina seal of a registered architect or a registered engineer.

(C) Where any provisions of the General Statutes of North Carolina or of any ordinance require that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless it is to be performed by the licensed specialty contractor.

(D) Where detailed plans and specifications are required under this chapter, no building permit shall be issued unless the plans and specifications have been provided.

**SEC. 9-1-57 ISSUANCE OF PERMIT.**

When proper application for a permit has been made, and the appropriate inspector is satisfied that the application and the proposed work comply with the provisions of this article and the appropriate regulatory codes, he or she shall issue the permit, upon payment of the proper fee or fees as hereinafter provided in section 9-1-61.

**SEC. 9-1-58 REVOCATION OF PERMITS.**

Permits may be revoked in accordance with state law.

**SEC. 9-1-59 TIME LIMITATIONS ON VALIDITY OF PERMITS.**

All permits issued under this chapter shall expire by limitation six months after the date of issuance if the work authorized by the permit has not been commenced. If after commencement the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any permit which has expired shall thereafter be performed until a new permit therefor has been secured.

**SEC. 9-1-60 CHANGES IN WORK.**

After a permit has been issued, changes or deviations from the terms of the application and permit, or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter or of any regulatory code adopted herein, shall not be made until specific written approval of the changes or deviations has been obtained from the appropriate inspector.

**SEC. 9-1-61 PERMIT FEES.**

Fees for building, plumbing, mechanical and electrical permits shall be as fixed from time to time by the City Council, a schedule of which shall be maintained in the *City of Greenville Manual of Fees*.

**SEC. 9-1-62 PENALTIES FOR VIOLATION OF REGULATORY CODES.**

(A) Any violation of Article A of this chapter, specifically including violation of any regulatory codes adopted in that article of this chapter, shall subject the offender to a civil penalty of \$50. Violators shall be issued a written citation which must be paid within 72 hours.

(B) Each day's continuing violation shall be a separate and distinct offense.

(C) Notwithstanding subsection (A) above, provisions of Article A may be enforced through equitable remedies issued by a court of competent jurisdiction.

(D) In addition to, or in lieu of, remedies authorized in subsections (A) and (C) above, violations of Article A may be prosecuted as a misdemeanor in accordance with G.S. 160A-175.

(Ord. No. 1382, § 1, passed 3-8-1984)

**ARTICLE E. REPAIR, CLOSING OR DEMOLITION OF ABANDONED STRUCTURES**

**SEC. 9-1-71 FINDING; INTENT.**

It is hereby found that there exist within the city abandoned structures which the City Council finds to be hazardous to the health, safety and welfare of the residents of the city due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. Therefore, pursuant to the authority granted by G.S. ~~160A-441~~ **160D-1201**, it is the intent of this article to provide for the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation. (Ord. No. 756, passed 2-9-1978)

**SEC. 9-1-72 DUTIES OF CODE ENFORCEMENT COORDINATOR AND OFFICER.**

The Code Enforcement Coordinator and officer are hereby designated as the city officers to enforce the provisions of this article. It shall be the duty of the Code Enforcement Coordinator and officer:

- (A) To locate abandoned structures within the city and determine which structures are in violation of this article;
  - (B) To take such action pursuant to this article as may be necessary to provide for the repair, closing or demolition of the structures;
  - (C) To keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this article; and
  - (D) To perform such other duties as may be prescribed herein or assigned to him or her by the City Council.
- (Ord. No. 756, passed 2-9-1978; Ord. No. 97-89, §§ 6, 7, passed 8-14-1997)

**SEC. 9-1-73 POWERS OF CODE ENFORCEMENT COORDINATOR AND OFFICER.**

The Code Enforcement Coordinator and officer are authorized to exercise such powers as may be necessary to carry out the intent and provisions of this article, including the following powers in addition to others herein granted:

- (A) To investigate the conditions of buildings within the city in order to determine which structures are abandoned and in violation of this article;
  - (B) To enter upon premises for the purpose of making inspections;
  - (C) To administer oaths and affirmations, examine witnesses and receive evidence; and
  - (D) To designate such other officers, agents and employees of the city as he or she deems necessary to carry out the provisions of this article.
- (Ord. No. 756, passed 2-9-1978; Ord. No. 97-89, §§ 6, 8, passed 8-14-1997)

**SEC. 9-1-74 STANDARDS FOR ENFORCEMENT.**

- (A) Every abandoned structure within the city shall be deemed in violation of this article whenever the structure constitutes a hazard to the health, safety or welfare of the city citizens, as a result of:
  - (1) The attraction of insects or rodents;
  - (2) Conditions creating a fire hazard;

- (3) Dangerous conditions constituting a threat to children; or
- (4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) In making the preliminary determination of whether or not an abandoned structure is in violation of this article, the Code Enforcement Coordinator or officer may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

- (1) Holes or cracks in the structure's floors, walls, ceilings or roof which might attract or admit rodents and insects, or become breeding places for rodents and insects;
  - (2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects;
  - (3) Violations of the State Building Code, the State Electrical Code or the Fire Prevention Code, which constitute a fire hazard in the structure;
  - (4) The collection of garbage, rubbish or combustible material which constitutes a fire hazard in the structure;
  - (5) The use of the structure or nearby grounds or facilities by children as a play area;
  - (6) Violations of the State Building Code which might result in danger to children using the structure or nearby grounds or facilities as a play area; and
  - (7) Repeated use of the structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating.
- (Ord. No. 756, passed 2-9-1978; Ord. No. 97-89, § 6, passed 8-14-1997)

#### **SEC. 9-1-75 PROCEDURE FOR ENFORCEMENT.**

(A) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the Code Enforcement Coordinator or officer by at least five residents of the city charging that any structure exists in violation of this article, or whenever it appears to the Code Enforcement Coordinator or officer, upon inspection, that any structure exists in violation hereof, he or she shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in the structure a complaint stating the charges and containing a notice that a hearing will be held before the Code Enforcement Coordinator or officer at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the structure. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Code Enforcement Coordinator or officer.

(B) *Procedure after hearing.* After such notices and hearing, the Code Enforcement Coordinator or officer shall state in writing his or her determination whether the structure violates this article. If the Code Enforcement Coordinator or officer determines that the dwelling is in violation, he or she shall state in writing his or her findings of fact to support that determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve the structure or else remove or demolish the same within specified period of time, not to exceed 90 days.

(C) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any structure shall fail to comply with an order of the Code Enforcement Coordinator or officer within the time specified therein, the Code Enforcement Coordinator or officer may submit to the City Council at its next regular meeting a resolution directing the City Attorney to petition the

Superior Court for an order directing the owner to comply with the order of the Code Enforcement Coordinator or officer, as authorized by G.S. ~~160A-446(e)~~ **160D-1208(d)**.

(2) *In rem remedy.* After failure of an owner of a structure to comply with an order of the Code Enforcement Coordinator or officer within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding subsection (C)(1), the Code Enforcement Coordinator or officer shall submit to the City Council an ordinance ordering the Code Enforcement Coordinator or officer to cause the structure to be removed or demolished, as provided in the original order of the Code Enforcement Coordinator or officer and pending the removal or demolition, to placard the dwelling as provided by G.S. ~~160-443~~ **160D-1203**.

(D) *Petition to Superior Court by owner.* Any person aggrieved by an order issued by the Code Enforcement Coordinator or officer shall have the right, within 30 days after issuance of the order, to petition the Superior Court for a temporary injunction restraining the Code Enforcement Coordinator or officer pending a final disposition of the cause, as provided by G.S. ~~160A-446(f)~~ **160D-1208(d)**.

(Ord. No. 756, passed 2-9-1978; Ord. No. 97-89, § 6, passed 8-14-1997)

### **SEC. 9-1-75.1 VACATED AND CLOSED STRUCTURES.**

(A) If the City Council shall have adopted an ordinance, or the Code Enforcement Coordinator or officer shall have issued an order, ordering an abandoned structure to be repaired, altered, or improved as provided in section 9-1-75, and if the owner has vacated and closed the structure and kept the structure vacated and closed for a period of six months pursuant to the ordinance or order, then if the City Council shall find that the owner has abandoned the intent and purpose to repair, alter or improve the structure and that the continuation of the structure in its vacated and closed status would be inimical to the health, safety, morals and welfare of the city in that the structure would continue to deteriorate, and would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, and would cause or contribute to blight and the deterioration of property values in the area, then in such circumstances, the City Council may, after the expiration of the six-month period, enact an ordinance and serve the ordinance on the owner, setting forth the following:

(1) If it is determined that the repair of the structure can be made at a cost not exceeding 50% of the then current value of the structure, the ordinance shall require that the owner either repair or demolish and remove the structure within 90 days; or

(2) If it is determined that the repair of the structure cannot be made at a cost not exceeding 50% of the then current value of the structure, the ordinance shall require that the owner demolish and remove the structure within 90 days.

(B) An ordinance adopted pursuant to this section shall be recorded in the office of the Register of Deeds of Pitt County and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with that ordinance, the Code Enforcement Coordinator or officer shall effectuate the purpose of the ordinance. The cost to repair or demolish and remove the dwelling shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have priority and be collected in the same manner as the lien for special assessments established by G.S. Chapter 160A, Article 10. (Ord. No. 97-89, § 13, passed 8-14-1997; Ord. No. 05-106, § 1, passed 9-8-2005)

### **SEC. 9-1-76 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

(A) Complaints and orders issued by the Code Enforcement Coordinator or officer under this article shall be served upon persons either personally or by registered or certified mail and, in conjunction therewith, may be served by regular mail. When the manner of service is by regular mail in conjunction with registered or certified mail, and the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after mailing, service shall be deemed sufficient. The person mailing the notice or order by regular mail shall certify that fact and the date thereof, and the certificate shall be conclusive in the absence of fraud.

(B) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Code Enforcement Coordinator or officer in the exercise of reasonable diligence, and the Code Enforcement Coordinator or officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required under the provisions of this article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(Ord. No. 756, passed 2-9-1978; Ord. No. 1252, § 1, passed 2-10-1983; Ord. No. 97-89, ¶ 6, 12, passed 8-14-1997)

(C) Each owner of rental property located within the city shall authorize a person residing in Pitt County to serve as his or her agent for the purpose of accepting service of process under this section. The owner shall provide, on a form supplied by the City Clerk, the authorized agent's name and address. The owner shall notify the City Clerk of any changes in the information provided not less than ten days after such changes have occurred. Nothing in this subsection shall be interpreted to require an owner to designate an agent to accept service of process where the owner of the rental property resides within Pitt County. The initial failure of an owner to authorize an agent, as required in this subsection, will not result in the imposition of a civil penalty as hereinafter authorized; however, a civil penalty will be imposed if an owner fails to authorize an agent and fails to provide to the City Clerk, on the form supplied by the City Clerk, the authorized agent's name and address not less than ten days after being notified by the Code Enforcement Coordinator or officer that such a designation is required under this subsection. Any violation of the provisions of this subsection or a failure to comply with any of its requirements will subject the offender to a civil penalty in the amount of \$50. Each ten-day period or part thereof in which a violation continues shall be considered a separate violation for the purpose of the civil penalty provided by this subsection.

(Ord. No. 01-121, § 1, passed 9-13-2001)

**Statutory reference:**

*Service of complaints and orders, see G.S. ~~160A-445~~ [160D-1206](#)*

**SEC. 9-1-77 IN REM ACTION BY CODE ENFORCEMENT COORDINATOR OR OFFICER; PLACARDING.**

(A) After failure of an owner of a structure to comply with an order of the Code Enforcement Coordinator or officer issued pursuant to the provisions of this article, and upon adoption by the City Council of an ordinance authorizing and directing him or her to do so, as provided by G.S. ~~160A-443(5)~~ [160D-1203\(6\)](#), [Session Law 2005-200](#), and section 9-1-75(C) of this article, the Code Enforcement Coordinator or officer shall proceed to cause the structure to be removed or demolished, as directed by the ordinance of the City Council and shall cause to be posted on the main entrance of the structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

(B) Each such ordinance shall be recorded in the office of the Register of Deeds of Pitt County, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. ~~160A-443(5)~~ [160D-1203\(6\)](#).

(Ord. No. 756, passed 2-9-1978; Ord. No. 97-89, ¶ 6, passed 8-14-1997)

**SEC. 9-1-78 COSTS; A LIEN ON PREMISES.**

As provided by G.S. ~~160A-443(6)~~ [160D-1203\(7\)](#), the amount of the cost of any removal or demolition caused to be made or done by the Code Enforcement Coordinator or officer pursuant to this article shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority and be enforced and the costs collected as provided by G.S. Chapter 160A, Article 10.

(Ord. No. 756, passed 2-9-1978; Ord. No. 97-89, ¶ 6, passed 8-14-1997)

**SEC. 9-1-79 ALTERNATIVE REMEDIES.**

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(Ord. No. 756, passed 2-9-1978)

*ARTICLE F. MINIMUM HOUSING CODE*

**SEC. 9-1-91 FINDING; PURPOSE.**

(A) Pursuant to G.S. ~~160A-441~~ **160D-1201**, it is hereby found and declared that there exists in the city dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the city.

(B) In order to protect the health, safety and welfare of the residents of the city as authorized by G.S. Chapter ~~160A, Article 19, Part 6~~ **160D, Article 12** of the North Carolina General Statutes, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. ~~160A-444~~ **160D-1201**.

(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-92 DEFINITIONS.**

Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof." For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Basement.* A portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

*Cellar.* A portion of a building which is located partly or wholly underground, having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

*Code Enforcement Coordinator or officer.* A Code Enforcement Coordinator or officer of the City of Greenville or any agent of the Code Enforcement Coordinator or officer who is authorized by him or her to enforce the provisions of this article.

*Deteriorated.* A dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of 50% of its value, as determined by the finding of the Code Enforcement Coordinator or officer.

*Dilapidated.* A dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of 50% of its value, as established by the finding of the Code Enforcement Coordinator or officer.

*Dwelling.* ~~Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing as hereinafter defined shall not be regarded as a dwelling.~~ **Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of NCGS 160D Article 12, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.**

*Dwelling unit.* Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

*Extermination.* The control and elimination of insects, rodents or other pests by eliminating their harborage places by removing or making inaccessible materials that may serve as their food, or by poisoning, spraying, fumigating, trapping or by other recognized and legal pest elimination methods approved by the Code Enforcement Coordinator or officer.

*Garbage.* The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

*Habitable room.* A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or connecting corridors, closets and storage spaces.

*Infestations.* The presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

*Multiple dwelling.* Any dwelling containing more than two dwelling units.

*Occupant.* Any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

*Operator.* Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

*Owner.* Any person who alone, or jointly, or severally with others:

- (1) Shall have title in fee simple to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Shall have charge, care or control of any dwelling or dwelling unit as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

*Plumbing.* Includes all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

*Public authority.* The Greenville Housing Authority or any officer who is in charge of any department or branch of government of the City of Greenville or of Pitt County or the State of North Carolina relating to health, fire, building regulations or other activities concerning dwellings in the City of Greenville.

*Rooming house.* Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, sister or brother of the owner or operator.

*Rooming units.* Any room or group of rooms forming a single habitable unit used or intended to be used for living or sleeping, but not for cooking or eating purposes.

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

*Rubbish.* Combustible and noncombustible waste materials, except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

*Supplied.* Paid for, furnished or provided by or under the control of the owner or operator.

*Temporary housing.* Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

*Unfit for human habitation.* A residential building which contains any of the following conditions which the Code Enforcement Coordinator or officer shall have found render the building dangerous or injurious to the health or safety of the occupants of the dwelling or neighboring dwellings or other residents of the city:

- (1) Interior walls or vertical studs which seriously lean or buckle to such an extent as to render the building unsafe;
  - (2) Supporting member or members which show 33% or more damage or deterioration, or non-supporting enclosing or outside wall or covering which shows 50% or more of damage or deterioration;
  - (3) Floors or roofs which have improperly distributed loads which are overloaded or which have insufficient strength to be reasonably safe for the purpose used;
  - (4) Such damage by fire, wind or other causes as render the building unsafe;
  - (5) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or general welfare of the occupants of the dwelling or neighboring dwellings or other residents;
  - (6) Inadequate facilities for egress in case of fire, accident or other calamities;
  - (7) Defects significantly increasing hazards of fire, accident or other calamities;
  - (8) Lack of adequate ventilation, light, heating or sanitary facilities to such an extent as to endanger the health, safety or general welfare of the occupants or other residents of the city;
  - (9) Lack of proper electrical heating or plumbing facilities required by this article which constitute a health or safety hazard;
  - (10) Lack of adequate weatherization;
  - (11) Lack of an operable smoke detector; or
  - (12) Any combination of substandard items which in the judgment of the Code Enforcement Coordinator or officer renders any building dangerous or injurious to the health, safety, or general welfare of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the city.
- (Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-93 MINIMUM STANDARDS OF FITNESS FOR DWELLINGS AND DWELLING UNITS.**

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all the minimum standards of fitness for human habitation and all of the requirements of sections 9-1-94 through 9-1-104 of this article. No person shall occupy as owner or occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all the minimum standards of fitness for human habitation. Only approved building materials for specific purposes may be used in making necessary repairs.

(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-94 MINIMUM STANDARDS FOR STRUCTURAL CONDITIONS.**

(A) *Foundation.*

- (1) A foundation wall system shall support the building at all points and shall be free of holes, cracks, and loose mortar or masonry which would admit rodents, water or dampness to the interior of the building or which lessen the capability of the foundation to support the building.
- (2) Crawl space shall be graded so as to prevent any water standing.
- (3) Foundation walls and footings shall be free of defects such as cracks, holes and loose mortar.

(4) Piers shall be sound with no loose mortar or masonry.

(B) *Floors.*

(1) There shall not be decayed, termite-damaged, fire-damaged, broken, overloaded or sagging sills that adversely affect the structural integrity of the building framing system.

(2) Joists shall not be decayed or broken so as to adversely affect the structural integrity of the floor framing system.

(3) Flooring shall be weathertight without holes or cracks which permit excessive air to penetrate rooms.

(4) There shall be no loose flooring.

(5) Bathroom and kitchen flooring surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit the flooring to be easily kept in a clean and sanitary condition.

(6) All floor covering shall be constructed and maintained as not to constitute a trip hazard and kept in a clean and sanitary condition.

(7) There shall be no use of the ground for floors, or wood floors on the ground.

(C) *Exterior walls.*

(1) There shall be no broken, cracked or fire damaged structural members.

(2) All siding shall be weathertight, with no holes or excessive cracks or decayed boards which permit excessive air or moisture to penetrate rooms.

(3) There shall be no loose siding.

(4) Exterior surfaces not inherently resistant to deterioration shall be treated with a protective coating or covering and maintained in good repair to prevent deterioration.

(D) *Interior walls.*

(1) The interior finish shall be free of holes and cracks.

(2) All interior walls shall be treated and maintained so as to be easily kept in a clean and sanitary condition.

(3) No loose plaster, loose boards or other loose wall materials shall be allowed.

(4) There shall be no decayed or termite-damaged studs.

(5) There shall be no broken or cracked studs or other broken or cracked structure members allowed.

(E) *Ceilings.*

(1) There shall be no joists which are decayed or broken, sagging or improperly supported.

(2) There shall be no holes or excessive cracks which permit air to penetrate rooms.

(3) There shall be no loose plaster, boards, gypsum wall board or other ceiling finish.

(4) There shall be no evidence of water damage.

(F) *Roof.*

- (1) There shall be no rafters which are decayed or broken.
  - (2) No rafters shall be damaged by fire.
  - (3) Sheathing shall not be loose.
  - (4) No loose roof covering shall be allowed, nor shall there be any holes or leaks which could cause damage to the structure.
  - (5) There shall be proper flashing at walls and roof penetrations.
  - (6) There shall be no chimneys or part thereof which are defective, deteriorated or in danger of falling, or in such condition to constitute a fire hazard.
- (Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-95 MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES.**

(A) *Plumbing system.*

- (1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewer disposal system.
- (2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet and an adequate supply of both cold water and hot water. All systems must be connected to a potable water supply.
- (3) All plumbing fixtures shall meet the standards of the North Carolina Plumbing Code and shall be maintained in a state of good repair and good working order.
- (4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.
- (5) Water closet shall be functional and free of leaks.
- (6) Water closet shall not be loose from floor or leaking.
- (7) Tub and shower stall floors and walls shall be watertight.
- (8) Fixtures shall not be cracked or broken and function as designed.
- (9) Sewer and water lines shall be properly supported, with no broken or leaking lines.

(B) *Heating system.*

- (1) *Heating required.* Every dwelling and dwelling unit shall provide central heat or other approved permanent source of heating.
- (2) *Central and electric heating system.*
  - (a) Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected a minimum temperature of 68<sup>o</sup>Fahrenheit measured at a point three feet above the floor during ordinary winter conditions.

- (b) All ducts, pipes and tubes should be free of leaks and functioning properly.
- (3) *Other heating facilities.* Where central or electric heating system are not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances are connected so as to heat all habitable rooms with a minimum temperature of 68<sup>o</sup>F measured at a point three feet above the floor during ordinary winter conditions.
- (a) All floor, wall or room heaters must comply with standards of Chapter 16, Volume VII of the State Building Code.
- (b) Chimneys shall have no loose bricks or mortar and shall have a flue.
- (c) Flues shall have no holes.
- (d) Open masonry fireplaces shall only be used as supplemental heat and not as a primary source of heating.
- (e) No portable kerosene space heater may be used as a primary source of heat.
- (f) If fireplace opening is closed, the closure shall be of noncombustible material and airtight.
- (g) No hanging chimneys will be allowed.
- (C) *Electrical system.*
- (1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall type electric convenience receptacles, connected in such manner as determined by the North Carolina Electric Codes. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall type electric fixture for lighting. In the event wall or ceiling light fixtures are not provided in any habitable room, then the habitable room shall contain at least three floor or wall type electric convenience receptacles.
- (2) Every common hall and stairway in every multiple dwelling shall have adequate lighting by electric lights at all times when natural lighting is not sufficient.
- (3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair and installed in accordance with the North Carolina Electrical Code.
- (4) All receptacles shall have outlet covers installed.
- (5) All light switches shall have covers installed.
- (6) Each dwelling unit shall have electric service from a separately metered delivery system provided by a licensed utility company. No drop cords, extension cords or similar wiring mechanism may be utilized in any fashion other than in conformance with the purposes in which it was designed.  
(Ord. No. 99-15, passed 2-11-1999)

#### **SEC. 9-1-96 MINIMUM STANDARDS FOR SMOKE DETECTORS.**

Every owner of a residential dwelling unit shall have UL approved smoke detectors installed, mounted on or near the ceiling on every level, at a point centrally located in the corridor or area giving access to each group of rooms used for sleeping purposes. Where bedrooms are not centrally located more than one smoke detector may be required.  
(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-97 MINIMUM STANDARDS FOR VENTILATION.**

(A) All habitable rooms shall be provided with aggregate glazing area of not less than 8% of the total floor area of the rooms. One-half of the required area of glazing shall be openable. For the purpose of determining the light and ventilation requirement, any room may be considered as a portion of an adjoining room when one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room or 25 square feet, whichever is greater. Exceptions to this standard are as follows:

(1) The glazed areas need not be openable where the opening is not required by Section 310 of Volume VII of the State Building Code and an approved mechanical ventilation system is provided capable of producing 0.35 air change per hour in the room or a whole-house mechanical ventilation system is installed capable of supplying outdoor ventilation air of 15 cubic feet per minute (cfm) (7.08 L/s) per occupant computed on the basis of two occupants for the first bedroom and one occupant for each additional bedroom.

(2) The glazed areas may be omitted in rooms where the opening is not required by Section 310 of Volume VII of the State Building Code and an approved mechanical ventilation system is provided capable of producing 0.35 air change per hour in the room or a whole-house mechanical ventilation system is installed capable of supplying outdoor ventilation air of 15 cubic feet per minute (cfm) (7.08 L/s) per occupant computed on the basis of two occupants for the first bedroom and one occupant for each additional bedroom, and artificial light is provided capable of producing an average illumination of six foot candles (6.46 L/s) over the area of the room at a height of 30 inches above the floor level.

(B) All exterior windows and doors shall be reasonably weathertight, shall have no broken glass, and shall have adequate operable locks and hardware.

(C) All interior windows and hardware shall be in good repair.

(D) Required glazed openings shall open directly onto a street or public alley, or a yard or court located on the same lot as the building.

(E) (1) Bathrooms, water closet compartments and other similar rooms shall be provided with aggregate glazing area in windows of not less than three square feet, one-half of which must be openable.

(2) An exception to this standard is as follows: The glazed areas shall not be required where artificial light and an approved mechanical ventilation system capable of producing a change of air every 12 minutes are provided. Bathroom exhausts shall be vented directly to the outside.  
(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-98 MINIMUM STANDARDS FOR SPACE, USE, AND LOCATION.**

~~(A) Room size.~~

~~(1) Every dwelling unit shall have at least one habitable room which shall have not less than 150 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet. Every kitchen shall not have less than 50 square feet of floor area. Habitable rooms except kitchens shall not be less than seven feet in any horizontal dimension.~~

~~(2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.~~

~~(B)~~ **(A) Ceiling height.** Habitable rooms, except kitchens, shall have a ceiling height of not less than seven feet six inches for at least 50% of their required areas. Not more than 50% of the required area may have a sloped ceiling less than seven feet six inches in height with no portion of required areas less than five feet in height. If any room has a furred ceiling, the

prescribed ceiling height is required for at least 50% of the area thereof, but in no case shall the height of the furred ceiling be less than seven feet. A portion of a room with a sloping ceiling measuring less than five feet zero inches or a furred ceiling measuring less than seven feet zero inches from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required habitable area for that room. Exceptions to this standard are as follows:

- (1) Beams and girders spaced not less than four feet on center may project not more than six inches below the required ceiling height.
- (2) All other rooms including kitchens, baths and hallways may have a ceiling height of not less than seven feet measured to the lowest projection from the ceiling.
- (3) Ceiling height in basements without habitable spaces may not be less than six feet eight inches clear except for under beams, girders, ducts or other obstructions, where the clear height shall be six feet four inches.

~~(E)~~ **B** *Cellar.* No cellar shall be used for living purposes.

~~(D)~~ **C** *Basements.* No basement shall be used for living purposes unless:

- (1) The floor and walls are substantially watertight;
- (2) The total window area, total openable window area, and ceiling height are equal to those required for habitable rooms; and
- (3) The required minimum window area of every habitable room is entirely above the grade adjoining the window area, except where the window or windows face a stairwell, window well or access way.  
(Ord. No. 99-15, passed 2-11-1999)

#### **SEC. 9-1-99 MINIMUM STANDARDS FOR SAFE AND SANITARY MAINTENANCE.**

(A) *Exterior foundation, walls, curtain wall and roofs.* Every foundation wall, exterior curtain wall, and exterior roof shall be substantially weathertight and rodent proof, shall be kept in sound condition and good repair, shall be capable to affording privacy and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or weather.

(B) *Interior floors, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(C) *Windows and doors.* Every window, exterior door, basement or cellar door, and hatchway shall be substantially weathertight, watertight and rodent proof, and shall be kept in sound working condition and good repair.

(D) *Stairs, porches and appurtenances.* Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit the floor to be easily kept in a clean and sanitary condition.

(F) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this article shall be so constructed or installed so that it will function safely and effectively and shall be maintained in satisfactory working condition.  
(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-100 MINIMUM STANDARD TO MEANS OF EGRESS.**

- (A) Every dwelling shall have safe, unobstructed means of egress with a minimum ceiling height of seven feet leading to a safe and open space at ground level.
- (B) Every exterior, cellar or basement door and hatchway shall be substantially weathertight and rodent proof, and shall be kept in sound working condition and good repair.
- (C) Every exterior door shall be provided with properly installed hardware that is maintained to ensure reasonable ease of operation to open, close and secure as intended by the manufacturer of the door and attached hardware.
- (D) Exterior door frames shall be properly maintained and shall be affixed with weatherstripping and thresholds as required to be substantially weathertight, watertight and rodent and insect resistant when the door is in a closed position.
- (E) Exterior door jams, stops, headers and molding shall be securely attached to the structure, maintained in good condition without splitting or deterioration that would minimize the strength and security of the door in a closed position.
- (F) All exterior doors shall have manufactured locks specifically designed for use with exterior doors requiring a key to be unlocked from the outside.
- (G) Every sleeping room shall have at least one openable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside to a full clear opening without the use of a key or tool. Where windows are provided as a means of egress or rescue they shall have a sill height of not more than 44 inches above the floor.
- (H) All egress or rescue windows from sleeping rooms must have a net clear opening of 4.0 square feet. The minimum net clear opening height shall be 22 inches. The minimum net clear opening width shall be 20 inches. Each egress window from sleeping rooms must have a minimum total glass area of not less than 5.0 square feet in the case of a second story window.
- (I) Bars, grills, screens or other obstructions placed over emergency escape windows shall be releasable or removable from the inside without the use of a key or tool.  
(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-101 MINIMUM STANDARDS FOR PORCHES OR RAISED PLATFORM.**

- (A) Foundation flooring, ceiling and roofing for porches and raised platforms shall be equal to standards set forth in section 9-1-94, except sills and joists need not be level if providing drainage of floor, and floors need not be weathertight.
- (B) Roof post and attached railings shall be structurally sound.
- (C) Every porch terrace or raised platform located at least 40 inches above the adjacent finished grade shall be equipped with guardrails not less than 36 inches high. Open guardrails shall have intermediate rails such that a six-inch sphere cannot pass through any opening.  
(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-102 MINIMUM STANDARDS FOR STAIRS AND STEPS.**

- (A) Stairs and steps shall not be decayed and shall be in good repair.
- (B) Every rail shall be firmly fastened and maintained in good condition.
- (C) No flight of stairs more than one inch out of its intended position or pulled away from supporting or adjacent structures shall be allowed.

- (D) Supports shall be structurally sound.
- (E) Where steps and stairs that must be replaced due to deterioration, construction must comply with State Building Code standards.
- (F) Stairways having four or more risers above a floor or finished ground level shall be equipped with handrails located not less than 30 inches nor more than 38 inches above the leading edge of a tread. An exception from this standard is that handrails that form part of a guardrail may be 42 inches high.
- (G) Gripping surfaces shall be continuous without interruption.  
(Ord. No. 99-15, passed 2-11-1999)

#### **SEC. 9-1-103 MINIMUM STANDARDS FOR CONTROL OF INSECTS, RODENTS, AND INFESTATIONS.**

- (A) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device, where an air conditioner is not provided. Every window or other device with openings to outdoor space shall be supplied with screens where an air conditioner is not provided.
- (B) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement which might provide an entry for rodents shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.
- (C) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her or her dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonable insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any structure or in the shared or public parts of any structure containing two or more dwelling units, extermination shall be the responsibility of the owner.
- (D) *Garbage storage and disposal.* Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers as required by the Greenville City Code and the owner, operator or agent in control of the dwelling or dwelling unit shall be responsible for the removal of garbage. At least one 32-gallon outside garbage can will be required for single-family residents.  
(Ord. No. 99-15, passed 2-11-1999)

#### **SEC. 9-1-104 MINIMUM STANDARDS APPLICABLE TO ROOMING HOUSES; EXCEPTIONS.**

All the provisions of this article, and all of the minimum standards and requirements of this article, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following subsections:

- (A) *Water closet, hand lavatory and bath facilities.* At least one water closet, lavatory basin, and bathtub or shower, properly connected to an approved water system and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever the facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing the facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.
- (B) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age or older and at least 35 square feet of floor area for each occupant under 12 years of age.

(C) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin, bathtub or shower required by subsection (A) of this section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from habitable rooms, which are accessible from a common hall and without going outside the rooming house or through any other room therein.

(D) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house; he or she shall further be responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.  
(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-105 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.**

(A) *Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and the premises thereof.

(B) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling or dwelling unit and the premises thereof which he or she occupies or controls.

(C) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his or her rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(E) *Care of facilities, equipment, and structure.* No occupant shall willfully destroy, deface or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.  
(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-106 SPECIAL HISTORIC BUILDINGS AND DISTRICTS.**

All exterior alterations or repairs required by the provisions of this article to structures that are identified and classified by the City Council as a designated landmark or being within a historic district must meet the requirements of the city as administered by the Historic Preservation Commission.  
(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-107 DUTIES OF CODE ENFORCEMENT COORDINATOR OR OFFICER.**

The Code Enforcement Coordinator or officer is hereby designated as the public officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed. It shall be the duty of the Code Enforcement Coordinator or officer:

(A) To investigate the dwelling conditions and to inspect dwellings and dwelling units located in the city in order to determine which dwellings and dwelling units are unfit for human habitation and for the purpose of carrying out the objectives of this article with respect to the dwellings or dwelling units;

(B) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(C) To keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed; and

(D) To perform such other duties as may be herein prescribed.  
(Ord. No. 99-15, passed 2-11-1999)

#### **SEC. 9-1-108 POWERS OF THE CODE ENFORCEMENT COORDINATOR OR OFFICER.**

The Code Enforcement Coordinator or officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others herein granted:

- (A) To investigate the dwelling conditions in the city in order to determine which dwellings therein are unfit for human habitation;
- (B) To administer oaths and affirmations, examine witnesses and receive evidence;
- (C) To enter upon premises for the purpose of making examinations and inspections provided that the entries shall be made in accordance with law and in such manner as to cause the least possible inconvenience to the persons in possession; and
- (D) To appoint and fix duties of such officers, agents and employees as he or she deems necessary to carry out the purposes of this article.  
(Ord. No. 99-15, passed 2-11-1999)

#### **SEC. 9-1-109 INSPECTIONS; DUTY OF OWNERS AND OCCUPANTS.**

For the purpose of making inspections, the Code Enforcement Coordinator or officer is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units, and premises. The owner or occupant of every dwelling, dwelling unit, rooming unit, or the person in charge thereof, shall give the Code Enforcement Coordinator or officer free access to the dwelling, dwelling unit, rooming unit and its premises at all reasonable times for the purpose of the inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his or her agent or employee, access to any part of the dwelling or dwelling unit and its premises, at all reasonable times for the purpose of making the repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.  
(Ord. No. 99-15, passed 2-11-1999)

#### **SEC. 9-1-110 PROCEDURE FOR ENFORCEMENT.**

(A) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the Code Enforcement Coordinator or officer by a public authority or by at least five residents of the city charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Code Enforcement Coordinator or officer, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for the charges, cause to be served upon the owner and the parties in interest in the dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Code Enforcement Coordinator or officer at a place therein fixed, not less than ten days nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one person signing a petition relating to the dwelling. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Code Enforcement Coordinator or officer.

(B) *Procedure after hearing.*

(1) After the notice and hearing, the Code Enforcement Coordinator or officer shall state in writing his or her determination whether the dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

(2) If the Code Enforcement Coordinator or officer determines that the dwelling or dwelling unit is deteriorated, he or she or she shall state in writing his or her findings of fact in support of the determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, and improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this article or to vacate and close the dwelling within a specified period of time, not to exceed 90 days.

(3) If the Code Enforcement Coordinator or officer determines that the dwelling is dilapidated, he or she or she shall state in writing his or her findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either remove or demolish the same within a specified period of time, not to exceed 90 days.

(4) If the Code Enforcement Coordinator or officer determines that the dwelling or dwelling unit does not meet any of the requirements of sections 9-1-94 through 9-1-105 of this article but is not unfit for human habitation, then he or she shall state in writing his or her findings of fact in support of the determination and shall issue and cause to be served on the owner thereof an order directing and requiring the owner to repair, alter or improve the dwelling to comply with the minimum standards of fitness established by this article within a specified period of time, not to exceed 90 days.

(C) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order to the Code Enforcement Coordinator or officer to repair, alter or improve or to vacate or close the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the Code Enforcement Coordinator or officer to remove or demolish the same within the time specified therein, the Code Enforcement Coordinator or officer may submit to City Council a resolution directing the City Attorney to petition the Superior Court for an order directing the owner to comply with the order of the neighborhood service coordinator or officer, as authorized by G.S. ~~160A-446(g)~~ **160D-1208(d)**.

(2) *In rem remedy.* After failure of an owner of a deteriorated dwelling or of a dilapidated dwelling to comply with an order of the Code Enforcement Coordinator or officer within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding subsection (C)(1), the Code Enforcement Coordinator or officer shall submit to the City Council an ordinance ordering the Code Enforcement Coordinator or officer to cause the dwelling or dwelling unit to be repaired, altered or improved, or vacated and closed or to be removed or demolished as provided in the original order of the Code Enforcement Coordinator or officer. The Code Enforcement Coordinator or officer may cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.

(3) *Civil penalty.* If the owner of a dwelling or dwelling unit determined not to comply with any of the minimum standards of fitness established by this article but not determined to be unfit for human habitation shall fail to comply with an order of the Code Enforcement Coordinator or officer to repair, alter or improve the same within the time specified therein, then the Code Enforcement Coordinator or officer may impose the civil fines authorized by section 9-1-119.

(D) *Appeals from orders of the Code Enforcement Coordinator or officer.*

(1) An appeal from any decision or order of the Code Enforcement Coordinator or officer may be taken by any person aggrieved thereby. Any appeal from the Code Enforcement Coordinator or officer shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the Code

Enforcement Coordinator or officer and with the Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Code Enforcement Coordinator or officer shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When the appeal is from a decision of the Code Enforcement Coordinator or officer refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in force until modified or reversed. When any appeal is from a decision of the Code Enforcement Coordinator or officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Code Enforcement Coordinator or officer certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant) a suspension of his or her requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one days written notice to the Code Enforcement Coordinator or officer, by the Board, or by a court of record upon petition made pursuant to G.S. ~~160A-446(f)~~ **160D-1208(d)** and subsection (E) of this section.

(2) The Board shall fix a reasonable time for the hearing of all appeals, shall give notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make the decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Code Enforcement Coordinator or officer, but the concurring vote of four-fifths of the members of the Board shall be necessary to reverse or modify any decision or order of the Code Enforcement Coordinator or officer. The Board shall have power also in passing upon appeals, in any case when practical difficulties or unnecessary hardships would result from carrying out the strict letter of this article, to adapt the application of the article to the necessities of the case to the end that the spirit of the article shall be observed, public safety and welfare secured, and substantial justice done.

(3) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(E) *Petition to Superior Court by owner.* Any person aggrieved by an order issued by the Code Enforcement Coordinator and officer or a decision rendered by the Board of Adjustment shall have the right within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Code Enforcement Coordinator or officer pending a final disposition of the cause, as provided by G.S. ~~160A-446(f)~~ **160D-1208(d)**. (Ord. No. 99-15, passed 2-11-1999)

#### **SEC. 9-1-111 VACATED AND CLOSED DWELLINGS.**

(A) If the City Council shall have adopted an ordinance, or the Code Enforcement Coordinator or officer shall have issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in section 9-1-110, and if the owner has vacated and closed the dwelling and kept the dwelling vacated and closed for a period of six months pursuant to the ordinance or order, then if the City Council shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the city in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this state, then in such circumstances, the City Council may, after the expiration of the six-month period, enact an ordinance and serve the ordinance on the owner, setting forth the following:

(1) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding 50% of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or

(2) If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding 50% of the then current value of the structure, the ordinance shall require that the owner demolish and remove the structure within 90 days.

(B) An ordinance adopted pursuant to this section shall be recorded in the office of the Register of Deeds of Pitt County and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with that ordinance, the Code Enforcement Coordinator or officer shall effectuate the purpose of the ordinance. The cost to repair or demolish and remove the dwelling shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have priority and be collected in the same manner as the lien for special assessments established by G.S. Chapter 160A, Article 10. (Ord. No. 99-15, passed 2-11-1999; Ord. No. 05-108, ¶ 2, passed 9-8-2005)

**SEC. 9-1-112 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

(A) In accordance with G.S. 160D-1206, complaints or orders issued by the Code Enforcement Coordinator or officer under this article shall be served upon persons either personally or by registered or certified mail and, in conjunction therewith, may be served by regular mail. When the manner or service is by regular mail in conjunction with registered or certified mail, and the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after mailing, service shall be deemed sufficient. The person mailing the notice or order by regular mail shall certify that fact and the date thereof, and the certificate shall be conclusive in the absence of fraud.

(B) If the identities of any owner or the whereabouts of persons are unknown and cannot be ascertained by the Code Enforcement Coordinator or officer in the exercise of reasonable diligence, and the Code Enforcement Coordinator or officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required under the provisions of this article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(C) Each owner of rental property located within the city shall authorize a person residing in Pitt County to serve as his or her agent for the purpose of accepting service of process under this section. The owner shall provide, on a form supplied by the City Clerk, the authorized agent's name and address. The owner shall notify the City Clerk of any changes in the information provided not less than ten days after the changes have occurred. Nothing in this subsection shall be interpreted to require an owner to designate an agent to accept service of process where the owner of the rental property resides within Pitt County. The initial failure of an owner to authorize an agent, as required in this subsection, will not result in the imposition of a civil penalty as hereinafter authorized; however, a civil penalty will be imposed if an owner fails to authorize an agent and fails to provide to the City Clerk, on the form supplied by the City Clerk, the authorized agent's name and address not less than ten days after being notified by the Code Enforcement Coordinator or officer that such a designation is required under this subsection. Any violation of the provisions of this subsection or a failure to comply with any of its requirements will subject the offender to a civil penalty in the amount of \$50. Each ten-day period or part thereof in which a violation continues shall be considered a separate violation for the purpose of the civil penalty provided by this subsection. (Ord. No. 99-15, passed 2-11-1999; Ord. No. 01-121, ¶ 2, passed 9-13-2001)

**SEC. 9-1-113 IN REM ACTION BY THE CODE ENFORCEMENT COORDINATOR OR OFFICER.**

After failure of an owner of a dwelling or dwelling unit to comply with an order of the Code Enforcement Coordinator or officer issued pursuant to the provisions of this article and upon adoption by the City Council of an ordinance authorizing and directing him or her to do so, as provided by G.S. ~~160A-443(5)~~ 160D-1203(6), Session Law 2005-200, and section 9-1-110(C) or section 9-1-111 of this article, the Code Enforcement Coordinator or officer shall proceed to cause the dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this article, or to be vacated and closed and removed or demolished, as directed by the ordinance of the City Council. (Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-114 COSTS, A LIEN ON PREMISES.**

As provided by G.S. ~~160A-443(6)~~ **160D-1203(7)**, the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Code Enforcement Coordinator or officer pursuant to section 9-1-110(C) or section 9-1-111 shall be a lien against the real property upon which the costs were incurred. The lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Chapter 160A, Article 10, of the North Carolina General Statutes.

(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-115 FILING OF ORDINANCES.**

An ordinance adopted by City Council pursuant to sections 9-1-110 and 9-1-111 of this article shall be recorded in the office of the Register of Deeds of Pitt County and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. ~~160A-443(5)~~ **160D-1203(6)**.

(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-116 ALTERNATIVE REMEDIES.**

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process as authorized by G.S. 14-4, and section 9-1-119 of this article, and the enforcement of any remedy provided herein or in other ordinances or laws.

(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-117 BOARD OF ADJUSTMENT TO HEAR APPEALS.**

All appeals which may be taken from decisions or orders of the Code Enforcement Coordinator or officer pursuant to section 9-1-110(D) of this article shall be heard and determined by the Board of Adjustment. As the appeals body, the Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. **In addition to its other duties as prescribed under this Title, and applicable State laws,** the Board shall perform the duties prescribed by section 9-1-110(D) and shall keep an accurate journal of all its proceedings.

(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-118 CONFLICT WITH OTHER PROVISIONS.**

In the event any provision, standard, or requirement of this article is found to be in conflict with any other ordinance or code of the city, the provisions which establish the higher standard or more stringent requirement for the promotion and protection of health and safety of the residents of the city shall **prevail; provided, however, such provision, standard, or requirement shall be consistent with applicable State laws.**

(Ord. No. 99-15, passed 2-11-1999)

**SEC. 9-1-119 VIOLATIONS; PENALTY.**

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Code Enforcement Coordinator and officer duly made and served in accordance with the provisions of this article, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 9-1-110 of this article, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration, improvement, or its vacation and closing, and each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

(B) The violation of any provisions of this article shall constitute a misdemeanor, as provided by G.S. 14-4.

(C) In addition to or in lieu of the other remedies provided by this article, any owner of a dwelling or dwelling unit that fails to comply with an order of the Code Enforcement Coordinator or officer within the time specified therein, shall be subject to a civil penalty in the amount of \$50 for the first offense, \$100 for the second offense in the calendar year, and \$250 for the third and subsequent offenses in the calendar year. Each subsequent offense after the third will be subject to a civil penalty of \$250. Each 30-day period or part thereof in which a violation is allowed to persist will constitute a separate and distinct offense.

(Ord. No. 99-15, 1-2, passed 2-11-1999)

**ARTICLE G. NONRESIDENTIAL BUILDING OR STRUCTURE CODE**

**SEC. 9-1-121 TITLE.**

This article shall be known and may be cited and referred to as the Nonresidential Building or Structure Code.

(Ord. No. 09-07, passed 1-8-2009)

**SEC. 9-1-122 PURPOSE.**

In order to protect the health, safety and welfare of the city and its citizens, it is the purpose of this article to establish minimum standards of maintenance, sanitation, and safety relating to nonresidential buildings or structures, as expressly authorized by G.S. ~~460A-9~~ **160D-1129**. This article provides for the repair, closing or demolition of nonresidential buildings or structures as a result of a public necessity caused by conditions that are dangerous to the public health, safety and welfare.

(Ord. No. 09-07, passed 1-8-2009)

**SEC. 9-1-123 DEFINITIONS.**

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Basic structural elements.* The parts of a building which provide the principal strength, stability, integrity, shape and safety of the building, including but not limited to plates, studs, joists, rafters, stringers, stairs, sub-flooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, masonry and all other essential components.

*Building.* Any structure, place or any other construction built for the shelter or enclosure of persons, animals, chattels or property of any kind or any part of the structure, shelter or property.

*Enforcement officer.* A city code enforcement officer, building inspector, fire code inspector, or other employee designated by the City Manager to enforce the provisions of this article.

*Nonresidential.* Any building or structure or portion of a building or structure occupied or intended to be occupied, in whole or in part, for a use other than a dwelling, home, residing place, living space or sleeping space for one or more human beings, either permanently or transiently.

*Occupant.* Any person who is a tenant or has actual possession of a nonresidential building or structure or part thereof.

*Operator.* Any person who has charge, care or control of a nonresidential building or structure, or part thereof.

*Owner.* Any person who alone, or jointly, or severally with others:

- (1) Shall have title in fee simple to any nonresidential building or structure, with or without accompanying actual possession thereof; or
- (2) Shall have charge, care or control of any nonresidential building or structure as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any person thus representing the actual owner shall be bound to comply with the provisions of this article and of rules and regulations adopted pursuant thereto, to the same extent as if he or she or she were the owner.

*Parties in interest.* All individuals, associations and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

*Premises.* Any lot or parcel of land inclusive of any building or improvements located thereon.

*Safe.* A condition which is not likely to do harm to humans or to real or personal property.

*Structurally sound.* Substantially free from flaw, defect, decay or deterioration to the extent that the building or structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.

*Structure.* Anything constructed or placed upon a property which is supported by the ground or which is supported by any other structure, except a currently operable licensed vehicle.

*Unsafe.* A condition which is reasonably likely to do harm to humans or to real or personal property if not corrected or stopped.

*Vacant industrial warehouse.* Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

*Vacant manufacturing facility.* Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.  
(Ord. No. 09-07, passed 1-8-2009)

#### **SEC. 9-1-124 APPLICABILITY AND COMPLIANCE.**

(A) The provisions of this article shall apply to all nonresidential buildings or structures which are now in existence or which may be built within the corporate limits of the city.

(B) Every nonresidential building or structure and the premises on which it is situated shall comply with the provisions of this article, whether or not the building or structure shall have been constructed, altered or repaired before or after the enactment of this article, and irrespective of any permits or licenses which have been issued for the use or occupancy of the building or structure or for the installment or repair of equipment or facilities. This article establishes minimum standards for all nonresidential buildings and structures and does not replace or modify standards otherwise established for the construction, repair, alteration or use of the building or structure, equipment or facilities contained therein.  
(Ord. No. 09-07, passed 1-8-2009)

#### **SEC. 9-1-125 MAINTENANCE STANDARDS FOR NONRESIDENTIAL BUILDINGS AND STRUCTURES.**

(A) All nonresidential buildings and structures shall be free of all conditions that are dangerous and injurious to the public health, safety and welfare of occupants or members of the general public.

(B) Without limitation of the foregoing requirement, the existence of any of the following conditions shall be deemed to be dangerous to the public health, safety and welfare for which a public necessity exists for the repair, closing or demolition of the building or structure and must be corrected in accordance with the provisions of this article:

(1) Interior walls, vertical studs, partitions, supporting members, sills, joists, rafters, or other basic structural members that list, lean, or buckle to such an extent as to render the building unsafe, that are rotted, deteriorated or damaged, and that have holes or cracks which might admit rodents;

(2) Exterior walls that are not structurally sound, free from defects and damages, and capable of bearing imposed loads safely. Where a wall of a building has become exposed as a result of demolition of adjacent buildings, the wall must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall. The exposed wall shall be painted, stuccoed or bricked and sufficiently weatherproofed to prevent deterioration of the wall;

(3) Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used. Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used. Roofs shall be kept structurally sound and shall be maintained in such a manner so as to prevent rain or other objects from penetrating into the interior of the building;

(4) Such damage by fire, wind or other causes as to render the building unsafe;

(5) Dilapidation, decay, unsanitary conditions or disrepair, which is dangerous to the health and safety of the occupants or members of the general public;

(6) Lack of adequate ventilation, light, heating or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or members of the general public;

(7) Buildings and structures including their environs that have accumulations of garbage, trash or rubbish, which creates health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary manner;

(8) Buildings and structures that have loose and insufficiently anchored overhanging objects, which constitute a danger of falling on persons or property;

(9) Buildings and structures including their environs that have insufficiently protected holes, excavations, breaks, projections, obstructions, and other such dangerous impediments on and around walks, driveways, parking lots, alleyways and other areas which are accessible to and generally used by persons on or around the premises;

(10) Buildings and structures that have cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic, or other dangerous objects or similar hazardous conditions. Exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration and repaired or replaced with like or similar material according to its original use;

(11) Buildings and structures that have objects and elements protruding from building walls or roofs, which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets, and similar objects;

(12) Chimneys, flues and vent attachments thereto which are not structurally sound. Chimneys, flues, gas vents or other draft-producing equipment which are in use shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight and capable of withstanding the action of flue gases;

(13)Exterior porches, landings, balconies, stairs, or fire escapes which are not structurally sound . All exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept sound, in good repair and free of defects;

(14)Cornices which are not structurally sound. Rotten or weakened portions shall be repaired and/or replaced. All exposed wood shall be treated or painted;

(15)Improperly attached gutters or down-spouts that are located so as to cause a hazard to pedestrian, vehicular traffic or adjacent property;

(16)Advertising sign structures, attached or freestanding awnings, marquees and their supporting members, and other similar attachments and structures that cause a safety hazard to the occupants or members of the general public;

(17)All exterior surfaces that may cause unsafe conditions due to a lack of maintenance. Exterior surfaces shall be painted or sealed in order to protect the underlying surface from deterioration. All exterior surfaces that have been painted shall be maintained generally free of peeling and flaking. Where 50% or more of the aggregate of any painted surface shall have peeling or flaking or previous paint worn away, the entire surface shall be repainted in order to prevent further deterioration;

(18)Windows containing broken or cracked glass that could be in danger of falling or shattering. All windows must be tight-fitting and have sashes of proper size and design and free from rotten wood, broken joints, or broken or loose mullions;

(19)All openings originally designed as windows, doors, loading docks or other means of egress or ingress which have been temporarily closed by boarding or other manner in a non-secure manner so as to allow unauthorized admittance. If an opening is temporarily closed by boarding to secure the building or structure, the boarding shall be trim fit, sealed to prevent water intrusion, and painted or stained to properly conform with the other exterior portions of the building and the building or structure shall be maintained in a state that secures the building or structure from any unauthorized admittance from humans, animals or birds; and

(20)Any combination of conditions which in the judgment of the Enforcement Officer renders any building or structure dangerous or injurious to the health, safety or general welfare of occupants or members of the general public.  
(Ord. No. 09-07, passed 1-8-2009)

#### **SEC. 9-1-126 DUTIES OF THE ENFORCEMENT OFFICER.**

(A) The Enforcement Officer is hereby designated as the public officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed.

(B) It shall be the duty of the Enforcement Officer:

(1) To investigate the conditions of nonresidential buildings and structures in the city and to inspect nonresidential buildings and structures located in the city in order to determine which nonresidential buildings and structures are not being maintained so that the health and safety of its occupants or members of the general public are jeopardized, and for the purpose of carrying out the objectives of this article with respect to the nonresidential buildings and structures;

(2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect the repair or demolition of nonresidential buildings and structures which have not been properly maintained in compliance with minimum standards established by this article;

- (3) To keep a record of the results of inspections made under this article and an inventory of those nonresidential buildings and structures which have not been properly maintained in compliance with the minimum standards established by this article; and
- (4) To perform such other duties as may be herein prescribed.  
(Ord. No. 09-07, passed 1-8-2009)

**SEC. 9-1-127 POWERS OF ENFORCEMENT OFFICER.**

The Enforcement Officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others herein granted:

- (A) To investigate nonresidential buildings and structures in the city to determine whether they have been properly maintained in compliance with the minimum standards established by this article so that the safety or health of the occupants or members of the general public are not jeopardized;
- (B) To administer oaths and affirmations, examine witnesses and receive evidence;
- (C) To enter upon premises for the purpose of making examinations and inspections, provided that the entries shall be made in accordance with law and in such manner as to cause the least possible inconvenience to the persons in possession; and
- (D) To appoint and fix duties of such officers, agents and employees as the Enforcement Officer deems necessary to carry out the purposes of this article.  
(Ord. No. 09-07, passed 1-8-2009)

**SEC. 9-1-128 INSPECTIONS.**

- (A) For the purpose of making inspections, the Enforcement Officer is hereby authorized to enter, examine and survey, at all reasonable times, nonresidential buildings and structures.
- (B) If entry upon the premises for purposes of investigation is necessary, the entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant or other person legally in possession of the premises.  
(Ord. No. 09-07, passed 1-8-2009)

**SEC. 9-1-129 PROCEDURE FOR ENFORCEMENT.**

- (A) *Preliminary investigation.* Whenever it appears to the Enforcement Officer that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by this article, the Enforcement Officer shall undertake a preliminary investigation.
- (B) *Complaint and hearing.* If the preliminary investigation discloses evidence of a violation of the minimum standards established by this article, the Enforcement Officer shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that a hearing will be held before the Enforcement Officer at a place therein fixed, not less than ten days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Enforcement Officer.

*(C) Procedure after hearing.*

(1) If, after notice and hearing, the Enforcement Officer determines that the nonresidential building or structure has been maintained in that the property meets the minimum standards established by this article, the Enforcement Officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof a copy of the determination.

(2) If, after notice and hearing, the Enforcement Officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by this article, the Enforcement Officer shall state, in writing, findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order in accordance with the provisions of subsections (C)(3) and (C)(4) of this section and subject to the limitations set forth in sections 9-1-130 and 9-1-131.

(3) If the Enforcement Officer determines that the cost of repair, alteration or improvement of the building or structure would not exceed 50% of its then current value, then the Enforcement Officer shall state in writing the findings of fact in support of the determination and issue an order that requires the owner, within a reasonable time specified in the order, to either: repair, alter or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by this article; or vacate and close the nonresidential building or structure for any use.

(4) If the Enforcement Officer determines that the cost of repair, alteration or improvement of the building or structure would exceed 50% of its then current value, then the Enforcement Officer shall state in writing the findings of fact in support of the determination and issue an order that requires the owner, within a reasonable time specified in the order, to either: remove or demolish the nonresidential building or structure; or repair, alter or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this article.

*(D) Failure to comply with order and ordinances.*

(1) If the owner fails to comply with an order to either repair, alter or improve the nonresidential building or structure, or vacate and close the nonresidential building or structure, the Enforcement Officer shall submit to the City Council an ordinance ordering the Enforcement Officer to cause the nonresidential building or structure to be repaired, altered or improved in order to bring it into compliance with the minimum standards established by this article or to be vacated and closed for any use. The property shall be described in the ordinance. If City Council adopts the ordinance, the Enforcement Officer shall cause the building or structure to be vacated and closed for any use.

(2) If the owner fails to comply with an order to either: remove or demolish the nonresidential building or structure; or repair, alter or improve the nonresidential building or structure, the Enforcement Officer shall submit to the City Council an ordinance ordering the Enforcement Officer to cause the nonresidential building or structure to be removed or demolished. No ordinance shall be adopted to require removal or demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the City Council. The property shall be described in the ordinance. If City Council adopts the ordinance, the Enforcement Officer shall cause the building or structure to be removed or demolished.

(Ord. No. 09-07, passed 1-8-2009)

**SEC. 9-1-130 LIMITATIONS ON ORDERS AND ORDINANCES; HISTORIC LANDMARK OR HISTORIC DISTRICT.**

Notwithstanding any other provision of this article, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the City Council determines, after a public hearing, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the

district, and the nonresidential building or structure has not been condemned as unsafe, an order issued by the Enforcement Officer pursuant to section 9-1-129(C) and an ordinance approved by City Council pursuant to section 9-1-129(D) may only require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this article.

(Ord. No. 09-07, passed 1-8-2009)

**SEC. 9-1-131 LIMITATIONS ON ORDERS AND ORDINANCES; VACANT MANUFACTURING FACILITY OR VACANT INDUSTRIAL WAREHOUSE.**

Notwithstanding any other provision of this article, an order issued by the Enforcement Officer pursuant to section 9-1-129(C) and an ordinance approved by City Council pursuant to section 9-1-129(D) may not require repairs, alterations or improvements to be made to a vacant manufacturing facility or a vacant industrial warehouse to preserve the original use. The order and ordinance may require the building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(Ord. No. 09-07, passed 1-8-2009)

**SEC. 9-1-132 VACATED AND CLOSED NONRESIDENTIAL BUILDINGS OR STRUCTURES.**

(A) If the City Council has adopted an ordinance or the Enforcement Officer has issued an order requiring the building or structure to be repaired, altered or improved, or vacated and closed, and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, then if the City Council finds that the owner has abandoned the intent and purpose to repair, alter or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety and welfare of the city in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area, then City Council may, after the expiration of the two-year period, adopt an ordinance and serve the ordinance on the owner, setting forth the following:

(1) The ordinance shall require that the owner either demolish and remove the nonresidential building or structure within 90 days, or repair, alter, or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this article within 90 days.

(2) The ordinance shall require that if the owner does not either demolish and remove the nonresidential building or structure within 90 days, or repair, alter or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this article within 90 days, then the coordinator or officer shall demolish and remove the nonresidential building or structure.

(B) In the case of a vacant manufacturing facility or a vacant industrial warehouse, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before City Council may take action under this section.

(C) If the owner fails to comply with the requirements of the ordinance within 90 days, the Enforcement Officer shall demolish and remove the nonresidential building or structure.

(Ord. No. 09-07, passed 1-8-2009)

**SEC. 9-1-133 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

(A) In accordance with G.S. 160D-1129(h), complaints or orders issued by the Enforcement Officer under this article shall be served upon persons either personally or by certified mail, so long as the means used are reasonably designed to achieve actual notice. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. When the manner of service is by regular mail in conjunction with certified mail, and the certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after mailing, service shall be deemed sufficient. The person mailing the complaint or order by regular mail shall certify that fact and the date thereof, and the

certificate shall be conclusive in the absence of fraud. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(B) If the identities of any owner or the whereabouts of persons are unknown and cannot be ascertained by the Enforcement Officer in the exercise of reasonable diligence, and the Enforcement Officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required under the provisions of this article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(Ord. No. 09-07, passed 1-8-2009)

#### **SEC. 9-1-134 IN REM ACTION BY THE ENFORCEMENT OFFICER.**

After failure of an owner of a nonresidential building or structure to comply with an order of the Enforcement Officer issued pursuant to the provisions of this article and upon adoption by the City Council of an ordinance authorizing and directing the owner to do so, as provided by G.S. ~~160A-439(f)~~ **160D-1129(f)** and section 9-1-129(D) of this article, the Enforcement Officer shall proceed to cause the nonresidential building or structure to be repaired, altered or improved to comply with the minimum standards established by this article, or to be vacated and closed or to be removed or demolished, as directed by the ordinance of the City Council. The Enforcement Officer may cause to be posted on the main entrance of any nonresidential building or structure which is to be vacated and closed a placard with the following words: This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful. Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

(Ord. No. 09-07, passed 1-8-2009)

#### **SEC. 9-1-135 COSTS, A LIEN ON PREMISES.**

(A) As provided by G.S. ~~160A-439(i)~~ **160D-1129(i)**, the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Enforcement Officer pursuant to section 9-1-129(D) or section 9-1-132 shall be a lien against the real property upon which the costs were incurred. The lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Chapter 160A, Article 10. The amount of the costs shall also be a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(B) If the nonresidential building or structure is removed or demolished by the Enforcement Officer, the Enforcement Officer shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition. Any balance remaining shall be deposited in the Superior Court by the Enforcement Officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing body to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(Ord. No. 09-07, passed 1-8-2009)

#### **SEC. 9-1-136 EJECTMENT.**

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the Enforcement Officer may file a civil action in the name of the city to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties defendant any person occupying the nonresidential building or structure. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the Enforcement Officer produces a certified copy of

an ordinance adopted by the City Council pursuant to G.S. ~~160A-493(f)~~ **160D-1129(f)** and section 9-1-129(D) to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the City Council has ordered the Enforcement Officer to proceed to exercise his or her duties under G.S. ~~160A-439(f)~~ **160D-1129(f)** and section 9-1-129(D) to vacate and close or remove and demolish the nonresidential building or structure.  
(Ord. No. 09-07, passed 1-8-2009)

**SEC. 9-1-137 FILING OF ORDINANCES.**

An ordinance adopted by City Council pursuant to section 9-1-129(D) or section 9-1-132 of this article shall be recorded in the office of the Register of Deeds of Pitt County and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. ~~160A-439(f) and (g)~~ **160D-1129(f) and (g)**.  
(Ord. No. 09-07, passed 1-8-2009)

**SEC. 9-1-138 ALTERNATIVE REMEDIES.**

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process as authorized by G.S. 14-4 and section 9-1-142 of this article, and the enforcement of any remedy provided herein or in other ordinances or laws.  
(Ord. No. 09-07, passed 1-8-2009)

**SEC. 9-1-139 BOARD OF ADJUSTMENT TO HEAR APPEALS.**

(A) All appeals which may be taken from decisions or orders of the Enforcement Officer pursuant to this article shall be heard and determined by the Board of Adjustment. As the appeals body, the Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties.

(B) Appeals shall be subject to the following:

(1) An appeal from any decision or order of the Enforcement Officer may be taken by any person aggrieved thereby, **and otherwise entitled to bring an appeal under applicable State law**. Any appeal from the Enforcement Officer shall be taken within ten days from the rendering of the decision or service of the order and shall be taken by filing with the Enforcement Officer and with the Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Enforcement Officer shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When the appeal is from a decision of the Enforcement Officer refusing to allow the person aggrieved thereby to do any act, the Enforcement Officer's decision shall remain in force until modified or reversed. When any appeal is from a decision of the Enforcement Officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Enforcement Officer certifies to the Board, after the notice of appeal is filed, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant) a suspension of the requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Enforcement Officer, by the Board, or by a court of record upon petition made pursuant to G.S. ~~160A-446(f)~~ **160D-1208(d)** and section 9-1-140.

(2) The Board shall fix a reasonable time for the hearing of all appeals, shall give notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Enforcement Officer, but the concurring vote of four-fifths of the members of the Board shall be necessary to reverse or modify any decision or order of the Enforcement Officer. The Board shall have power also in passing upon appeals, in any case when practical difficulties or unnecessary hardships would result from carrying out the strict letter of this article, to adapt the application of the article to the necessities of the case to the end that the spirit of the article shall be observed, public safety and welfare secured, and substantial justice done.

(C) Every decision of the Board shall be subject to review by the Superior Court by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(Ord. No. 09-07, passed 1-8-2009)

#### **SEC. 9-1-140 TEMPORARY INJUNCTION REMEDY FOR AGGRIEVED PERSON.**

Any person aggrieved by an order issued by the Enforcement Officer or a decision rendered by the Board of Adjustment shall have the right within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Enforcement Officer pending a final disposition of the cause, as provided by G.S. ~~160A-446(f)~~ **160D-1208(d)**.

(Ord. No. 09-07, passed 1-8-2009)

#### **SEC. 9-1-141 CONFLICT WITH OTHER PROVISIONS.**

In the event any provision standard, or requirement of this article is found to be in conflict with any other ordinance or code of the city, the provisions which establishes the higher standard or more stringent requirement for the promotion and protection of health and safety of the citizens of the city shall prevail.

(Ord. No. 09-07, passed 1-8-2009)

#### **SEC. 9-1-142 VIOLATIONS; PENALTY.**

(A) It shall be unlawful for the owner of any nonresidential building or structure to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Enforcement Officer duly made and served in accordance with the provisions of this article, within the time specified in the order, and each day that any such failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any nonresidential building or structure, with respect to which an order has been issued pursuant to section 9-1-129(C) of this article, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration, improvement, or its vacation and closing, and each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

(B) The violation of any provision of this article shall constitute a misdemeanor, as provided by G.S. 14-4.

(C) In addition to or in lieu of the other remedies provided by this article, any owner of a nonresidential building or structure that fails to comply with an order of the Enforcement Officer within the time specified therein, shall be subject to a civil penalty in the amount of \$50 for the first offense, \$100 for the second offense in the calendar year, and \$250 for the third and subsequent offenses in the calendar year. Each subsequent offense after the third will be subject to a civil penalty of \$250. Each 30-day period or part thereof in which a violation is allowed to persist will constitute a separate and distinct offense.

(Ord. No. 09-07, passed 1-8-2009)

**ARTICLE H. CLOSING OR SECURING VACATED AND CLOSED BUILDINGS**

**SEC. 9-1-145 APPLICABILITY.**

The provisions of this section shall apply to the following:

- (A) Abandoned structures which are being vacated and closed as a result of an order by the Code Enforcement Coordinator or officer or an ordinance adopted by City Council pursuant to the abandoned structure provisions of Article E of this chapter;
- (B) Dwellings which are being vacated and closed as a result of an order by the Code Enforcement Coordinator or officer or an ordinance adopted by City Council pursuant to the Minimum Housing Code provisions of Article F of this chapter;
- (C) Nonresidential buildings or structures which are being vacated and closed as a result of an order by the Code Enforcement Coordinator or officer or an ordinance adopted by City Council pursuant to the Nonresidential Building or Structure Code provisions of Article G of this chapter; and
- (D) Buildings or structures which are being vacated and closed for a period of time greater than 30 days.  
(Ord. 15-042, § 1, passed 8-13-2015)

**SEC. 9-1-146 STANDARDS.**

- (A) When a building or structure subject to the provisions of this section is closed or secured, all openings to be boarded shall be covered in one piece of wood, cut to size to fit and secured by screws no less than three inches in length. Broken windows must be either completely repaired or securely boarded. Boards secured to openings shall be painted after installation to match the primary color or trim color of the residence to minimize the appearance of a dilapidated structure. The building or structure will be closed or secured in compliance with the checklist of materials and procedures prepared by the Code Enforcement Division and filed in the office of the City Clerk.
- (B) After a building or structure subject to the provisions of this section is closed or secured, the owner or manager of the building or structure shall remain responsible for compliance with maintenance of the exterior including the grounds and for interior safety including preventing access to the interior during the period of closure.  
(Ord. 15-042, § 1, passed 8-13-2015)

**SEC. 9-1-147 PENALTY.**

Any violation of the provisions of this chapter shall subject the offender to a civil penalty in the amount of \$25. Each day that any violation continues shall be considered a separate offense for the purpose of the penalty. Violators shall be issued a written citation, which must be paid within 72 hours. If the person fails to pay the civil penalty within 72 hours, the city may recover the penalty including all costs and attorney's fees by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

**ARTICLE I. HOUSEMOVERS**

**SEC. 9-1-151 USE OF BOND FOR DAMAGES OR EXPENSES.**

If damages occur to any city-owned, -occupied or -maintained property as a result of the moving activities, or if the activities cause the use of city personnel for traffic control or other ancillary assistance, the cost of repairs or expenses will be retained by the city from the bond. However, the mover is liable for all such damages and expenses and his or her liability is not limited to the amount of bond.

(1971 Code, § 9-1-152) (Ord. No. 1025, passed 11-13-1980)

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**SEC. 9-1-152 RETURN OF UNUSED BOND.**

After verification by the Building Inspector and police that no damages or expenses occurred in the moving, the entire bond will be returned to the mover. If damages or expenses were incurred, the amount of the bond remaining, if any, after payment of the damages and expenses, will be returned to the mover.  
(1971 Code, § 9-1-153) (Ord. No. 1025, passed 11-13-1980)

## CHAPTER 2: PLANNING AND ZONING COMMISSION

### Section

- 9-2-1 Created
- 9-2-2 Composition, appointive members, extraterritorial representatives, ex officio members and Secretary
- 9-2-3 Terms of members; when appointments made
- 9-2-4 Election of officers; appointment of Secretary
- 9-2-5 Quorum
- 9-2-6 Adoption of rules
- 9-2-7 Records
- 9-2-8 Statutory powers
- 9-2-9 Legal efficacy of recommendations

#### ***Statutory reference:***

*Municipal planning agencies, see G.S. ~~160A-361 and 160A-387~~ 160D-301 and 160D-604*

#### **SEC. 9-2-1 CREATED.**

A municipal commission to be known and designated as "The Planning and Zoning Commission of the City of Greenville," referred to in this code as the Planning and Zoning Commission, is hereby created for the city.

#### **SEC. 9-2-2 COMPOSITION, APPOINTIVE MEMBERS, EXTRATERRITORIAL REPRESENTATIVES, EX OFFICIO MEMBERS AND SECRETARY.**

(A) The Planning and Zoning Commission shall consist of nine regular members and three alternate members. Seven of the regular members and two alternate members shall reside within the corporate limits of the city. They shall be appointed by the City Council. Two of the regular members and the other alternate member shall reside outside of the corporate limits of the city, but within the limits of the extraterritorial jurisdiction of the city. They shall be appointed by the Board of Commissioners of Pitt County. Current membership existing on the effective date of this section shall remain in effect provided any future appointment or reappointment of members shall be in accordance with the requirements of this section.

(B) The extraterritorial representatives have equal rights, privileges and duties with the city members of the Commission, and are required to vote on each question, regardless of whether the matters at issue arise within the city or within the extraterritorial area.

(C) Each alternate member, while attending any special meeting of the Commission and serving in the absence of any regular member, shall have and may exercise all powers and duties of a regular member.

(D) The Director of Public Works and the General Manager of Greenville Utilities shall be ex officio advisors to the Commission. The ex officio advisors shall act as technical advisors to the Commission without the right to vote.

(E) The Director of Planning and Development Services shall serve as Secretary to the Commission without the right to vote.

(F) Appointments of members of the Planning and Zoning Commission by City Council shall be made to promote the representation of a variety of interests. This representation should include some members with environmental, neighborhood preservation, development and business interests.

(Ord. No. 1116, passed 7-9-1981; Ord. No. 03-114, §§ 1, 2, passed 11-13-2003; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 19-045, § 1, passed 9-12-2019)

**Statutory reference:**

*Extraterritorial representation for planning agencies, see G.S. ~~160A-362~~ 160D-307*

**SEC. 9-2-3 TERMS OF MEMBERS; WHEN APPOINTMENTS MADE.**

- (A) Seven of the regular members and two alternate members appointed by the City Council shall be appointed for a three-year term beginning June 1 of the year of their appointment to a full term.
- (B) Two of the regular members and one alternate member appointed by the Board of Commissioners of Pitt County shall be appointed for a three-year term beginning June 1 of the year of their appointment to a full term.
- (C) In appointing the original members of the Commission, or in filling of vacancies caused by the expiration or resignations of the terms of existing members, the City Council and the Board of Commissioners may appoint certain members for less than three years to the end that thereafter the terms of all members shall not expire at the same time.
- (D) A regular or an alternate member, representing either the city or the extraterritorial area, shall not serve more than two consecutive three-year terms; except, that an appointed member who shall have finished an unexpired term of another member may be appointed to as many as two full, subsequent terms of three years each.
- (E) The ex officio members and Secretary of this Commission shall serve concurrently with their respective terms of office or employment.  
(Ord. No. 1116, passed 7-9-1981; Ord. No. 03-114, § 3, passed 11-13-2003)

**SEC. 9-2-4 ELECTION OF OFFICERS; APPOINTMENT OF SECRETARY.**

The Planning and Zoning Commission shall elect from its membership a Chairperson, a Vice-Chairperson and such other officers as it may determine to be necessary, who shall serve for one-year terms, with eligibility for reelection.

**SEC. 9-2-5 QUORUM.**

A quorum shall be a majority of the members of the Commission.

**SEC. 9-2-6 ADOPTION OF RULES.**

The Planning and Zoning Commission shall adopt rules, not inconsistent with state law or this Code, for the transaction of business.

**SEC. 9-2-7 RECORDS.**

The Secretary of the Planning and Zoning Commission shall keep a record of the attendance of its members and of its proceedings, resolutions, discussions, findings and recommendations, which shall be a public record.

**SEC. 9-2-8 STATUTORY POWERS; CONFLICTS OF INTEREST.**

The Planning and Zoning Commission shall have such rights, privileges, duties and authority and shall exercise such functions as are conferred or authorized by state law. Members of the Planning and Zoning Commission shall be subject to provisions of G.S. 160D-109 relating to conflicts of interest.

**Statutory reference:**

*Powers and duties of municipal planning agencies, see G.S. ~~160A-361, 160A-363 and 160A-387~~ 160D-301, 160D-502, and 160D-604*

**SEC. 9-2-9 LEGAL EFFICACY OF RECOMMENDATIONS.**

The recommendations of the Planning and Zoning Commission shall be advisory to the City Council and shall be without legal efficacy until approved by the City Council.



## CHAPTER 3: AIRPORT ZONING

### Section

- 9-3-1 Definitions
- 9-3-2 Short title
- 9-3-3 Airport hazard zoning map
- 9-3-4 Airport zones
- 9-3-5 Airport zone height limitations
- 9-3-6 Use restrictions
- 9-3-7 Nonconforming uses, structures and trees
- 9-3-8 Permits
- 9-3-9 Application for permits and variances
- 9-3-10 Appeals
- 9-3-11 Director of Planning and Development Services interprets
- 9-3-12 Duties of City Council
- 9-3-13 Enforcement and appeals
- 9-3-14 Permits required
- 9-3-15 Certificate of occupancy
- 9-3-16 Remedies
- 9-3-17 Revocation of permits and certificates
- 9-3-18 Penalties for violation

#### ***Editor's note:***

*The original airport zoning chapter that was taken from Code 1971 and revised by Ordinance No. 704, § 1, passed July 7, 1977 was rewritten by Ordinance No. 04-45 dated May 13, 2004.*

#### ***Statutory reference:***

*Authority to adopt, see G.S. 63-31*

### **SEC. 9-3-1 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***Airport.*** The Pitt-Greenville Airport located in the northwestern section of the city limits contiguous to the Tar River and U.S. 13-NC 11.

***Airport elevation.*** The highest point of the airport's landing surfaces measured in feet above mean sea level, i.e., 27.0 feet for Pitt-Greenville Airport.

***Airport hazard.*** Any object violating the Federal Aviation Regulations (FAR) 14 C.F.R. Part 77, navigable airspace depicted on the airport hazard zoning map.

***Airport reference point (ARP).*** The geometric center of the active runway configuration. For Pitt-Greenville Airport the ARP is latitude 35 degrees 38 minutes 03.73 seconds North, and longitude 77 degrees 07.73 minutes 00 seconds West.

***Airport zone.*** An area that begins at the end of the primary surface for each active runway and extends outward and upward for the distance and angle specified in the Federal Aviation Regulations (FAR) Part 77 and depicted on the airport hazard zoning map.

*Conical surfaces.* An area extended outwardly from the inner horizontal surface an additional 4,000 feet and upward at a slope of 20:1. Therefore, the conical surface extends from 177.0 feet above mean sea level to 377.0 feet above mean sea level as depicted on the Airport Hazard Zoning Map.

*Inner horizontal surface.* A horizontal plane 150 feet above the airport elevation, i.e., 177.0 feet for Pitt-Greenville Airport. The horizontal surface is inscribed within 10,000 feet radii arcs from the ends of the primary surfaces as depicted on the Airport Hazard Zoning Map.

*Nonconforming use.* Any man-made structure, or object of natural growth or use of land or activity that is inconsistent with the provisions of this chapter or any amendment thereto.

*Primary surface.* A plane of varying elevation 1,000 feet wide for the precision approach runway and 500 feet wide for the non-precision approach and visual runways, centered on the respective runways and extending 200 feet beyond each runway end. The elevation of any point on the primary surface is equal to the runway elevation at that station measured along the runway centerline. The elevation of any point on the primary surface 200 feet beyond each runway end is equal to the centerline elevation of the runway end.

*Runway.* For Pitt-Greenville Airport there are three active runways, all constructed of asphaltic concrete and identified as follows:

Runway 2-20 - 6,500 feet H 150 feet	Precision Approach
Runway 8-26 - 4,997 feet H 150 feet	Non-Precision Approach
Runway 15-33 - 2,500 feet H 150 feet	Visual Approach

*Runway, non-precision.* A runway having an existing or planned instrument approach procedure which provides for approaches at a decision height (DH) and visibility minimums greater than as defined for a precision approach.

*Runway, precision.* A runway having an existing or planned instrument approach procedure utilizing an instrument landing system (ILS) or precision approach radar (PAR) or global positioning system (GPS), which provides for approaches to a decision height (DH) of not less than 200 feet above ground level (AGL) with a visibility of not less than one-half mile or a runway visual range (RVR) of not less than 2,400 feet.

*Runway, visual.* A runway intended solely for aircraft operating under visual flight and approach procedures.

*Transitional surfaces.* An area extending upward from the sides of the primary surface for each active runway at a slope of 7:1 to the limit of the inner horizontal surface, and the area extending from the sides of precision approach zones outward 5,000 feet and upward at a slope of 7:1 (refer to airport hazard zoning map).  
(Ord. No. 04-45, passed 5-13-2004)

**SEC. 9-3-2 SHORT TITLE.**

This chapter shall be known and may be cited as the Pitt-Greenville Airport zoning ordinance or this chapter.  
(Ord. No. 04-45, passed 5-13-2004)

**SEC. 9-3-3 AIRPORT HAZARD ZONING MAP.**

The airport hazard zoning map is hereby incorporated as an administrative supplement by reference and made a part of this chapter. A copy of the map is on file in the office of the Director of Planning and Development Services. A digital copy of the map shall be maintained in the city’s graphic information system (GIS) that shall be utilized for purposes of administration of this chapter. The airport hazard zones as illustrated on the map are a depiction of the regulatory surfaces as provided herein and the map shall be automatically amended by addition, alteration or extension of the associated physical facility.  
(Ord. No. 04-45, passed 5-13-2004; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 19-045, § 1, passed 9-12-2019)

**SEC. 9-3-4 AIRPORT ZONES.**

There are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, inner horizontal and conical surfaces, as defined herein, as they apply to Pitt-Greenville Airport and which are depicted on the airport hazard zoning map.  
(Ord. No. 04-45, passed 5-13-2004)

**SEC. 9-3-5 AIRPORT ZONE HEIGHT LIMITATIONS.**

(A) Except as otherwise provided by subsection (C), or noted in this chapter, no structure or tree shall be erected, altered, allowed to grow or be maintained in any zone created by this chapter to a height in excess of the limiting height of the applicable zone represented by the conical surfaces, inner horizontal surface, primary surface and transitional surfaces herein established.

(B) Limiting height for each zone shall be depicted on the airport hazard zoning map through the use of intermediate aerial contours superimposed over existing ground contours.

(C) Temporary construction equipment, including cranes or other apparatus, that exceed the height limitation of the applicable zone represented by the conical surfaces, inner horizontal surface, primary surface and transitional surfaces herein established shall be permitted provided:

(1) The sponsor of the temporary construction equipment has filed FAA Form 7460-1, Notice of Proposed Construction or Alteration, or other amended or substitute FAA Form required for this purpose with the FAA;

(2) The FAA has stated in writing that a FAA Aeronautical Study has resulted in the determination that the temporary construction equipment would not be a hazard to air navigation;

(3) The sponsor of the temporary construction equipment shall deliver a copy of the FAA written determination to the Executive Director of the Pitt-Greenville Airport at least ten days prior to any airport height zone encroachment allowed pursuant to this subsection (C); and

(4) The temporary construction equipment is marked and lighted in accordance with the lighting and marking standards prescribed by the FAA.

(Ord. No. 04-45, passed 5-13-2004; Ord. No. 12-011, § 1, passed 3-8-2012)

**SEC. 9-3-6 USE RESTRICTIONS.**

Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, or in any way impair the visibility of pilots using the airport, or otherwise create a hazard to aircraft intending to use the airport.

(Ord. No. 04-45, passed 5-13-2004)

**SEC. 9-3-7 NONCONFORMING USES, STRUCTURES AND TREES.**

(A) *Regulations, not retroactive.* The regulations prescribed by this chapter shall not be construed as to require the removal or alteration of any tree or structure not conforming to these regulations as of May 4, 1944, the date of enactment of the ordinance codified in this chapter. Nothing contained herein shall require any change in construction or use of any structure begun prior to the above-referenced date.

(B) *Marking or lighting.* The owner of any aforementioned existing nonconforming structures or trees is hereby required to permit the installation, operation and maintenance thereon of such markers and/or lights as deemed necessary by the airport authority; to clearly indicate the presence of such obstructions or hazards to air navigation. All the markers and/or lights shall be installed, operated and maintained at the expense of the airport authority.  
(Ord. No. 04-45, passed 5-13-2004)

**Editor's note:**

*The date of enactment of the ordinance codified in this chapter given as May 4, 1944, refers to the enactment of the former airport zoning ordinance, which has been superseded by these provisions.*

**SEC. 9-3-8 PERMITS.**

(A) *Future uses.*

(1) No material change shall be made in the use of land, and no structure or tree shall be erected, altered, planted or otherwise established in any zone hereby created, unless a permit therefor shall have been applied for and granted as required by this chapter.

(2) However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of runway except when the tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for the respective zone.

(3) Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particulars to determine whether the resulting use, structure or tree would conform to the regulations herein prescribed. If the determination is in the affirmative, the permit shall be granted.

(B) *Existing uses.* No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this chapter or any amendments thereto or greater than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(C) *Nonconforming uses abandoned or destroyed.* Whenever the Zoning Enforcement Officer determines that a nonconforming tree or structure has been abandoned or more than 50% torn down, physically deteriorated or decayed, no permit shall be granted that would allow the structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(D) *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his or her property not in accordance with the regulations prescribed in this chapter, may apply to the Board of Adjustment for a variance from the regulations. The variance shall be allowed **when unnecessary hardship would result from carrying out the strict letter of the zoning ordinance, upon a showing that the statutory standards for granting variances, contained in G.S. 160D-705(d), as the same may be amended, are satisfied.**

(E) *Hazard marking and lighting.* Any permit or variance granted may, if the action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the airport authority, at the owner's expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.  
(Ord. No. 04-45, passed 5-13-2004)

**SEC. 9-3-9 APPLICATION FOR PERMITS AND VARIANCES.**

It shall be the duty of the Director of Planning and Development Services, or authorized representative, to accept applications for permits and variances, and consider each and enforce the applicable provisions prescribed herein.

(Ord. No. 04-45, passed 5-13-2004; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 19-045, § 1, passed 9-12-2019)

**SEC. 9-3-10 APPEALS.**

Any person aggrieved or affected by any decision of the Director of Planning and Development Services, or authorized representative, made in the administration of this chapter, may appeal to the Board of Adjustment in accordance with applicable procedure and law.

(Ord. No. 04-45, passed 5-13-2004; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 19-045, § 1, passed 9-12-2019)

**SEC. 9-3-11 DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES INTERPRETS.**

It is the intent of this chapter that all questions of interpretation shall be the responsibility of the Director of Planning and Development Services or authorized representative.

(Ord. No. 04-45, passed 5-13-2004; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 19-045, § 1, passed 9-12-2019)

**SEC. 9-3-12 DUTIES OF CITY COUNCIL.**

(A) It is further the intent of this chapter that the duties of the City Council in connection with this chapter shall be to consider and act upon proposed amendments to this chapter.

(B) The duties of the City Council shall not include hearing and deciding questions of interpretation and enforcement that arise.

(Ord. No. 04-45, passed 5-13-2004)

**SEC. 9-3-13 ENFORCEMENT AND APPEALS.**

The Zoning Enforcement Officer shall be responsible for the enforcement of this chapter. The Zoning Enforcement Officer may provide for the enforcement of this chapter by means of withholding permits and/or issuance of civil citation(s) as provided herein. The Zoning Enforcement Officer may provide for enforcement by instituting injunction, mandamus or other appropriate action or proceeding to prevent unlawful erection, construction, reconstruction, alteration, conversion, moving, maintenance or use; to correct or abate the violation; or to prevent the occupancy of the building, structure or land. If a decision of the Zoning Enforcement Officer is questioned, the aggrieved person may appeal the decision to the Board of Adjustment in accordance with applicable procedure and law.

(Ord. No. 04-45, passed 5-13-2004)

**SEC. 9-3-14 PERMITS REQUIRED.**

No land, building or structure shall be used, no building, sign or structure shall be erected, and no existing building, sign or structure shall be moved, expanded, enlarged or altered until the Director of Planning and Development Services, or authorized representative, has approved the use or construction in accordance with the provisions of this chapter.

(Ord. No. 04-45, passed 5-13-2004; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 19-045, § 1, passed 9-12-2019)

**SEC. 9-3-15 CERTIFICATE OF OCCUPANCY.**

A certificate of occupancy issued by the Building Inspector is required in advance of occupancy or use of a building hereafter erected, altered or moved; and for a change of use of any building or land. It shall be unlawful to occupy any building or structure without a certificate of occupancy. A certificate of occupancy shall not be issued unless the proposed use of a building or structure conforms to the applicable provisions of these regulations.

(Ord. No. 04-45, passed 5-13-2004)

**SEC. 9-3-16 REMEDIES.**

Where any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the Zoning Enforcement Officer, Building Inspector, any other appropriate city authority, or any person who would be damaged by the violation may, in addition to other remedies, institute an action for injunction, mandamus or other appropriate action or proceeding to prevent the violation.

(Ord. No. 04-45, passed 5-13-2004)

**SEC. 9-3-17 REVOCATION OF PERMITS AND CERTIFICATES.**

A stop work order may be issued or a building permit or certificate of occupancy may be revoked by the Building Inspector when the method of moving, construction, alteration, repair or use violates any provision of these regulations or any state or local law, ordinance or resolution. Upon notice, any further work upon the moving, construction, alteration or repair of a building or structure, or further use of a building, structure or land shall be deemed a violation.

(Ord. No. 04-45, passed 5-13-2004)

**SEC. 9-3-18 PENALTIES FOR VIOLATION.**

(A) Any violation of the provisions of this chapter or a failure to comply with any of its requirements shall subject the offender to a civil penalty as follows:

- (1) In the amount of \$50 for each offense on the first day of the offense;
- (2) In the amount of \$100 for each offense either: on the second day of the offense; or when the offense is a second offense within a 12-month period; and
- (3) In the amount of \$250 for each offense either: on the third day and on each subsequent day of the offense; or when the offense is the third or subsequent offense within a 12-month period.

(B) Violators shall be issued a written citation that must be paid within 72 hours. If a person fails to pay the civil penalty within 72 hours, the city may recover the penalty together with all costs by filing a legal action in the general court of justice in the nature of a suit to collect a debt.

(C) This chapter may also be enforced by any appropriate equitable action.

(D) Each day that any violation continues shall be considered a separate offense for purposes of the penalties and remedies specified in this section. Notwithstanding the foregoing, the Zoning Enforcement Officer may invoke the escalating civil penalties authorized by subsection (A) whenever the violation continues and there has been sufficient time for the violation to be corrected after notification that the violation exists or whenever the violation has occurred previously during a 12-month period.

(E) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this chapter.

(F) The owner, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this chapter may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

(Ord. No. 04-45, passed 5-13-2004)

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 9-4-60MCH Medical Heavy Commercial  
 9-4-61MRS Medical Residential Single-family  
 9-4-62OR Office Residential  
 9-4-63O Office  
 9-4-64CN Neighborhood Commercial  
 9-4-65CD Downtown Commercial  
 9-4-66CDF Downtown Commercial Fringe  
 9-4-67CH Heavy Commercial  
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**Cross-reference:**

- Airport Zoning, see Title 9, Chapter 3*
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*Soil Erosion and Sedimentation Control, see Title 9, Chapter 8*

*Storm drainage, see Title 9, Chapter 9*

*Subdivisions, see Title 9, Chapter 5*

**Editor's note:**

*Section 1 of Ord. No. 2337, adopted June 13, 1991, deleted the former zoning ordinance (Ch. 32), based on Ord. No. 332, as amended, which was not printed herein, and enacted a new zoning ordinance as set out in this chapter. The ordinance was printed substantially as enacted, with only minor stylistic changes to conform to Code format. Material added by the editor for clarity is enclosed in brackets.*

*Section 1 of Ord. No. 94-156, adopted Dec. 8, 1994, repealed former § 9-4-66, which pertained to DM downtown mall and derived from Ord. No. 2337, § 1, adopted June 13, 1991.*

*Ordinance No. 95-111, adopted Nov. 9, 1995, repealed Tit. 9, Ch. 4, Art. G, §§ 9-4-115-9-4-123 and added a new Ch. 4, Art. G to read as herein set out. Former Art. G pertained to buffer yards and derived from Ord. No. 2337, § 1, adopted June 13, 1991; Ord. No. 2466, adopted June 8, 1992; Ord. No. 2480, §§ 1, 2, adopted July 9, 1992; Ord. No. 2486, § 2, adopted June 8, 1992; Ord. No. 2538, § 1, adopted Nov. 12, 1992; Ord. No. 2540, § 1, adopted Nov. 12, 1992; Ord. No. 2726, § 1, adopted Oct. 14, 1993; Ord. No. 94-156, § 4, adopted Dec. 8, 1994 and Ord. No. 95-52, § 1, adopted May 11, 1995.*

## **ARTICLE A. GENERAL PROVISIONS**

### **SEC. 9-4-1 TITLE.**

This chapter shall be known and may be cited as the Zoning Ordinance for Greenville, North Carolina and may be referred to as the Zoning Ordinance or this chapter.  
(Ord. No. 2337, § 1, passed 6-13-1991)

### **SEC. 9-4-2 PURPOSE.**

These regulations are adopted to promote development of the land within the city and within the extraterritorial area of the city in a manner which will best promote the health, safety and the general welfare of the people, and for the following specific purposes:

- (A) To provide for efficiency and economy in the process of development;
- (B) To make adequate provisions for traffic;
- (C) To secure safety from fire, panic and other hazards;
- (D) To provide for light and air;
- (E) To prevent the overcrowding of land;
- (F) To avoid undue concentration of population;
- (G) To facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements;
- (H) To promote desirable living conditions and the sustained stability of neighborhoods;
- (I) To protect property against blight and depreciation;

(J) To promote the aesthetic quality of the community; and

(K) For other purposes in accordance with the Comprehensive Plan for the city and its extraterritorial area.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-3 INTERPRETATION AND APPLICATION.**

(A) In interpreting and applying these regulations, the requirements contained herein are the minimum requirements necessary to carry out the purpose of this chapter.

(B) Except as provided herein, these regulations shall not be deemed to interfere with, abrogate, annul or otherwise affect in any manner whatsoever any easements, covenants, deed restrictions or other agreements between parties.

(C) Wherever the provisions of these regulations impose greater restrictions upon the use of land or buildings or require a larger percentage of lot to be left unoccupied than other provisions of this Code or other ordinances, rules, regulations, permits, or any easements, covenants, deed restrictions or other agreements between parties, the provisions of these regulations shall govern.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-4 JURISDICTION.**

These regulations shall govern the use and the development thereon of all lands within the city and within the extraterritorial area of the city as defined in this chapter and shown on the official zoning map for the city: provided, however, these regulations shall not apply to bona fide farm activities, in accordance with applicable State laws-

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-5 ZONING MAP; ADOPTED BY REFERENCE AND INCORPORATED IN CHAPTER.**

This is to certify that this is the official zoning map referred to in the Zoning Ordinance for the City of Greenville, North Carolina, the date of adoption, as amended, ~~and the signature of the Mayor, and which is attested by the City Clerk and the city seal,~~ together with all notes officially entered thereon, is hereby adopted by reference as the official zoning map of the city and the extraterritorial area within the zoning jurisdiction of the city, and it is hereby incorporated in and made a part of this section as though it were fully set out herein.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-85, § 3, passed 8-14-1997)

**SEC. 9-4-6 SAME; WHERE AVAILABLE TO PUBLIC.**

The official zoning map shall remain on file in the office of the Director of Planning and Development Services available to the public for inspection and use during all regular business hours.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-7 SAME; MAINTENANCE IN CURRENT STATUS.**

The Director of Planning and Development Services shall be responsible for the maintenance and revision of the official zoning map in print and digital format by the director's designated Geographic Information System (GIS) operator. Upon notification by the City Council that a zoning change has been made, the Director of Planning and Development Services shall make the necessary changes on the official zoning map within a reasonable time. Failure to make the changes in a timely manner shall not affect the validity of the zone change.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-8 SAME; REPLACEMENT.**

In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret, the City Council may by ordinance adopt a new official zoning map which shall be the same in every detail as the map it supersedes. The new map shall bear the signatures of the same officials as the original and shall bear the seal of the city under the following words: [This is to certify that this official zoning map supersedes and replaces the official zoning map adopted [date of adoption of map replaced] and referred to in the Zoning Ordinance for the City of Greenville, North Carolina.] The date of adoption of the new official zoning map shall be shown also.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-9 LAND AND BUILDINGS REGULATED.**

No land, building or structure shall be used, no building or structure shall be erected, and no existing building or structure shall be moved, added to, enlarged or altered, except in conformity with these regulations or any other applicable regulations. However, the application of these regulations shall not affect agricultural cultivation.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-10 ONLY ONE PRINCIPAL USE UPON ANY LOT; EXCEPTIONS.**

There shall be no more than one principal use upon any lot in a residential district, or on a lot with a permitted residential use, except as expressly provided in these regulations.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-11 REDUCTION OR CHANGE IN LOT SIZE PROHIBITED.**

No lot shall be reduced or changed in size so that the total area; minimum frontage; front, side or rear setbacks; lot area per dwelling unit; or other dimensions, areas or open spaces required by these regulations are not maintained. No lot shall be subdivided so as to produce an additional lot which is not in conformity with these or other applicable regulations, unless the lot is combined with other land to produce a conforming lot or unless the lot is deeded, dedicated and accepted for public use.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-12 MAINTENANCE OF OPEN SPACE.**

No yard shall be encroached upon or reduced in any manner except in conformity with these regulations. No yard for any principal building shall be considered as a yard for any other principal building.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-13 USES PROHIBITED.**

Unless a use of land is specifically allowed in a zoning district, either as a matter of right or as a special use, then the use shall be prohibited in the district.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-14 AIRPORT ZONING ORDINANCE.**

All uses, including agricultural cultivation, made of land within any zoning district established by the Pitt-Greenville Airport zoning ordinance shall be in conformance with the use restrictions set forth in Title 9, Chapter 3 of the City Code.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-15 REENACTMENT OF PRIOR ZONING PROVISIONS; SAVING PROVISIONS.**

(A) This chapter in part carries forward by reenactment some of the provisions of the prior zoning ordinance of the city (adopted by the City Council, as amended), and it is not the intention of the City Council to repeal, but rather to reenact; and continue in force all provisions adopted May 8, 1969 so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the zoning ordinance of the city enacted on June 17, 1947, as amended, which are not reenacted herein are hereby repealed.

(B) All suits at law or in equity and all prosecutions resulting from the violation of any zoning ordinance heretofore in effect, which are now pending in any of the courts of North Carolina or of the United States, shall not be abated or abandoned by reason of the adoption of this chapter but shall be prosecuted to their finality the same as if this chapter had not been adopted; any and all violations of the existing Zoning Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this chapter shall be construed as to abandon, abate or dismiss any litigation or prosecution now pending or which may heretofore have been instituted or prosecuted.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-16 TREE PROTECTION PRIOR TO DEVELOPMENT.**

The provisions of Article B of Chapter 5 of Title 6 of the Greenville City Code shall apply to undeveloped property.  
(Ord. No. 07-33, § 3, passed 3-8-2007)

**ARTICLE B. DEFINITIONS****SEC. 9-4-21 USAGE.**

(A) The numbers, abbreviations, terms and words used in these regulations shall be used, interpreted and defined as this article provides; words or terms not defined shall have their customary dictionary definition. Words or terms defined in other articles shall have the definitions provided in that article.

(B) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; words used in the singular include the plural; the word "herein" means "in these regulations;" the word "regulations" means "these regulations;" words of any gender shall be applicable to all genders.

(C) A "person" includes a corporation, a partnership, and an incorporated or unincorporated association of persons such as a club; "shall" is always mandatory; "may" is permissive; a "building" includes a "structure;" a "building" or "structure" includes any part thereof.

(D) When any requirement of these regulations results in a fraction of a number or unit, then a fraction of one-half or more shall be considered as the next higher whole number or unit, and a fraction of less than one-half shall be disregarded. This provision shall apply to numbers including but not limited to parking requirements, numbers of dwelling units, vegetation requirements, and square footage computations.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-22 WORDS AND TERMS DEFINED.**

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

*Accessory building.* A subordinate building or structure located on the same lot as, and detached from, the principal building, the use of which is an accessory use to that of the principal building.

*Accessory use.* A use which meets the following conditions:

- (1) A use located on the same lot as the principal use, whether located in the same building, in an accessory building or as an accessory use of land;
- (2) Is incidental to and subordinate to the principal use;
- (3) Is dependent to the principal use;
- (4) Is customarily associated with the principal use; and
- (5) Will not create a nuisance or hazard to the principal use or area uses to a greater degree than that which can be expected by the principal use prior to creation of the accessory use.

**Administrative Decision. A decision made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this Ordinance.**

**Administrative Hearing. A proceeding to gather facts needed to make an administrative decision.**

*Adult use.* Any principal or accessory use which excludes minors by reason of age. This definition shall not apply to any exclusion due to applicable alcoholic beverage control laws or voluntary restrictions of the motion picture industry.

**Agricultural Use. The use of open field land for agricultural production purposes, including farming, dairying, stock watering, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for storing the supplies and products. The term shall include incidental retail sales by the producer of products raised on the farm. Agriculture does include forest management and timber harvesting activities, provided a management plan for that activity has been prepared by a Professional Forester registered in the State of North Carolina. See definition of Forest Land. Also, as defined in NCGS 106-181.1.**

*Airport zoning ordinance terms and definitions.* See Title 9, Chapter 3, Greenville City Code.

*Alley.* A public vehicular or pedestrian way which affords only a secondary means of access to abutting property.

*Animal boarding; outside facility.* Any facility for the purpose of boarding domesticated animals on a commercial basis or as an accessory use to district uses. This definition does not include livestock sales pavilions, auditoriums, yards, distribution facilities, transshipment facilities or slaughterhouses.

*Article.* As used herein, shall refer to those articles found within this chapter, unless otherwise referenced.

*Athletic club.* A commercial establishment engaged in providing a variety of apparatus and facilities, to individuals and/or groups of persons, for purposes of physical exercise, athletic competition, and related recreational, educational and personal development activities. An "athletic club" may include the following accessory activities: racquetball courts, basketball courts, volleyball courts, tennis courts and the like; swimming pools, lap pools, diving pools, water slides and the like; roller skating, roller blading, ice skating, skate boarding and the like, soccer fields, baseball/softball fields and the like; track and field event facilities; exercise programs including aerobic and strength training; personal training, fitness evaluation, massage therapy treatment by members in the American Massage Therapy Association or equivalent per Title 11, Chapter 10, Article B, section 11-10-11 of the City Code, as amended, wellness and health education programs; ancillary food services such as an employee and/or patron cafeteria or eating area.

*Automobile graveyard.* An establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts. Any establishment or place of business upon which six or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more shall be deemed to be an "automobile graveyard." See also definition of junkyard.

*Automobile, truck, recreational vehicle, motorcycle and boat sales.* Establishments engaged in the retail and/or wholesale of new and/or used automobiles, trucks, recreational vehicles and campers, motorcycles and motor boats including other watercraft, trailers, marine supplies and outboard motors, collectively referred to as vehicles for purposes of this definition. These establishments frequently maintain repair departments (see also major and minor repair) and carry stocks of replacement parts and accessories. For purposes of interpretation, the concurrent display for sale of not more than any five

such vehicles upon a lot containing a legal nonresidential principal use may be considered an accessory use in accordance with applicable conditions set forth by definition. Specifically, the concurrent display for sale of not more than any five such vehicles upon any lot containing a legal vehicle-related major or minor repair establishment, or a bank, savings and loan or other lending institution engaged in the repossession of vehicles shall be considered an accessory use to the principal use.

*Bed and breakfast inn home occupation.* A single-family dwelling within which the resident owner offers temporary overnight accommodations to visitors for compensation. The use may be allowed as an accessory use home occupation to a single-family dwelling upon special use permit approval of the Board of Adjustment and in accordance with the additional conditions and requirements of section 9-4-86(U).

*Beekeeping; major use.* Use of any lot or building for the keeping of more than six hives.

*Beekeeping; minor use.* Use of any lot or building for the keeping of not more than six hives.

*Best management practices (BMPs).* See Article L.

*Billiard parlor; pool room.* Any establishment that has more than four billiard/pool tables or whose principal purpose is the operation of a billiard parlor or pool room regardless of the total number of billiard/pool tables.

*Board of Adjustment.* See Article S.

*Boarding or rooming house.* Any single-family dwelling, in which space is let by the owner occupant to not more than four persons who are not related by blood, adoption or marriage to the owner occupant. See also definition of family.

**Bona Fide Farm. A farm used for purposes including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in NCGS 106.581.1. Activities incidental to the farm include existing or new residences occupied by the owner, lessee, or operator of the farm and other buildings or structures supporting the farm use and operation (see NCGS 160D-903).**

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

*Bufferyard.* See Article G.

*Building.* A structure with a roof which is designed or intended for the shelter, support, protection or enclosure of persons, animals, or property of any kind.

*Building inspector.* The person, officer or official or his or her authorized representative, whom the City Council has designated as its agent for the enforcement of the provisions of Title 9, Chapter 1, Inspections and Code Enforcement, of the City Code and the administration of duties as further provided under this chapter.

*Built-upon area.* Includes that portion of a development project that is covered by impervious or partially impervious cover, including buildings, pavement, gravel roads, recreation facilities (e.g., tennis courts) and the like (note: wooden slatted decks and the water area of a swimming pool are considered pervious).

*Campus.* The grounds of a school, college, university, hospital, church, or other institution that consists of several buildings developed and operated under a unified concept on a single tract of land or on multiple tracts of land which are in close proximity.

*Catalogue processing center.* An establishment engaged in the processing of mail/phone orders from merchandise catalogue(s) for on-site and/or remote transshipment of goods. All other principal and/or accessory use activities, including but not limited to retail/wholesale sales, manufacturing, storage, warehousing and the like, conducted in conjunction with any ☐catalogue processing center☐ shall be subject to independent approval in accordance with district regulations.

*Catering service.* An establishment engaged in the preparation and retail sale of food in a ready-to-consume state, for delivery and/or carry-out service, for off-site consumption at remote locations. The use shall not offer drive-through or drive-in services. See also definitions of restaurant, conventional and restaurant, fast food.

**Certificate of Compliance. A document that is required to represent that the work, as described in the permit documents, has been completed.**

*Chapter.* As used herein shall refer to this chapter, Chapter 4, Zoning Ordinance for Greenville, North Carolina, unless

otherwise referenced.

*Church or place of worship.* A building in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship and holding a certificate of nonprofit organization from the Secretary of State.

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*City Council.* The governing body of the city as provided by the Charter of the City of Greenville, North Carolina. The Mayor and Council on behalf of the city, and in conformity with applicable laws, provide for the exercise of all municipal powers and are charged with the general government of the city.

*Civic organization.* A community-oriented humanitarian and social organization holding a certificate of nonprofit organization from the Secretary of State.

**Close Familial Relationship. A spouse, parent, child, brother, sister, grandparent, or grandchild. Includes the step, half, and in-law relationships.**

*Convenience store.* Any food-personal merchandise store which sells at retail only prepackaged food and beverage products, personal toiletries, sundries, over-the-counter medications, household supplies, magazines, and the like in combination from a limited inventory and does not stock poultry or meats.

*County government operation center.* A planned and unified development owned and operated by the county for the purpose of governmental service delivery to county residents. The development shall contain not less than 100 contiguous gross acres exclusive to itself and its various subparts contained therein. The term shall include offices, fire station, Sheriff Department, county jail, court, library, museum, recreation and craft facilities, park, auditorium, gymnasium, vehicle and equipment minor and major repair, indoor and outdoor storage, warehouse, health and/or social service clinic, adult education, adult and child day care, cooking and dining facilities, group care facilities and social and civic meeting rooms. Uses not specifically listed above shall only be allowed in accordance with the table of permitted and special uses for the particular district, as set forth in section 9-4-78 and Appendix A to this chapter.

*County, state or federal government building or use.* Any building, structure or use of the county, state or federal government or their various subparts. The term shall include offices, libraries, fire stations, sheriff department, court, recreation facilities and parks. Uses not listed above shall only be allowed in accordance with the table of permitted and special uses for the particular district.

*Day care; adult.* An establishment which provides for the care and supervision of six or more aged, handicapped or disabled adults away from their homes by persons other than their family members, custodians or guardians for periods not to exceed 18 hours within any 24-hour period.

*Day care; child.* An establishment which provides for the care and supervision of six or more children away from their homes by persons other than their family members, custodians or guardians for periods not to exceed 18 hours within any 24-hour period.

**Determination. A written, final, and binding order or requirement regarding an administrative decision.**

**Developer. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.**

**Development. Any change to improved or unimproved real estate requiring a permit from the City of Greenville, including but not limited to, the building, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure; excavation, grading, filling, clearing, or alteration of land; the subdivision of land as defined in NCGS 160D-802; or initiation or a substantial change in the use of land or the intensity of the use of land. [see 160D-102(12)]**

**Development approval. An administrative or quasi-judicial approval made in accordance with NCGS Chapter 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to Title 9 of the Code of Ordinances, including plat approvals, permits issued, development agreements entered into, and building permits issued.**

**Development Regulation. A zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted in accordance with NCGS Chapter 160D, or a local act or charter that regulates land use or development.**

*Digital broadcast studio.* An establishment containing one or more studios for the staging and recording, as well as digital distribution, of video or audio productions. Such productions include, but are not limited to, music, web streaming and non-feature length film.

*Dining and entertainment establishment.* An eating and entertainment establishment open to the general public and which meets all of the following:

(1) May require a membership, cover or minimum charge for admittance or service during special periods of operation in accordance with this chapter;

(2) Has sales of prepared and/or packaged foods, in a ready-to-consume state, in excess of 30% of the total gross receipts for the establishment during any month.

(a) In determining the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state, the following sales shall be included: food prepared in the establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order; packaged food sold to accompany the meal; and non-alcoholic beverages sold to accompany the meal.

(b) The following shall not be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state: mixed alcoholic beverages, including the mixer; any other alcoholic beverage; grocery items not ordered and purchased with meals; and any other product, item, entertainment, service, or gratuity which is not specified in this subsection (2) as a sale to be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state.

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(c) A membership, cover, or minimum charge for admittance or service shall not be included in either the total gross receipts for the establishment or in the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state. For purposes of determining compliance under this subsection (2), the Zoning Enforcement Officer may utilize and rely upon any routine or special audit report prepared by a department, division of a department, or agency of the state;

(3) Does provide sit-down dining area(s);

(4) May provide food attendant (waiter/waitress) table ordering and busboy services;

(5) May offer food in disposable containers;

(6) May offer carry-out and/or off-site delivery services;

(7) Does not offer drive-in attendant services;

(8) May exhibit one but not both of the following operational functions or characteristics:

(a) Drive-through service; or

(b) Over the counter service. For purposes of this section, the term "over the counter service" shall include both customer ordering and the receipt of food, excepting beverages, condiments, utensils and the like, from an order/delivery station or counter remote to the on-site place of consumption.



(9) May have one or more of the following activities or services, which is open to the establishments patrons and general public and is limited to the hours of operation of complete food services including regular menu food ordering, food preparation and on-premises food consumption, except as otherwise provided in this subsection (9): full service bar, live or recorded amplified music, floor show and dancing area. Complete food services including regular menu food ordering, food preparation and on-premises food consumption services may be suspended at the option of the owner/operator not less than one hour prior to the close of business each evening. For purposes of interpretation of this section, when a dining and entertainment establishment closes for business at 12:00 a.m. (midnight) complete restaurant services including regular menu food ordering, food preparation and on-premises food consumption shall be provided until not less than 11:00 p.m. of the same day;

(10) Shall be limited to a maximum mechanically conditioned floor area requirement and shall comply with a minimum separation and security requirement as specified under sections 9-4-86 and 9-4-103;

(11) Does not qualify under the definition of "restaurant, fast food" or "restaurant, conventional" as contained herein; and

(12) Any dining and entertainment establishment that does not meet the aforesaid requirements shall be classified as a "public or private club" for purposes of zoning regulation.

(Ord. No. 09-27, § 1, passed 4-9-2009)

*Director of Planning and Development Services.* The person, officer or official, or his or her authorized representative, whom the City Council has designated as its agent for the acceptance, coordination and approval of all plans and permits required by this chapter, unless otherwise specifically provided in the particular case. The Director of Planning and Development Services shall, excepting City Manager authority, have final administrative interpretation concerning the meaning, requirement or extent of any section, graphic or description set forth by this chapter, unless otherwise specifically provided in the particular case.

*Distributed antenna system (DAS) equipment.* A network of spatially separated antenna sites and supporting equipment connected to a common source that provides wireless service within a geographic area or structure. DAS and DAS equipment are not considered a public utility or use and as such, are not exempt from placement preference regulations when DAS equipment is proposed on city-owned property, within public rights-of-way and on or adjacent to existing or planned sidewalks as set forth in section 9-4-103(Q). The equipment and structures to support DAS are free-standing telecommunication towers even if they are intended to replace existing light poles, utility poles, or similar structures.

*District; zoning.* A section of the city or its extraterritorial area within which the zoning regulations are uniform.

*Domestic Violence Center.* A home for adults and children seeking relief and refuge from family violence and abuse.

*Dormitory.* A building or group of buildings where group sleeping accommodations are provided with or without meals for persons not members of the same family group, in one room or in a series of closely associated rooms under joint occupancy and single management, such as a college dormitory or privately owned dormitory intended for use by college students.

**Down-Zoning. A zoning ordinance that affects an area of land by either a) decreasing the development density of the land to be less dense than was allowed under its previous usage or b) reducing the permitted uses of land that are specified in a zoning ordinance to fewer uses than were allowed under its previous zoning classification.**

*Drive-through facilities.* Facilities which are accessory to a principal use whereby goods or services may be offered directly to customers in motor vehicles by means which eliminate the need for customers to leave their motor vehicles.

*Driveway and related terms.* See Title 6, Chapter 2, Article B of the City Code.

*Durable goods.* Any commodity whose useful life is expected to exceed three or more years.

## Greenville - Building, Planning and Development Regulations

*Dwelling.* A building or a portion thereof which is wholly or partly used for or intended to be used for temporary or permanent residential occupancy.

**Dwelling. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of NCGS 160D Article 12, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.**

*Dwelling unit.* A single independent housekeeping unit with sanitation, living, dining, sleeping, and permanently installed kitchen facilities for use by one family.

*Dwelling; single-family.* A separate and detached structure containing one dwelling unit designed for occupancy by one family on an individual lot exclusive to the unit and its accessory use.

*Dwelling; two-family attached (duplex).* A separate and detached structure containing two attached dwelling units, each designed for occupancy by one family on an individual lot exclusive to the units and their accessory uses.

*Dwelling; multi-family.* A separate and detached structure or group of structures containing three or more total dwelling units on a common lot and sharing common facilities; or two or more single-family or two-family attached dwellings located on a common lot; or one or more attached dwelling units on a common lot and sharing common facilities with a nonresidential use. Excluded from this definition are mobile home parks and residential quarters for resident manager, supervisor or caretaker, as defined in this section.

**Evidentiary Hearing. A hearing to gather competent, material, and substantial evidence to make findings for a quasi-judicial decision as required by this Ordinance.**

*Extraterritorial jurisdiction.* The area beyond the corporate limits within which the planning, zoning and building regulations of the city apply in accordance with state law. The area is delineated on the official zoning map for the city.

*Family.* An individual living alone, or two or more persons related by blood, adoption or marriage, or a group of not more than three unrelated persons living together as a single housekeeping unit in a shared dwelling unit. See also definition of room renting.

(1) For purposes of this definition the term "persons related by blood, adoption or marriage" shall constitute the following:

(a) *Blood relations.*

1. Parents (including grandparents);
2. Sons and daughters;
3. Siblings;
4. Uncles and aunts (including great uncles and aunts);
5. Nephews and nieces (children of a brother or sister); and
6. First cousins (children of brothers and/or sisters).

(b) *Marriage relations.*

1. Spouse;
2. Step relations (mother/father, son/daughter, brother/sister);
3. Half relations (brother/sister); and
4. In-laws (mother/father, son/daughter, brother/sister).

(c) *Adoption.*

1. As provided by law; and

2. Foster parent/child, custody consent order, or other legally recognized form of guardianship.
- (2) Specifically, the individual or combination of persons listed herein may occupy a dwelling unit under this definition.
    - (a) One individual living alone;
    - (b) Up to three unrelated individuals;
    - (c) Two or more individuals related by blood, adoption or marriage (i.e., family);
    - (d) One family (subsection (c) above) and up to two unrelated individuals (i.e., room renting); or
    - (e) One family (subsection (c) above) and up to two related individuals (i.e., room renting).

*Family care home.* An establishment defined under ~~G.S. 168-20 through 168-23~~ **G.S. 160D-907** as amended, with support and supervisory personnel that provides room and board, personal care and rehabilitation services in a family environment for not more than six resident persons with disabilities. Person with disabilities means a person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbance and orthopedic impairments but not including mentally ill persons who are dangerous to others **as defined under G.S. 122-3(11)b.** Dangerous to others means that within the ~~recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct.~~ **the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is prima facie evidence of dangerousness to others.**

- (1) The following shall be considered a person with disabilities for the purpose of this definition:
  - (a) An elderly and disabled person suffering from Alzheimer's, senile dementia, organic brain syndrome;
  - (b) A recovering alcoholic or drug addict who is not currently using an illegal controlled substance; and/or
  - (c) A person with human immunodeficiency virus (HIV) and/or acquired immune deficiency syndrome (AIDS), who is in ambulatory condition.
- (2) Professionals or paraprofessionals providing assistance to the occupants shall be allowed in addition to the maximum occupancy.

*Farmers market.* A structure or location wherein space is provided to multiple independent operators for the purpose of retail and/or wholesale trade of raw agricultural products; provided, however, the use shall not include the processing of any product or the sale of poultry, fish, shellfish, pork, beef or other wildlife or domesticated meat products.

*Farming.*

- (1) Establishments (farms, ranches, dairies, nurseries, orchards, hatcheries and the like) primarily engaged in the production of crops, plants, vines or trees (excluding saw mills); and the keeping, grazing, or feeding of livestock for the sale of livestock or livestock products, for livestock increase, or for value increase. Livestock as used here includes cattle, sheep, goats, hogs and poultry. Also included are animal specialties such as horses, rabbits and fish in captivity. Agricultural production also includes establishments primarily engaged in the operation of sod farms, mushroom cellars, poultry hatcheries, and in the production of bulbs, flower seeds and vegetable seeds.
- (2) A farm may consist of a single tract of land, or a number of separate tracts which may be held under different tenures. It may be operated by the operator alone or with the assistance of members of his or her household or hired employees, or it may be operated by a partnership, corporation, or other type of organization.

*Flood damage prevention ordinance.* An ordinance adopted by the City of Greenville found in Title 9, Chapter 6 of the City Code regulating development within flood hazard areas as designated by the Federal Emergency Management Agency.

*Fraternity or sorority house.* A dwelling and associated grounds occupied by and maintained for college or university students who are affiliated with a social, honorary or professional organization recognized by a college or university or within which the functions of such an organization are conducted.

*Game center.* Any establishment that has more than five coin/token operated or other amusement devices or whose principal purpose is the operation of a "game center" regardless of the total number of amusement devices. For purposes of this definition, the term "amusement devices" shall include electronic games and similar machines, and any other game table or device. Bingo parlors shall be considered as "game centers" regardless of the number of participants. See also definition of billiard parlor; pool room.

*Golf course; nine-hole regulation length.* A golf course which contains a minimum of nine, but less than 18, United States Golf Association (USGA) and National Golf Foundation (NGF) regulation length golf holes. The "golf course" may contain optional accessory use facilities including a member-guest only dining facility, snack bar, pro-shop, member-guest only social club, tennis courts, swimming facilities and/or other customarily associated golf course activity, which is open to members, guests and/or the general public. The "golf course" may be limited to member-guests only or may be open to the general public at the option of the golf course owner/management. A "nine-hole regulation length golf course" shall not contain an accessory public restaurant. For purposes of regulation under this chapter, an "executive length golf course" containing nine or more golf holes, shall be construed as a "golf course; nine-hole regulation length." See also section 9-4-103(T).

*Golf course; 18-hole regulation length.* A golf course containing 18 or more United States Golf Association (USGA) and National Golf Foundation (NGF) regulation length golf holes, and optional accessory use facilities including a member-guest only dining facility and/or a public restaurant, snack bar, pro-shop, member-guest only social club, tennis courts, swimming facilities and/or other customarily associated golf course activity, which is open to members, guests and/or the general public. The "golf course" may be limited to member-guests only or may be open to the general public at the option of the golf course owner/management. For purposes of regulation under this chapter, an "executive length golf course," containing 18 or more golf holes shall be construed as a "golf course; nine-hole regulation length." See also section 9-4-103(T).

*Group care facility.* An establishment qualified for a license by the State of North Carolina for provision of resident services to more than six but not more than 25 residents who are physically disabled, mentally retarded, developmentally disabled, persons recuperating from alcohol or drug related problems, persons adjusting to society as an alternative to imprisonment and persons recuperating from mental or emotional illness. This definition shall not include mentally ill persons who are dangerous to others. "Dangerous to others" means that within the recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that his or her conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Professionals or paraprofessionals providing assistance to the occupants shall be allowed in addition to the maximum occupancy.

*Guest house for a college or other institution of higher learning.* A building and accessory structure(s) designed for residential occupancy and containing rooms, suites, separate or connecting units, where without compensation lodging is provided on a short-term basis to guests of the associated institution. For purposes of this definition, the words "short-term basis" shall include only daily or weekly periods. No persons shall utilize, consider or reference any room, suite or unit within any "guest house" as a secondary or primary place of residence. This definition shall not include hotel or motel and/or bed and breakfast inns.

*Hazardous.* Any use, product, operation, material, compound or reaction which by its known or reasonably expected nature creates excessive noise, odor, smoke, dust, danger of fire or explosion, emission of gas, particles, solids or other objectionable or toxic characteristics which may adversely impact the public's health, safety and general welfare. Nonhazardous shall include those attributes which by their nature do not qualify under the above definition.

*Hazardous material.* Any substance listed as such in SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances) as amended. See also definition of toxic substance.

*Height of structure.* The vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. For purposes of this definition the term "grade" shall be construed as the average street side ground elevation at the base of a structure. Any decorative roof structure or parapet wall extending above an exterior wall line shall be included in and count toward the calculation of allowable height. The average height of a pitch roof shall be the midpoint of a vertical line extending from the top of the exterior wall to the highest point of the finished roof surface.

*Historic Preservation Commission terms and definitions.* See Title 9, Chapter 7, Greenville City Code.

*Home occupation.* An activity conducted for financial gain as an accessory use to a detached single-family dwelling unit by a member of the family residing in the dwelling unit.

- (1) "Home occupation" shall meet all of the following characteristics:
  - (a) Shall only be permitted within detached single-family dwelling units;
  - (b) Shall not be permitted within any accessory building;
  - (c) Shall constitute an accessory use to the principal use;
  - (d) Shall not occupy more than 20% of the mechanically conditioned enclosed floor space of the dwelling unit;
  - (e) Shall not employ more than one person other than those persons legally residing within the principal use dwelling;
  - (f) Shall not be visible from any public right-of-way or adjacent property line;
  - (g) Shall not involve the on-site sales of products;
  - (h) Shall not involve any outside storage of related materials, parts or supplies;
  - (i) Shall have signage in accordance with Article N; and
  - (j) Shall not create any hazard or nuisance to the occupants residing or working within the principal use dwelling or to area residents or properties.
- (2) The following permitted limited in-home services and/or business activities shall not constitute a "home occupation" and shall be construed as an incidental accessory residential use within any dwelling, for purposes of regulation under this chapter, provided that: 1. not more than one person is engaged in the conduct of the listed activity; 2. the person that is engaged in the conduct of the activity shall be a permanent resident within the subject dwelling; 3. not more than two customer/clients shall be allowed on the premises at any one time; 4. no on-site signage shall be displayed in connection with the limited in-home service and/or business activity; and 5. the activity is compliant with characteristics (1)(b), (c), (d), (f), (g), (h), and (j) above:
  - (a) Music or dance instructor, provided all associated amplified and/or non-amplified sound is not plainly audible, within any adjacent area dwelling unit or beyond the adjacent property line;
  - (b) Educational tutoring;
  - (c) Accountant, tax and/or financial advisor, stockbroker;

- (d) Attorney at law;
- (e) Counseling, including psychologist, marriage and similar professional counselor;
- (f) Doctor, physical therapist or other similar health care professional;
- (g) Consultant, including public relations, advertising, computer science, engineering, architect and other similar professional consultant;
- (h) Clothes alteration seamstress; excluding garment manufacturing, shoe repair and sales of clothing items;
- (i) Catalogue ordering sales consultant business wherein retail products are ordered by the end customer from a catalogue and/or by reference to limited samples displayed at off-site locations remote to the business address;
- (j) Artist, photographer/videographer, graphic designer, writer;
- (k) Real estate broker/realtor;
- (l) Real estate/personal property appraiser;
- (m) General contractor, including building, painting, electrical, plumbing, mechanical, landscape, and cleaning/janitorial service, excluding any of the following activities on-site:
  1. Physical display and/or storage of products and materials;
  2. Manufacture or assembly;
  3. Storage of construction or service delivery equipment including trucks, trailers, excavators, tractors, and mowers of a type and number uncommon to typical domestic residential use; provided, however, a personal transportation vehicle customarily associated with residential use shall be permitted.
- (n) The incidental use of any dwelling by the occupant(s) for the purpose of receiving or transmitting messages or mail, record or bookkeeping, filing, address listing for applicable privilege license or tax identification and other similar activities, which do not involve the on-site sale, delivery, distribution, reception, storage or manufacture of goods, products or services.

*Hookah Café.* An establishment that, as a primary or accessory use, provides for the on-site consumption of shisha or similar flavored tobacco products.

*Hotel, motel, bed and breakfast inn; extended stay lodging.* A building or group of buildings containing guest rooms, suites, separate or connecting units where for compensation lodging is provided on an extended stay basis. For purposes of this definition, the words "extended stay basis" shall include daily, weekly or monthly periods not to exceed 90 continuous days. See also definition of hotel, motel, bed and breakfast inn; limited stay lodging.

*Hotel, motel, bed and breakfast inn; limited stay lodging.* A building or group of buildings containing guest rooms, suites, separate or connecting units where for compensation lodging is provided on a limited stay basis. For purposes of this definition, the words "limited stay basis" shall include only daily or weekly periods not to exceed 30 continuous days. See also definition of hotel, motel, bed and breakfast inn; extended stay lodging.

*Incidental assembly; accessory.* The process of blending or assembling previously manufactured components or parts into finished products, for wholesale and/or retail trade from the point of assembly.

*Internal service facility.* Facilities incidental to the permitted nonresidential principal use(s), including cafeterias, snack bars and similar retail activities conducted solely for the convenience of employees, patients, patrons, or occasional visitors, provided that the facilities are housed within the principal or related buildings and provided that neither the facility itself nor any advertising display is visible beyond the premises.

*Internet sweepstakes business.* Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games, including but not limited to sweepstakes and video poker, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This use does not include any lottery approved by the State of North Carolina.



*Junk yard.* Use of land or buildings or other structures for indoor and outdoor storage, collection, demolition, dismantling, processing, abandonment, sale or resale of junk including scrap metal, rags, paper, other scrap materials, used lumber, used building materials, salvaged house wrecking, salvaged structural steel, salvaged materials, salvaged equipment, automobiles, and boats or other vehicles or machinery or parts thereof. This definition shall also include automobile graveyards.

*Kennel.* A use of land or buildings for the keeping of four or more dogs.

*Landfill.* A facility for the disposal of solid waste on land in a sanitary manner in accordance with G.S. Chapter 130A, Article 9, as amended. For the purpose of this chapter, this term does not include composting facilities.

*Land development administrative manual.* An administrative manual which specifies the procedures and application requirements necessary to ensure compliance with the minimum ordinance standards established by City Council for various land use and development activities. The Manual is incorporated herein by reference.

*Land use intensity (LUI).* See Article K.

*Laundries; commercial.* Establishments engaged in the dry cleaning or power machine washing of bed linens, table covers, hand towels, uniforms, diapers, furs or other personal use items on a contract or fee basis.

*Laundries; industrial.* Establishments engaged in the dry cleaning or power machine washing of rugs, mats, carpets, upholstery, drapery or other nonpersonal use items on a contract or fee basis.

**Legislative Decision. The adoption, amendment, or repeal of a regulation under this ordinance and others authorized by G.S. Chapter 160D.**

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

*Lot.* A parcel of land or a division or combination of a parcel or parcels of land either existing on the effective date of this chapter as provided by section 9-4-15 or as created by and in accordance with applicable subdivision regulations of the appropriate authority.

*Lot coverage.* The ground area of a lot which is encompassed by the exterior foundation limits, including any supports, of a building or other covered or enclosed structure. Parking areas, drives, exterior storage areas, stormwater detention structures and the like shall not be included under this definition.

*Lot depth.* The horizontal distance between front and rear lot lines.

*Lot, corner.* A lot which has frontage on at least two intersecting streets, provided that the interior angle of the intersection is less than 135 degrees.

*Lot, double frontage.* A lot which fronts on two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

*Lot, frontage.* The distance between side lot lines measured along the street right-of-way or easement.

*Lot line.* A line that marks the boundary of a lot.

*Lot line, front.* The common boundary line between a street right-of-way or easement line and the lot line.

*Lot width.* The distance between side lot lines measured along the minimum public or private street setback line unless otherwise provided.

*Lot of record.* A lot which is a part of a subdivision or plat which has been recorded in the office of the Register of Deeds of Pitt County, or a lot described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds in accordance with the subdivision regulations in effect at the time of recordation.

*Live performance theater.* A facility for holding live performances, motion pictures, plays, and live music through the sale of tickets and allows banquets as an accessory use. Such use is limited in its location, size and operation in accordance with the provisions of section 9-4-86(RR). (See also section 9-4-86).

## Greenville - Building, Planning and Development Regulations

*Manual of Standard Designs and Details.* The *Manual of Standard Designs and Details* is a supplement to the subdivision regulations. Such supplement contains engineering designs and details relative to plat layout; storm drainage design; sedimentation control; basins; pipes and manholes; ending walls and retaining walls; street standards; pavement design; ground cover; driveways; parking; stormwater detention and other uniform design standards.

*Manual for the Design and Construction of Water and Waste Water System Extensions for Greenville Utilities Commission.* The *Manual for the Design and Construction of Water and Waste Water System Extensions for Greenville Utilities Commission* is a supplement to the subdivision regulations. This supplement contains design considerations, submittal requirements, material specifications and project guidelines for water and sanitary sewer system extensions.

*Manufactured building.* A structure consisting of one or more transportable sections built and labeled within a manufacturing plant facility in accordance with the appropriate state or federal construction code which governs the structure's intended usage when erected on a building site.

*Manufacturing.* Establishments engaged in the mechanical or chemical transformation of materials or substances into new products. These establishments are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of materials such as lubricating oils, plastics, resins or liquors.

(1) The materials processed by manufacturing establishments include products of agriculture, forestry, fishing, mining and quarrying as well as products of other manufacturing establishments. The new product of a manufacturing establishment may be "finished" in the sense that it is ready for utilization or consumption, or it may be "semifinished" to become a raw material for an establishment engaged in further "manufacturing."

(2) The materials used by manufacturing establishments may be purchased directly from producers, obtained through customary trade channels, or secured without recourse to the market by transferring the product from one establishment to another which is under the same ownership. "Manufacturing" production is usually carried on for the wholesale market, for interplant transfer or to order for industrial users, rather than for direct sale to the domestic consumer.

*Massage parlors.* An establishment wherein the manipulation of body muscle or tissue is performed by rubbing, stroking, kneading or tapping by hand or mechanical device and as further defined and regulated pursuant to Title 11, Chapter 10, Article B of the City Code.

*Master Planned Community (MPC).* See Article J.

*Mental health, emotional or physical rehabilitation center.*

(1) An establishment qualified for a license by the State of North Carolina which provides resident services to more than 25 persons who reside at the establishment and who are physically disabled, mentally retarded, developmentally disabled, persons recuperating from alcohol or drug related problems and persons recuperating from mental or emotional illness, but not including mentally ill persons who are dangerous to others. State licensed family care homes and group care facilities are not included under this definition.

(2) "Dangerous to others" means that within the recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that his conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Professionals or paraprofessionals providing assistance to the occupants shall be allowed in addition to the maximum occupancy.

(Ord. No. 09-75, § 1, passed 9-10-2009)

*Mental health, emotional or physical rehabilitation day program facility.*

(1) An establishment qualified for a license by the State of North Carolina which provides a day treatment, day activity or other extended counseling service to persons who do not reside at the establishment and who are physically disabled, mentally retarded, developmentally disabled, persons recuperating from alcohol or drug related problems, persons adjusting to society as an alternative to imprisonment, children or adolescents who are emotionally disturbed and need special educational services, and persons recuperating from mental or emotional illness, but not including mentally ill persons who are dangerous to others. Persons receiving service at the establishment may be at the facility for no longer than 18 hours within any 24-hour period.

(2) "Dangerous to others" means that within the recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that his conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Professionals or paraprofessionals providing assistance to the occupants shall be allowed in addition to the maximum occupancy.

(Ord. No. 09-75, § 1, passed 9-10-2009)



*Microbrewery.* A facility for the brewing of malt beverages that is limited in its location, size and operation in accordance with the provisions of section 9-4-86.QQ. (See also section 9-4-86.QQ).

*Mining.* The extraction of minerals occurring naturally: solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gas. The term "mining" is also used in the broad sense to include quarrying, well operation, milling (crushing, screening, washing, flotation and the like), and other preparation customarily done at the mine site or as a part of mining activity.

*Mobile home.* A manufactured building designed to be used as a single-family dwelling unit which has been constructed and labeled indicating compliance with the HUD-administered National Manufactured Housing Construction and Safety Standards Act of 1974.

*Mobile home park; conforming.* See Article H.

*Mobile home park; nonconforming.* A parcel of land containing two or more mobile home dwelling units where the placement or improvements do not conform to the minimum requirements of this chapter.

*Mobile home site or lot.* A parcel of land in a mobile home park designed to accommodate one mobile home and its accessory building or uses for the exclusive use of the occupants.

*Mobile home stand.* That area of a mobile home site or lot which has been reserved for the placement of a mobile home.

*Modular building.* A manufactured building constructed in accordance with the North Carolina State Building Code.

*Modular building (nonresidential and multi-family).* A manufactured building designed to be used as a multi-family dwelling (three or more units) or as a nonresidential structure which has been constructed and labeled indicating compliance with the North Carolina State Building Code.

*Modular component.* Any sub-system, sub-assembly, or other system designed for use in or as part of a structure, which may include structural, electrical, mechanical, plumbing and fire protection systems and other systems affecting health and safety and is usually of closed construction.

*Modular home.* A manufactured building designed to be used as a detached single-family dwelling or two-family attached dwelling (duplex) which has been constructed and labeled indicating compliance with the North Carolina State Building Code, as amended.

*Multi-purpose center.* A facility owned and operated, by a governmental unit and/or private association holding a certificate of nonprofit organization from the Secretary of State, for the purpose of providing community support activities including health screening (excluding treatment), library and museum extensions, adult education, child and adult day care, cooking and dining facilities, recreation and crafts, social and civic meeting rooms, and other closely related community support activities which are found to be compatible with surrounding and area properties.

(1) Due to the general/multiple use nature of the facility each and every activity, including the method and extent of operation, proposed for inclusion at each separate location shall be specifically considered by the Board of Adjustment. Activities not specifically approved by the Board of Adjustment shall be prohibited.

(2) Specifically prohibited under this definition are: Shelters for homeless or abused, family care facilities, group care facilities, college and other institutions of higher learning, business or trade schools, vocational rehabilitation center, auditorium, theater, and commercial activities including but not limited to retail sales.

*Municipal government building or use.* Any building, structure or use of the City of Greenville or its various subparts. This term shall include fire stations, police stations, municipal offices, libraries, recreation facilities and parks, civic centers or auditoriums. Uses not listed above shall only be allowed in accordance with the table of permitted and special

uses for the particular district. Where municipally operated facilities to be used for athletic events and/or night programs are to be located in residential areas, a ~~public~~ **legislative** hearing shall be properly advertised and conducted before City Council for the purpose of hearing and considering any comments by the public as to the location under consideration.

*Noncommercial park or recreational facility.* An accessory use recreation area and related improvements commonly associated with a residential subdivision or development which has been reserved for the private use of members of a common property owners and/or tenants association and their guests. Such use may include clubhouse facilities, swimming pools, ball courts and/or fields, play lots and equipment, walking or fitness trails, picnic shelters and/or tables and the like. All such facilities shall be owned and operated by the aforesaid association on a not-for-profit basis, provided however, dues or other fees may be collected for maintenance and related expenses from the membership and/or their guests.

*Nonconformity.* Any dimensional, area, use or other situation, which does not comply with the requirements, standards or conditions set forth by the Zoning Ordinance, whether existing on the effective date of this chapter or following any amendment thereto.

*Nonprofit; use.* Any use holding a certificate of nonprofit organization from the Secretary of State for social, literary, political, civic, religious, fraternal, recreational or charitable purposes, which is not operated for profit or to render a service which is customarily conducted as a business.

*Nursing, convalescent or maternity home; major care facility.* A health care establishment licensed by the state for care, supervision and provision of resident services to seven or more individuals on a temporary or permanent basis. The establishment may contain the following onsite activities and/or facilities for the exclusive use of resident occupants: health care; food preparation and eating; recreation and exercise; counseling, social work and education; and living quarters for resident manager(s). Maximum occupancy shall be regulated by the North Carolina State Building Code and/or applicable license. The following uses shall not be considered under this definition: family care home; group care facility; retirement center; and shelter for homeless or abused.

*Nursing, convalescent or maternity home; minor care facility.* A health care establishment licensed by the state for care, supervision and provision of resident services to six or fewer individuals on a temporary or permanent basis. The establishment may contain the following on-site activities and/or facilities for the exclusive use of resident occupants: health care; food preparation and eating; recreation and exercise; counseling, social work and education; and living quarters for resident manager(s). Maximum occupancy shall be regulated by the North Carolina State Building Code and/or applicable license; provided, however, not more than eight persons, including both resident individuals receiving care and any resident manager(s), shall occupy any [minor care facility]. The following uses shall not be considered under this definition: family care home; group care facility; retirement center; and shelter for homeless or abused.

*Open space.* The natural, vegetated or landscaped portions of a lot. Open drainage ditches, ponds and the like may count toward any [open space] requirement. Except as specifically provided, portions of a lot covered by buildings, structures, parking areas, drives, exterior storage areas, swimming pools, ball courts, decks, patios, porches and the like shall not be construed as [open space].

*Operation/processing center.* An office facility engaged in providing operation and data processing services to other remote office, commercial or industrial uses including parent, subsidiary or independent operations. Activities may consist of providing specialized services such as bank transaction and coupon processing or making data processing equipment available to others. All other principal and/or accessory use activities, including but not limited to professional/business/ medical offices, retail/wholesale sales, manufacturing, storage, warehousing and the like, conducted in conjunction with any [operation/processing center] shall be subject to independent approval in accordance with district regulations.

*Pawnbroker.* Any person who loans money on the security of personal property pledged in his or her keeping.

*Pet grooming facility.* Any premises containing four or more domesticated animals, which are five months or older, where these domestic animals are dropped off and picked up for temporary care on site related to grooming. Grooming activities include both the hygienic care and cleaning of a dog, as well as a process by which a dog's physical appearance is enhanced for showing or other types of competition.

*Pet shop.* An establishment which sells domesticated animals to be kept for pleasure rather than for utility. "Pet shops" are completely enclosed operations which utilize outside storage of animals only pursuant to further approval under the animal boarding; outside facility definition contained herein.

*Planned center.* A development which meets any of the following conditions:

- (1) A lot of record held in singular or joint ownership which contains two or more principal uses;
- (2) Any two or more units held pursuant to the North Carolina Condominium Act;
- (3) Any two or more lots which have been platted pursuant to the subdivision regulations as a townhouse division. For purposes of this section, the term "townhouse division" shall constitute the division of land containing attached units within one or several structures and may include the reservation of common area and which are restricted to internal access through the original lot, common area(s) or easements; or
- (4) A development platted pursuant to the subdivision regulations involving any outparcel which is dependent on the original development tract or other outparcel for compliance under Article G and/or Article P contained herein. Mutually dependent lots or outparcels shall be construed as a "planned center."

*Planned unit development (PUD).* See Article J.

*Planning and Zoning Commission.* The body created by City Council in section 9-2-1 of the City Code, pursuant to G.S. ~~160A-361 and 160A-367~~ **160D-301 and 160D-604**, to act as a planning agency for the City Council on planning and zoning matters within the city's planning and zoning jurisdiction.

*Portable temporary storage unit.* Any temporary and portable accessory use container, trailer, cart, sled or other portable structure that exceeds ten square feet in floor surface storage area, that is owned, leased or rented for the purpose of temporary storage and/or transport of personal property, items and materials and which is located on any lot, other than the unit owner's commercial storage lot or facility, for more than 336 continuous hours. This definition shall include motorized and nonmotorized units, enclosed and unenclosed units, and wheeled and non-wheeled units. Exempt from this definition are licensed motor vehicles and trailers customarily associated with the on-site principal use and approved garbage and waste containers located on nonresidential or multi-family sites.

*Porch.* An attached, open, unenclosed (including screening and the like) roofed entrance to a building, including necessary supports.

*Principal use.* The primary purpose for which a building structure or lot is designed, arranged or intended and for which it is or may be used under these regulations.

*Public or private club.*

- (1) An establishment of which the principal use is entertainment and which meets all of the following:
  - (a) May be open to the general public;
  - (b) May require a membership, cover or minimum charge for admittance or service during regular or special periods of operation;
  - (c) May provide live or recorded amplified music;
  - (d) May provide a floor show;
  - (e) May provide a dance area;
  - (f) May offer a full service bar;

- (g) May offer food services;
  - (h) May provide food attendant (waiter/waitress) table ordering and busboy services; and
  - (i) Does not qualify under the definitions of restaurant, fast food; restaurant, conventional; or dining and entertainment establishment as contained in this section.
- (2) Any proposed or established "dining and entertainment establishment" that does not comply with the definition, standards or requirements applicable to "dining and entertainment establishments" as contained herein shall be classified as a "public or private club" for purposes of zoning regulation.  
(Ord. No. 09-27, § 2, passed 4-9-2009)

*Public utility building or use.* Any above-ground building or use necessary for the delivery of electric, water, sanitary sewer, storm drainage, gas, telephone, cable TV or other utility service system which meets any one of the following conditions. Distributed Antenna Systems (DAS) and supporting DAS equipment are not considered a public utility or use.

- (1) Utilizes structures in excess of 100 total square feet;
- (2) Utilizes any structure in excess of 15 feet in height;
- (3) Requires any on-site permanent maintenance or service attendant;
- (4) Requires or utilizes three or more parking spaces; and
- (5) Creates noise, smoke, dust, odor, glare or any other condition which may have an adverse impact on area properties or uses.

**Quasi-Judicial Decision. A decision involving the findings of fact regarding a specific application of this Ordinance and requiring the exercise of discretion when applying the standards of this Ordinance. Quasi-judicial decisions include, but are not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative decisions.**

*Recreational vehicle or travel trailer (camper).* Any vehicle equipped with some or all facilities normally found in a dwelling unit and designed to serve temporarily as a substitute dwelling for short periods of time.

*Repair; major.* The following activities shall be considered "major repair:"

- (1) Engine overhaul or dismantling of subparts;
- (2) Body or frame repair;
- (3) Windshield or glass replacement;
- (4) Transmission, starter, alternator or other subpart rework service;
- (5) Welding or metal cutting; and
- (6) Any other repair other than minor repair.

*Repair; minor.* The following activities shall be considered "minor repair:"

- (1) Engine tune-up; changing of plugs, filters, oil, lubricants, belts, adjustments;
- (2) Change and rotate tires;
- (3) Brake services;
- (4) Electrical system services;
- (5) Radiator services;



- (6) Muffler services; and
- (7) Battery service.

*Residential cluster development (RCD).* See Article M.

*Residential use.* The use of land and buildings for domestic occupancy within dwelling units, including single-family, two-family attached, multi-family, boarding house, rooming house, family care home and land use intensity (rating 50) development, by the persons authorized to occupy the units. Uses not listed above shall be considered as nonresidential uses for purposes of Article D, Part 3.

*Restaurant, conventional.* An eating establishment open to the general public of which the principal use is food services, including food ordering, food preparation and on-premises food consumption, and which meets all of the following:

- (1) Does not require a membership, cover or minimum charge for admittance or service during regular or special periods of operation;
- (2) Has sales of prepared and/or packaged foods, in a ready-to-consume state, in excess of 50% of the total gross receipts for the establishment during any month.
  - (a) In determining the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state, the following sales shall be included: food prepared in the establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order; packaged food sold to accompany the meal; and non-alcoholic beverages sold to accompany the meal.
  - (b) The following shall not be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state: mixed alcoholic beverages, including the mixer; any other alcoholic beverage; grocery items not ordered and purchased with meals; and any other product, item, entertainment, service or gratuity which is not specified in this subsection (2) as a sale to be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state.
  - (c) For purposes of determining compliance under this subsection (2), the Zoning Enforcement Officer may utilize and rely upon any routine or special audit report prepared by a department, division of a department, or agency of the State of North Carolina.
- (3) May offer food in disposable containers;
- (4) Does provide sit down dining area(s);
- (5) Does provide table cleaning and clearing (busboy) services;
- (6) Does provide attendant (waiter/waitress) food delivery services, unless over the counter service is provided in accordance with subsection (9) below;
- (7) May offer carry-out and/or off-site delivery services, provided the food service is an accessory activity;
- (8) Does not offer drive-in attendant services;
- (9) May exhibit one but not both of the following operational functions or characteristics:
  - (a) Drive-through service; or
  - (b) Over the counter service. For purposes of this section, the term "over the counter service" shall include both customer ordering and the receipt of food, excepting beverages, condiments, utensils and the like, from a order/delivery station or counter remote to the on-site place of consumption.

(10) May have as an ancillary or accessory use a full service bar, live or recorded amplified music, floor show and dancing area which is open to the restaurant patrons and general public and is limited to the hours of operation of the principal use restaurant.

(Ord. No. 09-27, § 3, passed 4-9-2009)

*Restaurant, fast food.*

(1) An eating establishment open to the general public of which the principal use is food services, including food ordering, food preparation and on-premises food consumption, and which meets all of the following:

(a) Does not require a membership, cover or minimum charge for admittance or service during regular or special periods of operation;

(b) Has sales of prepared and/or packaged foods, in a ready-to-consume state, in excess of 50% of the total gross receipts for the establishment during any month.

1. In determining the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state, the following sales shall be included: food prepared in the establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order; packaged food sold to accompany the meal; and non-alcoholic beverages sold to accompany the meal.

2. The following shall not be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state: mixed alcoholic beverages, including the mixer; any other alcoholic beverage; grocery items not ordered and purchased with meals; and any other product, item, entertainment, service, or gratuity which is not specified in this subsection (b) as a sale to be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state.

3. For purposes of determining compliance under this subsection (b), the Zoning Enforcement Officer may utilize and rely upon any routine or special audit report prepared by a department, division of a department, or agency of the State of North Carolina.

(c) Does not qualify as a conventional restaurant by definition; and

(d) May have as an ancillary or accessory use a full service bar, live or recorded amplified music, floor show, and dancing area which is open to the restaurant patrons and general public and is limited to the hours of operation of the principal use restaurant.

(2) The following is not considered a "restaurant, fast food" under this definition.

(a) Ancillary or accessory food service for a permitted principal use where the food service is open to the general public such as an employee and/or patron cafeteria or eating area;

(b) Temporary food service as part of permitted temporary uses such as carnivals, fairs, street fairs, circuses, athletic events, community events, concerts, nonprofit fund raising events, emergency shelters and the like; or

(c) Any establishment where the preparation of food is merely incidental to the sale of food such as a grocery store or food market and the like.

(Ord. No. 09-27, § 4, passed 4-9-2009)

*Restaurant and/or dining and entertainment establishment; outdoor activities.*

(1) A principal and/or accessory use associated with or utilized in conjunction with a conventional or fast food restaurant or a dining and entertainment establishment which is intended for the temporary or permanent

conduct of activities relative to the sale, transfer or enjoyment of products and/or services to persons located on the business premises and which is open and unenclosed on one or more sides or which is without a complete roof structure. For purposes of this section, all areas not constituting "mechanically conditioned area" as determined by the Building Inspector shall be considered open and unenclosed. Additionally, fences and/or wire or plastic mesh screens shall be considered open and unenclosed for purposes of this section.

(2) Use of any amplified outdoor audio sound system including loud speakers, audio speakers or other electronic or mechanical sound transmission devices shall be considered as an "outdoor activity" for purposes of this definition.  
(Ord. No. 09-27, § 5, passed 4-9-2009)

*Restaurant and/or dining and entertainment establishment; regulated outdoor activities.* Any restaurant and/or dining and entertainment establishment; outdoor activity, as defined herein, which is located within 300 feet, as measured to the closest point, of any residential district, excepting CDF, which allows single-family dwellings as a permitted use.  
(Ord. No. 09-27, § 6, passed 4-9-2009)

*Retail sales.* Establishments engaged in selling merchandise for personal or household consumption, and rendering services incidental to the sale of goods. Establishments are classified by kind of business according to the principal lines of commodities sold (apparel), or the usual trade designation (shoe store). Characteristics of retail trade establishment are: the establishment is usually a place of business and is engaged in activities to attract the general public to buy; the establishment buys or receives merchandise as well as sells; the establishment may process its products, but the processing is incidental or subordinate to selling; the establishment is considered as retail in the trade; and the establishment sells to customers for personal or household use.

*Retail sales; incidental.* Retail sales accessory and incidental to the permitted nonresidential principal use including sales of: manufactured products; goods distributed at wholesale; repair and/or replacement parts; products and/or goods resulting from, utilized in and related to commercial, medical, professional or personal services and recreational activities. Such "incidental retail sales" shall meet all of the following requirements:

- (1) Shall be an accessory use to the principal use;
- (2) Shall be housed completely within the principal or related accessory structure;
- (3) Shall not occupy more than 10% of the floor area of the principal or related accessory structure;
- (4) Shall not constitute more than 20% of the gross income produced by the associated principal use during any month; and
- (5) Neither the activity itself nor any advertising display shall be visible beyond the premises.

*Retirement center.* A facility which provides housing, meals, recreational and educational activities, and medical care for retired people. This term shall include the following uses within a retirement facility: dwelling units in accordance with district standards, nursing facilities or infirmaries, food preparation and services for the occupants, administrative offices, recreational facilities, and assembly halls.

*Room renting.* Accessory residential occupancy within an owner-occupied dwelling unit wherein space is let, by the resident owner, to persons who are not related to the resident family by blood, adoption or marriage; provided that the total dwelling unit occupancy shall be limited to not more than two persons in addition to the resident owner and persons related to the resident owner by blood, adoption or marriage who constitute a family. For purposes of this definition, the term "family" and the term "persons related by blood, adoption, or marriage" shall be as defined in the definition of family contained in this section.

*Satellite dish antennae.* A structure capable of receiving communications from a transmitter relay located in planetary orbit.

*School.* A use of land or buildings for academic instruction authorized and administered by the Pitt County School System or other comparable private schools.

*Section.* Those sections found within this chapter, Title 9, Chapter 4, Zoning Ordinance, for Greenville, North Carolina unless otherwise referenced.

*Service; general.* A useful labor that does not produce a commodity.

*Service; personal.* Labor of a physical, communicative, individualized or domestic nature that directly benefits an individual.

*Service; professional.* Labor of a technical, clerical, administrative or artistic nature that directly benefits an individual or a commercial, institutional or industrial operation.

*Setback lines.* The lines which parallel any public street right-of-way, private street easement, side and rear property line or peripheral boundary line which delineates the area of a lot upon which a building may be constructed or expanded.

*Shelter, fallout.* An accessory structure or portion of a structure that provides protection to human life during periods of danger, including nuclear fallout, air raids, storms or other emergencies.

*Shelter for homeless or abused.* An establishment operated by a governmental or nonprofit organization intended to be used solely for temporary occupancy by homeless or abused persons.

*Signs.* See Article N of this chapter.

*Soil erosion and sedimentation control ordinance terms and definitions.* See Title 9, Chapter 8 of the City Code.

*Solar collector, accessory.* A device or structure for which the primary purpose is to convert solar radiant energy into another source for direct power consumption and interconnection with the power grid to offset energy consumption of a principal use. The device may be roof-mounted or ground-mounted as an accessory use.

*Solar energy facility.* A solar collection system that generates electricity from sunlight to a wholesale electricity market through a regional transmission organization and an inter-connection with the local utility power grid and/or for direct distribution to more than one property or consumer as a commercial venture located on a parcel containing a minimum of 30 acres. Solar energy facilities shall consist of a minimum of three individual photovoltaic modules (solar panels), which are an assembly of solar cells to generate electricity. Solar facilities constructed only for the production of electricity dedicated to another facility co-located the same site, or a solar facility which is clearly a subordinate accessory land use, shall not be subject to the special use permit requirements.

*Special use.* A use of land, buildings or structures that requires special and individual control over number, area, location, design, methods of operation, and relationship to surrounding uses in order to promote the public health, safety and general welfare.

**Special use permit. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. [see 160D-102]**

*Sports ramp.* Any elevated outdoor use, facility or structure which is designed and/or utilized for principal or accessory recreational purposes or activities, including bike ramps, skateboard ramps or any other ramp, tract or slide designed for use by fixed or free-motion vehicle(s), device(s) or apparatus. For the purpose of this definition the terms "vehicle(s), device(s) or apparatus" shall include all motorized, self-propelled, manual or gravity-assisted conveyances. For the purpose of this definition the term "sports ramp" shall include facilities or structures constructed from building materials, pre-fabricated or specialized kits or compacted earth mounds.

*Stable.* A building or structure designed or used for maintaining livestock or horses or for the storage of manure or soil fertilizer.

*Stockyard or livestock sales pavilion.* A place, establishment or facility consisting of pens or other enclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, goats or fowl are received, held or kept for sale or



shipment in commerce. The terms "stockyard" and "livestock sales pavilion" as used in this article shall not be interpreted to mean a place, establishment, facility or farm where livestock is reared by an individual producer such as a farmer, dairy farmer or livestock breeder for agricultural purposes.

*Storm drainage ordinance terms and definitions.* See Title 9, Chapter 9 of the City Code.

*Story.* That portion of a building between the upper surface of a floor and upper surface of the floor or roof next above. Attic space which is arranged, built, finished or intended for business occupancy or habitation shall be considered as a floor for purposes of this definition. Where no floors exist (e.g., water towers, observation towers, grandstands, stadiums, belfries), each 12 feet of height shall constitute one story.

*Streets.* Those areas delineated by dedicated rights-of-way or common property easements upon which improvements have been made for use by and open to the public.

*Streets; public.* Streets that have been accepted for permanent maintenance by either the State of North Carolina or the City of Greenville.

*Streets; private.* Streets that have been designated by easement and as such constitute public vehicular areas as provided and regulated by law. The streets shall be maintained by the property owner or pursuant to recorded agreements. No new private streets are allowed after August 14, 2014.

*Subdivision.* The division of a parcel or tract of land in accordance with the subdivision regulations, **and as prescribed under G.S.160D-802.**

*Subdivision regulations.* See Title 9, Chapter 5, Subdivisions of the City Code.

*Temporary use.* Any use intended for temporary and limited duration, operated as an accessory or principal use. Except as further provided under Article F, section 9-4-103, the maximum frequency of the temporary use shall not exceed five separate occurrences within any 12-month period and the maximum duration of the temporary use shall not exceed 60 days within any 12-month period. For purposes of this definition the duration of each separate occurrence shall be measured in continuous days. The use shall be subject to applicable location, setback, parking, land use and other standards for the district. Included in this definition are transient merchants, itinerant merchants and vendors, farm produce sales, Christmas tree sales, seafood sales, auto sales, furniture sales and the like, as well as social, religious, political or similar participatory activities. Temporary uses shall be exempt from the vegetation and parking lot surface improvement standards; provided, however, where the Director of Planning and Development Services due to extended duration or frequency of operation finds that the use or reuse no longer qualifies under this definition, all applicable standards and requirements shall apply. No permanent building shall be located on any lot for the exclusive purpose of operating any temporary use.

*Temporary sand mining.* The extraction by excavation of naturally occurring materials, such as sands and dirt ("borrow materials"), from a specifically designated and limited geographical area (which shall be identified by one or more specifically delineated property parcels) ("borrow site"), to be used in conjunction with a specifically designated government highway construction project, and which shall be for a specifically designated and limited duration in time that coincides with the completion of the government project. (See also section 9-4-86).

*Tobacco Shop (Class 1).* An establishment that, as a substantial portion of the use, entails the retail sales of tobacco products including, but not limited to, cigarettes, cigars, chewing tobacco, shisha, unformed or loose tobacco, and/or similar products. For the purpose of this definition, a substantial portion of the use is established if:

- (1) At least 20% of the establishment's floor area open and accessible to customers is used for the display and/or stocking of tobacco products as provided herein; or
- (2) At least 40% of the sign area of the establishment's on-site signage that is visible from public rights-of-way advertises tobacco products as provided herein.

*Tobacco Shop (Class 2).* An establishment that entails the retail sales of any of the following tobacco smoking apparatus: water pipes; hookah pipes; bowls; water bongs; or similar products.

*Townhouse type development.* The division of land containing attached units within one or several structures and may include the reservation of common area and which may be restricted to internal access through the original lot, common area(s) or shared easements.

*Toxic substance.* Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects. See also definition of hazardous material.

*Trade or business organization.* A noncommercial association of employees, owners, participants and/or representatives of a common commercial or industrial interest which provides occupational support services to the various membership. Activities of the use shall not produce a commodity or provide any service to interests outside the organization.

*Use.* Any purpose for which land, buildings or structures are designed, arranged, intended, occupied or maintained; or any activity, conducted or intended to be conducted, in a building, structure or on a tract of land.

*Variance.* A relaxation of a specific provision of these regulations granted by the Board of Adjustment.

**Vested right. A right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS 160D-108 or under common law.**

**Vesting Plan, Site Specific. A plan that has been submitted to the City in which the applicant requests vesting pursuant to G.S. 160D-108.1 which plan describes with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, and which establishes vested rights for a specific period of time, in accordance with applicable North Carolina General Statutes. Such plan may be in the form of, but not limited to, any of the following plans or approvals: a subdivision plat, a preliminary or general development plan, a special use permit, or any other land-use approval designation as may be utilized by the City.**

*Water dependent structure.* Any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

*Watershed.* The entire land area contributing surface drainage to a specific point (e.g., the water supply intake).

*Water supply watershed; critical and protected areas.* See Article L.

*Wayside market.* A temporary shelter, stand or location maintained and operated for the purpose of point of production retail sales of raw vegetables. Vegetables produced at a remote location shall not be offered for sale at any wayside market. The use may be operated on a continuous or intermittent basis during the growing and harvest season of the vegetables being offered for sale.

*Wireless telecommunications facilities.* **See NCGS 160D-931.**

*Wellness center.* A facility designed to promote health awareness and maintenance through a variety of programs and services tailored to a range of individual needs, including but not limited to physical fitness and nutrition education. The programs shall be coordinated by a physician consultant, who shall oversee the content and conduct of each program.

*Wholesale trade.* Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to the persons or companies. In addition to selling, wholesale establishments may maintain inventories of goods (warehouse), physically assemble, sort and grade goods, deliver goods and refrigerate goods.

*Wine and craft beer shop.* An establishment conducted pursuant to G.S. 18B-1001 as amended, and operated as a principal or accessory use, which is authorized to sell wine and/or craft beer in the manufacturer's original container for consumption off the premises, provided however, the permittee shall be authorized to conduct accessory and incidental wine and/or craft beer tasting on the premises and is further authorized to sell wine and/or craft beer for on-premises consumption, as an accessory and incidental use to the "wine and craft beer shop", provided the establishment and operation is compliant with section 9-4-103(S). Among the two limited types of alcoholic beverages that may be sold, a "wine and craft beer shop" may sell wine exclusively, craft beer exclusively, or both wine and craft beer provided that the "wine and craft beer shop" has the requisite

state permit(s) that allows retail sales of wine and/or malt beverages for consumption on the premises. A "wine and craft beer shop" that does not meet the requirements of section 9-4-103(S) shall be deemed a public or private club for the purpose of zoning and land use classification. For purposes of the wine and craft beer shop use, "craft beer" is defined as a malt beverage from a brewer with an annual production of 6,000,000 barrels of beer or less. Notwithstanding the foregoing, wine and beer shops may offer retail products and prepared pre-packaged food for purchase as an incidental use.

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*Yard.* A required open space unoccupied and unobstructed by any structure or portion of a structure, from ground to sky, except as may be specifically provided in these regulations.

*Yard, front.* A yard extending across the full length of a lot from side lot line to side lot line and lying between the abutting street right-of-way or easement line and the building line.

*Yard, rear.* A yard extending across the full length of a lot from side lot line to side lot line and lying between the rear property line and the building line.

*Yard sale.* A one- or two-day activity occurring at a residential dwelling no more than two times in any given 12-month period where items which the residents have no further use for are being resold to the general public. "Yard sales" do not include items which were originally obtained to be resold to the general public. "Yard sales" shall be considered an accessory use.

*Yard, side.* A yard extending from the side of a structure to the side lot line and lying between the front corner and the rear corner of the structure.

*Zoning enforcement officer.* The person, officer or official or his or her authorized representative, whom the City Council has designated as its agent for the enforcement of the regulations contained within Title 9, Chapter 4, Zoning, of the Greenville City Code.

*Zoning map; official.* The official zoning map for the City of Greenville, North Carolina.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2355, § 1, passed 8-9-1991; Ord. No. 2357, § 1, passed 8-8-1991; Ord. No. 2368, § 1, passed 9-12-1991; Ord. No. 2383, § 1, passed 11-7-1991; Ord. No. 2384, § 1, passed 11-7-1991; Ord. No. 2389, § 1, passed 12-12-1991; Ord. No. 2390, § 1, passed 12-12-1991; Ord. No. 2434, § 1, passed 3-12-1992; Ord. No. 2435, § 1, passed 3-12-1992; Ord. No. 2436, § 1, passed 3-12-1992; Ord. No. 2451, § 1, passed 4-9-1992; Ord. No. 2468, § 1, passed 6-8-1992; Ord. No. 2488, § 1, passed 7-9-1992; Ord. No. 2489, § 1, passed 7-9-1992; Ord. No. 2544, § 1, passed 11-12-1992; Ord. No. 2640, § 3, passed 6-10-1993; Ord. No. 2725, § 4, passed 10-14-1993; Ord. No. 94-41, § 4, passed 3-10-1994; Ord. No. 94-133, § 1, passed 10-13-1994; Ord. No. 94-135, § 1, passed 10-13-1994; Ord. No. 95-51, § 1, passed 5-11-1995; Ord. No. 95-79, §§ 1-3, passed 8-10-1995; Ord. No. 95-118, § 1, passed 11-9-1995; Ord. No. 96-45, § 1, passed 6-13-1996; Ord. No. 96-80, § 3, passed 8-8-1996; Ord. No. 97-37, §§ 1-3, passed 4-10-1997; Ord. No. 97-38, § 1, passed 4-10-1997; Ord. No. 97-81, § 1, passed 8-14-1997; Ord. No. 97-86, §§ 1, 2, passed 8-14-1997; Ord. No. 97-93, §§ 1, 2, passed 9-11-1997; Ord. No. 98-143, § 1, passed 11-12-1998; Ord. No. 99-75, § 1, passed 6-10-1999; Ord. No. 04-95, § 1, passed 8-12-2004; Ord. No. 04-96, § 1, passed 8-12-2004; Ord. No. 04-122, § 1, passed 10-14-04; Ord. No. 05-65, §§ 1-2, passed 6-9-2005; Ord. No. 05-88, §§ 1-2, passed 8-11-2005; Ord. No. 05-89, § 1, passed 8-11-2005; Ord. No. 06-25, § 1, passed 3-9-2006; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 06-113, § 3, passed 11-9-2006; Ord. No. 07-11, § 1, passed 1-11-2007; Ord. No. 08-04, § 3, passed 1-10-2008; Ord. No. 09-27, §§ 1, 2, 3, 4, 5, 6, passed 4-9-2009; Ord. No. 09-75, § 1, passed 9-10-2009; Ord. No. 09-99, § 6, passed 3-4-2010; Ord. No. 10-106, § 1, passed 12-9-2010; Ord. No. 11-055, § 2, passed 9-8-2011; Ord. No. 12-040, § 1, passed 9-13-2012; Ord. No. 12-069, § 1, passed 12-13-2012; Ord. No. 13-007, § 1, passed 2-14-2013; Ord. No. 13-014, § 1, passed 4-11-2013; Ord. No. 14-048, \_ 1, passed 8-14-2014; Ord. No. 14-049, § 3, passed 8-14-2014; Ord. No. 15-019, § 1, passed 4-9-2015; Ord. No. 15-020, § 1, passed 4-9-2015; No. Ord. 15-051, § 1, passed 9-10-2015; Ord. No. 15-059, § 1, passed 10-8-2015; Ord. No. 16-003, § 1, passed 1-14-2016; Ord. No. 16-066, §§ 1, 2, passed 12-8-2016; Ord. No. 19-045, § 1, passed 9-12-2019; Ord. 19-051, § 1, passed 10-10-2019; Ord. 19-052, § 1, passed 10-10-2019)

## **ARTICLE C. NONCONFORMING SITUATIONS**

### **SEC. 9-4-28 CONTINUATION OF NONCONFORMING SITUATIONS AND COMPLETING NONCONFORMING PROJECTS.**

(A) Unless specifically provided in these regulations and subject to the restrictions and qualifications set forth in these regulations, nonconforming situations that were otherwise lawful on the effective date of these regulations may be continued.

(B) Nonconforming projects may be completed only in accordance with the provisions of section 9-4-34. (Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-29 EXTENSION OR ENLARGEMENT OF NONCONFORMING SITUATIONS.**

(A) Except as specifically provided in this section, the extent of the nonconformity of a nonconforming situation shall not be increased. In particular, the following activities shall be prohibited:

(1) *Nonconforming uses.* An increase in the total amount of space devoted to a nonconforming use; extensions throughout any portion of a building by a nonconforming use; and an increase in volume, intensity or frequency by a nonconforming use.

(2) *Other nonconforming situations.* Greater nonconformity with respect to dimensional restrictions, density requirements or other regulations such as parking requirements; and enclosing a previously unenclosed area that does not meet all applicable development standards.

(B) Subject to section 9-4-34, a nonconforming use of undeveloped land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand mining operation) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if 10% or more of the earth products had already been removed on the effective date of these regulations.

(C) Within any zoning district, any mobile home used for single-family residential purposes and maintained as a nonconforming use may be enlarged or replaced with a mobile home of the same or larger size, provided that:

(1) The total number of dwelling units is not increased;

(2) The enlargement or replacement does not create additional nonconformities or increase the extent of existing nonconformities with respect to dimensional standards and/or parking requirements;

- (3) Subject to subsection (C)(2) above, when a single mobile home on an individual lot of record is located in a residential district, single-family requirements for the controlling district shall apply;
- (4) Subject to subsection (C)(2) above, when a single mobile home on an individual lot of record is located in a nonresidential district, R-6MH District requirements shall apply;
- (5) Subject to subsection (C)(2) above, when two or more mobile homes are located on a parcel of land in any zoning district, the provisions of Article H of this chapter shall apply;
- (6) Accessory buildings and structures shall be subject to the requirements of the applicable district or article in accordance with this section;
- (7) Parking requirements shall apply in accordance with Article O of this chapter; and/or
- (8) This section shall be subject to the limitations stated in section 9-4-32.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 98-155, § 1, passed 12-10-1998)
- (D) Within any residential zoning district, any dwelling structure used for residential purposes and maintained as a nonconforming use, and any accessory building or structure to the dwelling, shall be exempt from the provisions of subsection (A)(1) above, provided that:
- (1) The total number of dwelling units is not increased;
  - (2) The enlargement or addition does not create additional nonconformities or increase the extent of existing nonconformities with respect to dimensional standards and/or parking requirements;
  - (3) Subject to subsection (D)(2) above, when located within a single-family district, multi-family dwelling structure(s) shall comply with Article I of this chapter or single-family requirements for the controlling district, whichever is greater; and/or
  - (4) Subject to subsection (D)(2) above, when located within a single-family district, two-family attached (duplex) dwelling structures shall comply with R-6A District standards or single-family requirements for the controlling district, whichever is greater.
- (E) Within the CD downtown commercial zoning district, a nonconforming use that may be continued in accordance with the provisions of section 9-4-28 will be allowed to expand directly above the roof of existing areas devoted to the same type of nonconforming use and shall not be subject to the provisions of subsection (A)(1) above relating to said expansion, provided that:
- (1) The open air deck is directly above the nonconforming use and does not have an intervening story between the existing nonconforming use and the open air deck;
  - (2) The addition does not create additional nonconformities or increase the extent of existing nonconformities with respect to dimensional standards, setback requirements, height limits, and/or parking requirements;
  - (3) Improvements to the existing building are made so that it is in full compliance with all current North Carolina Building Code requirements as a result of the additional functional square footage and, as such, building permit applicants may be required, as determined necessary by the building inspector, to provide construction drawings that demonstrate compliance with increased structural loads through a structural analysis prepared and sealed by a professional engineer, occupant loads, egress loads including exterior stairs and/or ramps used as a means of egress, plumbing facility loads, interior and roof deck finish material information, sprinkler loads, fire alarm system and additional specific requirements pertinent to the building as a result of the addition;

- (4) New and reconfigured stairways and landings constructed to serve new open air decks upon a roof shall be allowed to be constructed within the property lines of the nonconforming use, regardless whether they are within or outside of a building's exterior walls;
- (5) It is permissible to reconstruct existing roofs to support open air decks, regardless whether existing roofs enclose conditioned buildings or are located above nonconditioned areas that are open on the side(s);
- (6) Enclosed areas on open air roof decks shall be limited to mechanical rooms, HVAC equipment, bathrooms and janitor closets;
- (7) A special use permit is approved by the Board of Adjustment for the addition; and
- (8) Notwithstanding the foregoing, the nonconforming use, including the addition, remains as a nonconforming use in accordance with the provisions of this chapter.  
(Ord. No. 98-155, § 2, passed 12-10-1998; Ord. 16-054, § 1, passed 9-8-2016)

#### **SEC. 9-4-30 REPAIRS, MAINTENANCE AND RECONSTRUCTION.**

- (A) If a structure is located on a lot where a nonconforming situation exists, then minor repairs and routine maintenance is permitted subject to the provisions of these regulations.
- (B) If a structure is located on a lot where a nonconforming situation exists, the structure may be restored and occupancy or use allowed if that structure is destroyed by fire, wind, flood or other natural disaster, provided that the restoration and occupancy or use complies with the provisions of this chapter.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2356, § 1, passed 8-8-1991)
- (C) Notwithstanding the provisions of subsection (B) above, a mobile home located within the area of special flood hazard which has been damaged due to a flood by at least 50% of its fair market value and which is located within a mobile home park that has been substantially damaged shall not be permitted to be repaired or replaced unless the density of the mobile home park is less than or equal to the maximum density as set forth in section 9-4-132. Prior to repairing or replacing such a mobile home when the density of the mobile home park is greater than the maximum density, all pads, utility services, driveways and appurtenances available for the placement of mobile homes in excess of the maximum density for the mobile home park shall be removed. For the purpose of this subsection, a mobile home park has been substantially damaged if greater than 50% of the mobile homes located within the mobile home park have been damaged by at least 50% of their fair market value as a result of a flood which occurred on or after September 15, 1999.  
(Ord. No. 00-19, § 11, passed 2-10-2000)

#### **SEC. 9-4-31 CHANGE IN USE OF PROPERTY WHERE A NONCONFORMING SITUATION EXISTS.**

- (A) A change of use where a nonconforming situation exists shall be permitted only if the intended change is to a use that is permissible in the district where the property is located.
- (B) When a dimensional nonconformity occurs as a result of a change of use, and the dimensional standard cannot be met, then the change of use shall be permitted in accordance with subsection (A) above, except in the following situations:
- (1) The intended use requires additional lot size or lot width above the minimums for the district where the property is located except in the case of single-family dwellings in CDF Zoning Districts;
  - (2) Specific conversion standards are established for the intended use; or

- (3) Specific spacing requirements between uses are established for the intended use.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-32 ABANDONMENT AND DISCONTINUANCE OF A NONCONFORMING USE.**

(A) A nonconforming use may be continued for an indefinite period, except as provided herein, provided that if the use is discontinued for a period of 180 consecutive days, the use shall not be reestablished or changed to any other use except to one that is permissible in the district where the property is located.

(B) For purposes of determining whether a right to continue a nonconforming use is lost pursuant to this section, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-33 NONCONFORMING LOTS.**

(A) Any single nonconforming lot of record existing as of the effective date of this chapter that has 80% or more of the minimum required lot area, lot width and/or frontage for the district where the property is located, may be used as a building site, subject to the following exceptions:

(1) The provisions of this subsection shall not apply to uses requiring additional lot size above the minimums for the district where the property is located, except in the case of single-family dwellings in CDF Zoning Districts;

(2) A two-family attached dwelling (duplex) may be built on a nonconforming lot of record established as of the effective date of this chapter in R-6, R-6A, R-6MH, CDF and MR Zoning Districts that has at least 80% of the minimum required lot width and/or lot frontage required for the use. However, a two-family attached dwelling (duplex) shall not be permitted to locate on a nonconforming lot that is substandard due to inadequate lot area in the above-mentioned zones; and

(3) The provisions of this section shall not apply to the conversion or new construction of a bed and breakfast inn approved pursuant to section 9-4-86(U)(4).

(B) Where there are two or more undeveloped adjoining nonconforming lots in one ownership at any time on or after May 8, 1969, and the lots individually are less than the minimum area and/or width required (pursuant to subsection (A) above) for the district in which they are located, then the group of lots shall be considered as a single lot or several lots of minimum permitted area and width for the district in which located. This section shall apply to the current owner of the adjoining undeveloped nonconforming lots and to any successor(s) in interest of the lot(s).

(C) Prior to development of any building site resulting from the combination of substandard lots under this section, a final plat of the combination shall be approved and recorded in accordance with Title 9, Chapter 5, Subdivisions, of the Greenville City Code.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 94-157, § 1, passed 12-8-1994; Ord. No. 95-29, § 7, passed 3-9-1995; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997; Ord. No. 98-104, § 1, passed 8-13-1998; Ord. No. 05-89, § 9, passed 8-11-2005)

**SEC. 9-4-34 COMPLETION OF NONCONFORMING PROJECTS; VESTED RIGHTS.**

(A) The vested right is a right which is established pursuant to NCGS 160D-108 or 160D-108.1 to undertake and complete the development and use of property under the terms and conditions of an approved development plan. When a building permit has been validly issued for construction of a nonconforming project, the expiration provisions of NCGS 160D-403(f) shall apply, the project shall be permitted to develop in accordance with the terms of that permit provided the building permit remains unrevoked and unexpired.

(B) Obtaining Site Development Plan approval or Preliminary Plat Subdivision approval in accordance with Title 9, Chapter 5, Subdivisions, of the Greenville City Code through the vested rights procedure gives the applicant the right to start construction of the development as approved within two (2) years of approval. A vested right is obtained:

(1) Automatically when a special use permit is granted by virtue of Board of Adjustment approval;

- (2) Automatically when a *Subdivision Plat* is approved and the *Plat* recorded in accordance with the procedure set forth in Title 9, Chapter 5, Subdivisions, of the Greenville City Code; and
- (3) Automatically when the Board of Adjustment approves a *site-specific vesting plan* submitted by a developer in conjunction with an application for a *zoning permit* with vested rights as described in this section.

(B) A vested right shall be deemed established to any property upon the valid approval of a site plan by the authority having planning and zoning jurisdiction over the property. The vested right shall confer upon the landowner, the right to undertake and complete the development and use of the property under the terms and conditions of the site plan. Nothing in this section shall prohibit the city from revoking the original approval for failure to comply with applicable terms and conditions of the approval.

(C) A site plan shall be deemed approved upon the effective date of the action as noted upon the site plan or other method customarily utilized by the applicable approval authority.

(D) A right which has been vested as provided for in this section shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to any site plan. A right which has been vested as provided in this section shall terminate at the end of the aforesaid vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

(E) A vested right, once established as provided for in this section, precludes any zoning action by the city which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in an approved site plan, except as provided by state or federal law. Applicable new regulations shall become effective with respect to property which is subject to a site plan upon the expiration or termination of the vesting rights period provided for in this section.

(F) Notwithstanding any provision of this section, the establishment of a vested right shall not preclude, change or impair the authority of the city to adopt and enforce Zoning Ordinance provisions governing nonconforming situations, lots or uses.

(G) A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a site plan, all successors to the original landowner shall be entitled to exercise such rights as provided herein.

(H) Nothing in this section shall be deemed to conflict with the rights conferred upon a subdivider by the city subdivision regulations when preliminary subdivision plat approval has been given to a nonconforming project.

- (I) Except as provided in this section, no building permit shall be issued, nor shall any site plan approval be vested for a project that does not conform with these regulations.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-35 ~~SITE~~ DEVELOPMENT PLAN VESTED RIGHTS.**

- (A) Pre-Application Conference. The applicant for *Site Development Plan* approval with vested rights shall meet with the Director of Planning and Development Services or designee to inquire about specific zoning requirements. The applicant and the Director of Planning and Development Services shall discuss the *Site Development Plan* review process and applicable meetings, scheduling, and deadlines. In addition, the Director of Planning and Development Services shall advise the applicant of the specific requirements the project needs to address and discuss other aspects of the vested rights procedure.
- (B) Filing of application. In order to apply for *Site Development Plan* review under the vested rights procedure, the applicant must indicate their intent to obtain vested rights in the form of a letter to the Director of Planning and Development Services. The letter shall include the property address, Pitt County Tax Office parcel identification number, name of the property owner, and any other pertinent information.
- (C) *Site Development Plan* required. *Site Development Plans* prepared in accordance with the standards set forth by this Ordinance shall be submitted when applying for vested rights. The standards for the *Site Development Plan* to be submitted depend upon the specified development review process in this Ordinance.
- (D) The Director of Planning and Development Services shall review the application and accompanying *Site Development Plan(s)* for compliance with the requirements of this Ordinance and other applicable regulations.

After review and approval through the appropriate administrative staff level review process, the request for vested rights will be scheduled for an evidentiary legislative hearing before the Board of Adjustment Greenville City Council. The evidentiary legislative hearing will be scheduled as provided by the Board of Adjustment's City Council's rules of procedure.

- (E) Requests for vested rights for *Site Development Plans* shall be scheduled for formal review at the next regular meeting of the Board of Adjustment City Council following review and approval by staff and/or the Planning and Zoning Commission. At this time, the Board of Adjustment City Council shall hold an evidentiary legislative hearing to review the *Site Development Plan* and evaluate its conformance with the requirements of this Ordinance and other applicable requirements of the City of Greenville. In considering an application for *Site Development Plan* approval with vested rights, the Board of Adjustment City Council shall give due regard to whether issuance of the permit would serve the purpose and intent of this Ordinance, secure public safety and welfare, and do substantial justice. If the Board of Adjustment City Council should find, after evidentiary legislative hearing, that the proposed permit should not be granted, the permit should be denied. If the Board of Adjustment City Council finds that the request meets the requirements stated above, it then shall take one of the following actions.
- (1) Approve the *Site Development Plan* with vested rights request. The Director of Planning and Development Services is then directed to issue a vested rights *zoning permit*.
  - (2) Approve the *Site Development Plan* with vested rights request subject to conditions which are necessary to protect the public health, safety, and welfare. The Director of Planning and Development Services is then directed to issue the vested rights *zoning permit* subject to the changes in the *Site Development Plan* to be made by the developer.
  - (3) Continue the *Site Development Plan* with vested rights request pending the submittal of additional information.
- (F) Findings. In granting a *zoning permit* with vested rights the Board of Adjustment City Council shall make the following affirmative findings.
- (1) The use requested is among those permitted in the district in which the property is located and complies with all the requirements of this and other applicable Ordinances;
  - (2) The requested permit is either essential or desirable for the public convenience or welfare;
  - (3) The requested permit will not impair the integrity or character of the surrounding or adjoining districts and will not be detrimental to the health, safety, or welfare of the community; and
  - (4) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.
- (G) Additional Restrictions and Requirements. In granting a *zoning permit* with vested rights, the Board of Adjustment City Council may impose such additional restrictions and requirements upon the permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured, and substantial justice done. Approval of a site specific development plan with the condition that a variance or modification be obtained shall not confer a vested right unless and until the necessary variance or modification is obtained. If all requirements and conditions are accepted by the applicant, the Board of Adjustment City Council shall authorize the issuance of the permit; otherwise the permit shall be denied. Unless otherwise approved under authority of G.S.160D-108(d)(2), any permit so authorized shall remain vested for two (2) years from the date of the action granting the permit. No change or amendment to any *zoning permit* with vested rights shall be made except after an evidentiary hearing and except as provided for in this Ordinance for the original issuance of such permit. If, at the time of consideration of a proposed change or amendment to an existing permit, the permit or proposed change or amendment could not be lawfully made under Ordinance conditions existing at that time, the proposed change or amendment shall be denied. In addition, in no case shall there be an extension of the two-year time period for which the development right is vested. Nothing herein shall exempt plans related to the permit from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approvals.
- (H) Variances from the procedures and requirements for obtaining vested rights as set forth in this section shall not be permitted. Requests for variances from the development standards established by this Ordinance shall be heard by the *Board of Adjustment*.
- (I) Violations of the terms and/or conditions of the vested rights approval shall be considered a violation of this Ordinance and shall be subject to the enforcement and penalty provisions set forth in this Ordinance. In addition, the Board of Adjustment may, after legislative hearing, revoke any such vested rights for failure to abide by any such term or condition.

- (J) Any development constructed pursuant to a zoning permit with vested rights for which the vested term has expired and which is not in conformance with all the terms of the Ordinance because of changes made in the provisions of this Ordinance, including the official zoning map, after the issuance of the permit shall be subject to the provisions of this Ordinance relating to non-conformities the same as any other nonconformity.

**SEC. 9-4-36 ANNEXATION DECLARATION OF VESTED RIGHTS.**

Any landowner who signs an annexation petition to the City pursuant to G.S. 160A-31 or G.S. 160A-58.1 shall, as part of that petition, file a signed statement declaring whether or not vested rights with respect to the property subject to the petition have been established under G.S. 160D-108.1. If the statement declares that such rights have been established, the City may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established by law shall be binding on the landowner and any such vested right shall be terminated.

**SEC. 9-4-357 REMOVAL OF CERTAIN NONCONFORMING USES REQUIRED.**

The following uses, if they are or become nonconforming by virtue of the adoption of this chapter or of subsequent amendments thereto, shall be removed within 39 months after the date of adoption hereof or of the amendment:

Stockyards or livestock sale pavilions.

(Ord. No. 2074, passed 10-5-1989; Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-368 REMOVAL OF CERTAIN NONCONFORMING RESIDENTIAL ACCESSORY USES AND/OR STRUCTURES REQUIRED.**

The following accessory uses and/or structures, if they are or become nonconforming by virtue of this chapter or of subsequent amendments thereto, shall be removed within 12 months after the date of adoption hereof or of the amendment:

Sports ramps.

(Ord. No. 04-95, § 3, passed 8-12-2004)

**ARTICLE D. ZONING DISTRICTS****PART 1. INTERPRETATION****SEC. 9-4-41 LOCATION AND BOUNDARIES OF DISTRICTS.**

The location and boundaries of the districts established by Part 2 of this article shall be shown on the official zoning map. (Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-42 RULES FOR INTERPRETATION OF BOUNDARIES.**

Where the location of district boundaries on the official zoning map is uncertain and where no specific ordinance description is found to exist, the following rules shall apply:

(A) *Streets, rights-of-way and easements.* Boundaries indicated on the zoning map as approximately following the centerline of a street, highway, railroad right-of-way, utility easement, stream or river bed, or of the lines extended, shall be construed to be those district boundaries.

(B) *Lot lines.* Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines.

(C) *Political boundaries.* Boundaries indicated as approximately following political boundaries shall be construed as following the political boundaries.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-43 VACATION, ABANDONMENT OR WITHDRAWAL OF STREETS AND ALLEYS.**

Where any public street or alley is hereafter officially closed or abandoned, the regulations applicable to parcels of abutting property shall apply to that portion of the street or alley added thereto by virtue of the vacation or abandonment.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-44 FURTHER INTERPRETATION BY BOARD OF ADJUSTMENT.**

In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the map as to location of the boundaries.

(Ord. No. 2337, § 1, passed 6-13-1991)

**PART 2. PURPOSE****SEC. 9-4-45 ZONING DISTRICTS ESTABLISHED.**

In order that the purposes of these regulations may be accomplished, the following zoning districts are hereby established within the jurisdiction area as described in section 9-4-4. The uses prescribed in each zoning district are intended to preserve and enhance the physical character of the area as well as to conserve and stabilize property values.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-46 RA-20 RESIDENTIAL-AGRICULTURAL.**

The RA-20 District is primarily designed to accommodate a compatible mixture of single-family dwellings and agricultural uses at lower densities. These areas are generally found in areas without sewer service that are not yet appropriate for development at higher densities.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-47 R-15S RESIDENTIAL-SINGLE-FAMILY.**

The R-15S District is primarily designed to accommodate single-family uses at lower densities.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-48 R-9S RESIDENTIAL-SINGLE-FAMILY.**

The R-9S District is primarily designed to accommodate single-family dwellings at medium densities.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-49 R-9 RESIDENTIAL.**

The R-9 District is primarily designed to accommodate a compatible mixture of single-family and two-family dwellings at medium densities.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-83, § 1, passed 8-14-1997)

**SEC. 9-4-50 R-6S RESIDENTIAL-SINGLE-FAMILY.**

The R-6S District is primarily designed to accommodate single-family dwellings at medium densities.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-83, § 2, passed 8-14-1997)

**SEC. 9-4-51 R-6 RESIDENTIAL.**

The R-6 District is primarily designed to accommodate a compatible mixture of single-family, two-family and multi-family dwellings at higher densities.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-51.1 R-6A RESIDENTIAL.**

The R-6A District is primarily designed to accommodate a compatible mixture of single-family, two-family and multi-family dwellings at medium densities.

(Ord. No. 95-29, § 1, passed 3-9-1995)

**SEC. 9-4-51.2 R-6A RESTRICTED RESIDENTIAL USE (RU) OVERLAY.**

The purpose of the R-6A Restricted Residential Use (RU) Overlay District is to provide a residential development option designed to encourage single-family and/or two-family attached (duplex) development and to prohibit multi-family development within the underlying R-6A District included within the overlay.

(Ord. No. 04-123, § 1, passed 10-14-2004)

**SEC. 9-4-52 R-6N RESIDENTIAL-NEIGHBORHOOD REVITALIZATION.**

The R-6N District is primarily designed to accommodate single-family dwellings and a limited number of two-family and multi-family dwellings at higher densities.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-53 R-6MH RESIDENTIAL-MOBILE HOME.**

The R-6MH District is primarily designed to accommodate a compatible mixture of single-family (including mobile homes), two-family and multi-family dwellings at higher densities.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-54 PUD PLANNED UNIT DEVELOPMENT.**

The PUD District is a special use residential zoning district that provides an alternative to traditional development standards and as further provided under Article J.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-55 MI MEDICAL-INSTITUTIONAL.**

The MI District is primarily designed to provide areas where the institutionalized care of physically and/or mentally ill people can be provided and where governmental or private agencies, offices, or institutions can provide services of a medical, para-medical, or social service nature. It shall also be the purpose of this district to provide for a healthful environment that is conducive to the care and convalescing of ill people.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997)

**SEC. 9-4-56 MS MEDICAL-SUPPORT.**

The MS District is primarily designed to create areas in which hospitals, rehabilitation centers, medical offices and clinics may be compatibly mixed, in order that these related uses can be near each other for doctor and patient convenience. The district shall also allow a wider variety of medical support services. In addition, through its permitted uses, the district shall encourage a healthful environment in abutting residential areas, as well as within the health care delivery community.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997)

**SEC. 9-4-57 MO MEDICAL-OFFICE.**

The MO District is primarily designed to provide for general business, professional offices and institutional uses, as well as to provide additional areas for medical offices and clinics to locate in a professional office environment. In addition, the district shall prohibit commercial and industrial land uses which can generate large traffic volumes, and shall encourage the development of areas that will serve as a buffer for residential zoning districts.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997)

**SEC. 9-4-58 MCG MEDICAL-GENERAL COMMERCIAL.**

The MCG District is primarily designed to provide for the sale of convenience goods, for provision of personal services, and for other frequent needs of the trade area within the medical district community in a planned shopping center environment. In addition, it is the purpose of this section to require that development sites of less than four acres be developed in conjunction with larger development sites in such a way that sites of less than four acres are served by internal traffic circulation in conjunction with the larger development site.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997)

**SEC. 9-4-59 MR MEDICAL-RESIDENTIAL.**

The MR District is primarily designed to accommodate a compatible mixture of single-family, two-family and multi-family dwellings at higher densities.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997)

**SEC. 9-4-60 MCH MEDICAL-HEAVY COMMERCIAL.**

The MCH District is primarily designed to accommodate commercial developments that will best service the motoring public, as well as uses that will generate large traffic volumes in a development atmosphere that shall encourage compact, convenient shopping.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997)

**SEC. 9-4-61 MRS MEDICAL-RESIDENTIAL-SINGLE-FAMILY.**

The MRS District is primarily designed to accommodate a compatible mixture of single-family dwellings and agricultural uses at lower densities.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997)

**SEC. 9-4-62 OR OFFICE-RESIDENTIAL.**

The OR District is primarily designed to accommodate a compatible mix of two-family attached and multi-family dwellings and business and professional uses in addition to providing a desirable buffer between commercial and high density residential uses.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997)

**SEC. 9-4-63 O OFFICE.**

The O District is primarily designed to accommodate a compatible mix of business, professional and institutional uses, in addition to providing a desirable buffer between commercial and low density residential uses.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997)

**SEC. 9-4-64 CN NEIGHBORHOOD COMMERCIAL.**

The CN Neighborhood Commercial District is primarily designed to accommodate convenient shopping facilities consisting primarily of necessary goods and personal services required to serve a neighborhood.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-65 CD DOWNTOWN COMMERCIAL.**

The purpose of the CD District is to provide convenient shopping and service facilities by promoting compact development of commercial, office and service uses. High density residential development is encouraged to be compatibly mixed with permitted nonresidential uses.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-66 CDF DOWNTOWN COMMERCIAL FRINGE.**

The purpose of the CDF District is to provide commercial and service activities designed to enhance the downtown commercial area, stimulate redevelopment and encourage a compatible mix of commercial and high density residential development.

(1971 Code, § 9-4-67) (Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-67 CH HEAVY COMMERCIAL.**

The CH District is primarily designed to provide roadside uses which will best accommodate the needs of the motoring public and of businesses demanding high volume traffic.

(1971 Code, § 9-4-69) (Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997)

**SEC. 9-4-68 CG GENERAL COMMERCIAL.**

The purpose of the CG District is to accommodate a variety of commercial and service activities on an individual lot-by-lot basis and in a planned center setting.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997)

**SEC. 9-4-69 PI PLANNED INDUSTRY.**

The purpose of the PI Industry District shall be to accomplish those purposes set forth under section 9-4-72 while providing an alternative to traditional industrial development dimensional and subdivision standards designed to:

- (A) Promote economical and efficient use of lands;
- (B) Reduce initial development costs;
- (C) Encourage innovative industrial development design and layout of buildings;
- (D) Provide large lot developments which enhance the physical appearance of the area by preserving natural features, open space and existing vegetation; and
- (E) Allow ground absorption and filtration of street and site surface drainage thereby reducing negative impacts on downstream water quality.

(1971 Code, § 9-4-73) (Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-70 IU UNOFFENSIVE INDUSTRY.**

The IU District is primarily designed to accommodate those industrial and wholesale, and warehouse uses which, by their nature, do not create an excessive amount of noise, odor, smoke, dust, airborne debris or other objectionable impacts which might be detrimental to the health, safety or welfare of surrounding areas.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-71 PIU PLANNED UNOFFENSIVE INDUSTRY.**

The purpose of the PIU District shall be to accomplish those purposes set forth under section 9-4-70 while providing an alternative to traditional industrial development dimensional and subdivision standards designed to:

- (A) Promote economical and efficient use of lands;

- (B) Reduce initial development costs;
- (C) Encourage innovative industrial development design and layout of buildings;
- (D) Provide large lot developments which enhance the physical appearance of the area by preserving natural features, open space and existing vegetation; and
- (E) Allow ground absorption and filtration of street and site surface drainage thereby reducing negative impacts on downstream water quality.  
(Ord. No. 2337, § 1, passed 6-13-1991)

#### **SEC. 9-4-72 I INDUSTRY.**

The I Industry District is primarily designed to accommodate those industrial, wholesale and warehouse uses which by their nature may create an excessive amount of noise, odor, smoke, dust, airborne debris or other objectionable impacts which might be detrimental to the health, safety or welfare of surrounding areas.  
(Ord. No. 2337, § 1, passed 6-13-1991)

#### **SEC. 9-4-73 CA CONSERVATION OVERLAY DISTRICT.**

The purpose of the CA Conservation Area Overlay District shall be to provide for permanent open space and desirable buffers between proposed uses and incompatible adjacent land uses, environmentally sensitive areas or hazardous areas in excess of minimum standards and to provide a method and means by which the open space and increased buffer areas may be utilized to fulfill zoning requirements applicable to individual lot development pursuant to Article L, Special Districts.  
(1971 Code, § 9-4-76)

#### **SEC. 9-4-74 WS WATER SUPPLY WATERSHED OVERLAY.**

The purpose of the WS Water Supply Watershed Overlay District shall be to protect and manage surface water supply watersheds pursuant to the Water Supply Watershed Act of 1989 and N.C. G.S. 143-214.5 as amended. The WS Overlay District shall include both a (WS-C) Critical Area and (WS-P) Protected Area District as defined and regulated pursuant to Article L.  
(Ord. No. 2640, § 4, passed 6-10-1993)

#### **SEC. 9-4-75 HD HISTORIC OVERLAY DISTRICT.**

The purpose of the HD Historic District Overlay District shall be to preserve, protect and manage locally designated historic landmarks pursuant to Article L, Special Districts.  
(Ord. No. 94-22, § 1, passed 2-10-1994)

#### **SEC. 9-4-76 UC URBAN CORE OVERLAY DISTRICT.**

The purpose of the UC Urban Core Overlay District is to allow modification of residential development standards of the underlying zoning district(s) which are designed to facilitate development and redevelopment of in-fill sites.  
(Ord. No. 10-19, § 1, passed 3-4-2010)

**SEC. 9-4-77 UNIVERSITY NEIGHBORHOOD REVITALIZATION INITIATIVE (UNRI) OVERLAY DISTRICT.**

The purpose of the University Neighborhood Revitalization Initiative (UNRI) Overlay District is to allow modifications of the standards of the underlying zoning district(s) which are designed to provide for compatibility among university neighborhood properties in order to facilitate the sustainability, preservation, restoration, and revitalization of the university neighborhood.

(Ord. No. 12-045, § 1, passed 10-11-2012; Ord. No. 14-020, passed 4-10-2014)

*PART 3. PERMITTED AND SPECIAL USES***SEC. 9-4-78 TABLE OF USES.**

The Table of Uses is set forth in Appendix A to this chapter.

(A) Permitted uses are indicated in the table by the letter P.

(B) Special uses are indicated in the table by the letter S.

(C) (1) Each listed principal use activity is assigned a land use classification number (LUC#) ranging from one to five, for purposes of determining required bufferyards.

(2) In the case of planned centers containing multiple principal uses, such as shopping centers, office/commercial unit ownership type developments and the like, the initial bufferyard requirement shall be based on the anticipated primary occupancy of the center and the requirement shall apply to all subsequent uses absent any change in zoning for the planned center.



(D) Each listed accessory use activity and the master plan community use is assigned an asterisk (\*) in substitution for a land use classification number. Such, and other accessory use(s) and various uses within an approved master plan community shall be subject to the land use classification number of the associated principal use.

(E) The index to the use table categories is set forth in Appendix A to this chapter.

(F) The following uses may, in addition to other unlisted uses, be subject to special licensing or regulatory approval of City Council.

(1) Vehicles for hire; taxi or limousine service;

(2) Parades;

(3) Junk dealers;

(4) Solicitations by charitable organizations;

(5) Auctions of gold, jewels and the like;

(6) Poolrooms;

(7) Bowling alleys;

(8) Pawnshops;

(9) Sexually oriented businesses; massage parlors;

(10) Transient merchants, itinerant merchants and vendors;

(11) Sunday observances; hours of operation; and

(12) Municipal buildings, parks or recreation areas to be used for athletic events and/or night programs which are located in a residential area.

(G) It shall be the responsibility of each person who uses or proposes to use any land(s) subject to this chapter, to have knowledge of all requirements and restrictions applicable to the particular use whether set forth herein or otherwise required by law.

(Ord. No. 2355, § 1, 2, passed 8-9-1991; Ord. No. 2365, § 1, passed 9-12-1991; Ord. No. 2366, § 1, passed 9-12-1991; Ord. No. 2367, § 1, passed 9-12-1991; Ord. No. 2368, § 2, passed 9-12-1991; Ord. No. 2381, § 1, passed 11-7-1991; Ord. No. 2383, § 2, passed 11-7-1991; Ord. No. 2390, § 2, passed 12-12-1991; Ord. No. 2408, § 1, passed 1-9-1992; Ord. No. 2409, § 2, passed 1-9-1992; Ord. No. 2410, § 1, passed 1-9-1992; Ord. No. 2417, § 1, passed 2-10-1992; Ord. No. 2421, § 1, passed 2-13-1992; Ord. No. 2422, § 1, passed 2-13-1992; Ord. No. 2433, §§ 1, 2, passed 3-12-1992; Ord. No. 2436, § 2, passed 3-12-1992; Ord. No. 2449, § 1, passed 4-9-1992; Ord. No. 2450, § 1, passed 4-9-1992; Ord. No. 2468, § 2, passed 6-8-1992; Ord. No. 2488, § 2, passed 7-9-1992; Ord. No. 2489, § 2, passed 7-9-1992; Ord. No. 2498, § 1, passed 8-13-1992; Ord. No. 2499, § 1, passed 8-13-1992; Ord. No. 2500, § 1, passed 8-13-1992; Ord. No. 2542, § 1, passed 11-12-1992; Ord. No. 2544, § 1, passed 11-12-1992; Ord. No. 2545, § 1, passed 11-12-1992; Ord. No. 2564, § 1, passed 1-14-1993; Ord. No. 2565, § 1, passed 1-14-1993; Ord. No. 2592, § 1, passed 2-11-1993; Ord. No. 2594, § 1, passed 2-11-1993; Ord. No. 2623, § 1, passed 4-8-1993; Ord. No. 2632, § 1, passed 5-13-1993; Ord. No. 2700, §§ 1, 3, 4, passed 8-12-1993; Ord. No. 2701, § 1, passed 10-14-1993; Ord. No. 2723, § 1, passed 10-14-1993; Ord. No. 2725, §§ 1, 3, passed 10-14-1993; Ord. No. 94-78, § 1, passed 6-9-1994; Ord. No. 94-123, § 1, passed 9-8-1994; Ord. No. 94-124, § 1, passed 9-8-1994; Ord. No. 94-132, §§ 1, 2, passed 10-13-1994; Ord. No. 94-133, § 2, passed 10-13-1994; Ord. No. 94-134, § 1, passed 10-13-1994; Ord. No. 94-135, § 2, passed 10-13-1994; Ord. No. 94-156, § 2, passed 12-8-1994; Ord. No. 94-158, §§ 1, 2, passed 12-8-1994; Ord. No. 95-10, § 1, passed 1-12-1995; Ord. No. 95-29, §§ 2, 3, passed 3-9-1995; Ord. No. 95-30, § 1, passed 3-9-1995; Ord. No. 95-113, § 1, passed 11-9-1995; Ord. No. 95-134, § 1, passed 12-14-1995; Ord. No. 95-135, § 1, passed 12-14-1995; Ord. No. 95-136, § 1, passed 12-14-1995; Ord. No. 96-43, §§ 1, 2, passed 6-13-1996; Ord.

No. 96-46, §§ 1, 2, passed 6-13-1996; Ord. No. 96-76, § 1, passed 8-8-1996; Ord. No. 96-77, §§ 1, 2, passed 8-8-1996; Ord. No. 96-80, §§ 1, 2, passed 8-8-1996; Ord. No. 96-89, §§ 1, 2, passed 9-12-1996; Ord. No. 97-5, §§ 6, 8, passed 1-9-1997; Ord. No. 97-16, § 1, passed 2-13-1997; Ord. No. 97-21, § 1, passed 2-24-1997; Ord. No. 97-36, § 1, passed 4-10-1997; Ord. No. 97-38, §§ 2, 3, passed 4-10-1997; Ord. No. 97-84, §§ 1, 2, 3, passed 8-14-1997; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997; Ord. No. 97-86, §§ 3, 4, passed 8-14-1997; Ord. No. 97-87, § 1, passed 8-14-1997; Ord. No. 97-88, § 1, passed 8-14-1997; Ord. No. 98-143, §§ 2, 3, passed 11-12-1998; Ord. No. 99-153, § 1, passed 12-9-1999; Ord. No. 00-19, § 7, passed 2-10-2000; Ord. No. 00-152, § 1, passed 11-09-2000; Ord. No. 01-13, § 1, passed 2-08-2001; Ord. No. 02-16, § 1-2, passed 2-14-2002; Ord. No. 02-103, § 1, passed 10-10-2002; Ord. No. 03-14, § 1, passed 2-13-2003; Ord. No. 03-31, §§ 1, 2, 3, 4, passed 4-10-2003; Ord. No. 03-49, §§ 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, passed 6-12-2003; Ord. No. 04-43, § 1, passed 5-13-2004; Ord. No. 04-94, § 1, passed 8-12-2004; Ord. No. 04-122, §§ 2, 3, passed 10-14-2004; Ord. No. 04-143, § 1, passed 11-8-2004; Ord. No. 05-64, §§ 1, 2, passed 6-9-2005; Ord. No. 05-89, §§ 2, 6, passed 8-11-2005; Ord. No. 05-122, § 1, passed 10-13-2005; Ord. No. 06-93, §§ 1, 3, passed 9-14-2006; Ord. No. 06-113, §§ 1, 2, passed 11-9-2006; Ord. No. 07-11, §§ 2-3, passed 1-11-2007; Ord. No. § 1, passed 2-8-2007; Ord. No. 07-74, § 1, passed 6-14-2007; Ord. No. 07-108, § 1, passed 9-13-2007; Ord. No. 07-151, §§ 1, 2, passed 12-13-2007; Ord. No. 08-04, §§ 1, 2, passed 1-10-2008; Ord. No. 08-26, § 1, passed 3-13-2008; Ord. No. 08-68, § 1, passed 6-12-2008; Ord. No. 09-75, § 2, passed 9-10-2009; Ord. No. 09-99, § 1, passed 12-10-2009; Ord. No. 14-048, \_ 2, passed 8-14-2014; Ord. No. 14-058, \_ 1, passed 9-11-2014; Ord. No. 15-041, §§ 1 - 3, passed 8-13-2015; Ord. No. 16-010, §§ 1, 2, passed 2-11-2016; Ord. No. 16-066, § 3, passed 12-8-2016; Ord. No. 18-035, § 1, passed 6-14-2018; Ord. No. 18-036, § 1, passed 6-14-2018)

#### *PART 4. OVERLAY DISTRICTS*

##### **SEC. 9-4-79 STANDARDS FOR OVERLAY DISTRICTS.**

Where any lands are located within any overlay district(s) the applicable standards, uses, conditions and restrictions specified under Article L shall be in addition to the standards, uses, conditions and restrictions of the underlying zoning district(s). Unless otherwise specified, where any conflict exists between any one or more overlay or underlying district standards, uses, conditions and restrictions, the more restrictive shall apply.

(Ord. No. 2640, § 6, passed 6-10-1993)

#### *ARTICLE E. STANDARDS AND CRITERIA FOR SPECIAL USES*

##### **SEC. 9-4-81 GENERAL CRITERIA.**

The Board of Adjustment may grant permission for the establishment of a listed special use if the Board finds from the evidence produced after a study of the complete record, as follows, that:

(A) *Conditions and specifications.* The proposed use meets all required conditions and specifications of the Zoning Ordinance and policies of the city for submission of a special use permit. Such conditions and specifications include but are not limited to the following:

- (1) Compliance with lot area and dimensional standards;
- (2) Compliance with setback and other locational standards;

- (3) Compliance with off-street parking requirements;
  - (4) Compliance with all additional specific criteria set forth for the particular use, section 9-4-84 of this article; and
  - (5) Compliance with all application submission requirements.
- (B) *Comprehensive Plan.* The proposed use is in general conformity with the Comprehensive Land Use Plan of the city and its extraterritorial jurisdiction;
- (C) *Health and safety.* The proposed use will not adversely affect the health and safety of persons residing or working in the neighborhood of the proposed use. Such health and safety considerations include but are not limited to the following:
- (1) The safe and convenient location of all on-site parking and drives;
  - (2) The existing vehicular traffic on area streets;
  - (3) The condition and capacity of area street(s) which will provide access to the proposed development;
  - (4) The visibility afforded to both pedestrians and operators of motor vehicles both on-site and off-site;
  - (5) The reasonably anticipated increase in vehicular traffic generated by the proposed use; and
  - (6) The anticipated, existing and designed vehicular and pedestrian movements both on-site and off-site.
- (D) *Detriment to public welfare.* The proposed use will not be detrimental to the public welfare or to the use or development of adjacent properties or other neighborhood uses;
- (E) *Existing uses detrimental.* The proposed use would not be adversely affected by the existing uses in the area in which it is proposed;
- (F) *Injury to properties or improvements.* The proposed use will not injure, by value or otherwise, adjoining or abutting property or public improvements in the neighborhood; and
- (G) *Nuisance or hazard.* The proposed use will not constitute a nuisance or hazard. Such nuisance or hazard considerations include but are not limited to the following:
- (1) The number of persons who can reasonably be expected to frequent or attend the establishment at any one time;
  - (2) The intensity of the proposed use in relation to the intensity of adjoining and area uses;
  - (3) The visual impact of the proposed use;
  - (4) The method of operation or other physical activities of the proposed use;
  - (5) The noise; odor; smoke; dust; emissions of gas, particles, solids or other objectionable or toxic characteristics which are proposed or that can reasonably be expected to be a result of the operation of the proposed use; and
  - (6) The danger of fire or explosion.
- (Ord. No. 99-19, § 1, passed 2-11-1999)

**SEC. 9-4-82 ADDITIONAL RESTRICTIONS.**

The Board of Adjustment may impose or require additional conditions, restrictions and standards as may be necessary to protect the health and safety of workers and residents of the community, and to protect the value and use of property in the general neighborhood.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-83 REVOCATION OF PERMITS AFTER NOTICE AND OPPORTUNITY TO BE HEARD.**

Whenever the Board of Adjustment shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions or restrictions upon which the permit was granted are not being complied with, the Board shall rescind and revoke the permit after giving notice to all parties concerned and granting full opportunities for a hearing.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-84 SPECIFIC CRITERIA.**

The Board of Adjustment may grant permission for the establishment of the uses listed under section 9-4-85 subject to the specific criteria set forth under section 9-4-86, the general criteria of section 9-4-81, as well as any special conditions which the Board may deem necessary to satisfy the general criteria of section 9-4-81.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-85 INDEX TO LISTED USES REQUIRING A SPECIAL USE PERMIT.**

- (A) Adult uses;
- (B) Major or minor repair facilities;
- (C) Banks and savings and loan facilities;
- (D) Cemetery;
- (E) Child day care facilities;
- (F) Public or private club;
- (F) 1. Dining and entertainment establishments;
- (G) Fraternity or sorority;
- (H) Greenhouse or plant nursery;
- (I) Group care facility;
- (J) Junkyard or automobile graveyard;
- (K) Manufacture of nonhazardous medical supplies or medical products, including distribution;
- (L) Office; professional and business;
- (M) Public utility building or use;
- (N) Radio and television studios, transmission and/or receiving facilities;

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- (O) Residential quarters for resident managers or caretakers.
- (P) Restaurants; conventional or fast food;
- (Q) Medical supply sales and rental of medically related products;
- (R) Mining, quarrying, and temporary sand mining;
- (S) Sanitary landfill or incinerator;
- (T) Public or private noncommercial park or recreational facility;
- (U) Home occupation;
- (V) Retirement center, home or related uses;
- (W) School;
- (X) Stable;
- (Y) Boarding or rooming house;
  - (Z) Nursing, convalescent or maternity home;
- (AA) Shelter for homeless or abused persons;
- (BB) Multi-purpose center;
- (CC) Guest house for a college or institution of higher learning;
- (DD) Church or place of worship;
- (EE) Billiard parlor or pool hall;
- (FF) Convention center; private;
- (GG) Athletic club; outdoor facilities;
- (HH) Adult day care facilities;
  - (II) Office and school supply, equipment sales;
  - (JJ) Hobby or craft shop;
- (KK) Dry cleaning; household users, drop-off/pick-up station only;
- (LL) Building supply; lumber and material sales, plumbing and/or electrical supply including outside storage;
- (MM) Dormitory development within the CD District;
- (NN) Mental health, emotional or physical rehabilitation center;
- (OO) Beekeeping; major use; and

(PP) Solar energy facility.

(Ord. No. 2383, § 3, passed 11-7-1991; Ord. No. 2390, § 3, passed 12-12-1991; Ord. No. 2417, § 2, passed 2-10-1992; Ord. No. 2544, § 2, passed 11-12-1992; Ord. No. 2545, § 2, passed 11-12-1992; Ord. No. 2701, § 2, passed 8-12-1993; Ord. No. 97-38, § 4, passed 4-10-1997; Ord. No. 97-88, § 2, passed 8-14-1997); Ord. No. 03-49, § 1, passed 6-12-2003; Ord. No. 07-25, § 2, passed 2-8-2007; Ord. No. 07-74, § 2, passed 6-14-2007; Ord. No. 07-121, § 1, passed 9-13-2007; Ord. No. 08-04, § 4, passed 1-10-2008; Ord. No. 09-27, § 7, passed 4-9-2009; Ord. No. 09-75, § 3, passed 9-10-2009; Ord. No. 10-106, § 4, passed 12-9-2010; Ord. No. 13-014, § 3, passed 4-11-2013; Ord. 15-059, § 3, passed 10-8-2015)

#### **SEC. 9-4-86 LISTED USES; SPECIFIC CRITERIA.**

##### *(A) Adult uses.*

(1) All windows, doors, openings, entries and the like, for all adult uses shall be so located, covered, screened or otherwise treated so the views into the interior of the establishment are not possible from any public or semipublic area, street or way.

(2) No adult use shall be established within 500 feet of any residentially zoned land or permitted residential use, nor within 500 feet of any church, school, park, playground, synagogue, convent, library, or other area where large numbers of minors regularly travel or congregate.

(3) The lot containing an adult use shall not be located within a 500-foot radius of another lot containing an adult use.

##### *(B) Major or minor repair facilities.*

(1) All wrecked or damaged motor vehicles and parts shall be screened so as not to be visible from adjoining property lines and street right-of-way.

(2) All vehicles on the premises for repair shall be stored at the rear of the principal structure.

(3) No vehicle shall be stored on the premises for more than 15 days.

(4) There shall be no exterior storage of items other than vehicles and tires. Tires stored outside shall be in accordance with subsection (9) below.

(5) Sale of vehicles shall be in accordance with section 9-4-22, definition of automobile, truck, recreational vehicle, motorcycle and boat sales, contained therein.

(6) Rental or utility trailers, cars and trucks shall be permitted as accessory uses, provided that all units in excess of four shall be screened from adjoining street right-of-way and property lines in accordance with Bufferyard C or with a bufferyard of greater intensity as required by the bufferyard regulations.

(7) Outdoor displays of products such as oil, wiper blades or other similar products shall be permitted provided they are within ten feet of the principal structure and outside required bufferyards. Signage displayed in conjunction with such display shall be in accordance with the sign regulations. A maximum of 24 tires may be displayed outside. All tires displayed outside of buildings shall not be closer than ten feet from the principal structure and shall not be more than twenty feet from the principal structure and must be located outside of required bufferyards. All tires displayed outside of buildings shall comply with compliance requirements set forth in subsection (9)(h).

(8) All services except fuel sales shall be performed within a completely enclosed building.

(9) Tires stored outside must comply with the following standards to minimize their visual impact and reduce their potential as a public nuisance and fire hazard:

- (a) The maximum area devoted to tire storage shall be limited to 10% of the property area or 25% of the building from which the business operates, whichever is less;
  - (b) The maximum number of tires stored outside shall not exceed 300;
  - (c) Tires must be stored behind required bufferyards and located where they are not visible from a street right-of-way or adjacent property through the installation of opaque fencing and/or landscaping or placement of tires behind buildings;
  - (d) All tires must be placed on racks in the upright position;
  - (e) There shall be a minimum separation of 20 feet between tire racks and property lines, street right-of-way, and buildings;
  - (f) Rows of tire racks shall be separated from one another by a minimum of five feet;
  - (g) The placement of tires stored outside shall be placed and maintained in accordance with this subsection (9) and the North Carolina Fire Code, as amended. The more restrictive provisions shall prevail between the NC Fire Code and tire storage standards of this section; and
  - (h) Notwithstanding the provisions related to nonconforming uses and situations contained in Article C of this chapter, the requirements contained in this subsection (9) shall be applicable to all existing and future major and minor repair facilities.
- (C) *Banks and savings and loan facilities.*
- (1) All automatic teller facilities shall be attached to the principal structure.
  - (2) All drive-through teller services shall be located at the rear of the principal structure.
- (D) *Cemetery.* No gravesite shall be within ten feet of any property line or within 25 feet of any street right-of-way.



(E) *Child day care facilities.*

- (1) All accessory structures, including but not limited to playground equipment and pools must be located in the rear yard.
- (2) The minimum lot size shall be increased by a ratio of 100 square feet per child in excess of five.
- (3) Outdoor play area shall be provided at a ratio of 100 square feet per child and shall be enclosed by a fence at least four feet in height. Further, all playground equipment shall be located in accordance with the bufferyard regulations.
- (4) If located in a residential district, a residential appearance of the site shall be maintained to the greatest possible extent.
- (5) Employee parking shall be at the rear of the structure when a child day care facility is located in a residential district.

(F) *Public or private club.*

(1) (a) A special use permit for a public or private club is subject to revocation in accordance with the provisions of this subsection (F)(l). Nothing herein shall prohibit or restrict the authority of the Board of Adjustment to rescind or revoke a special use permit for a public or private club in accordance with the provisions of section 9-4-83.

(b) An annual review shall be conducted by the Director of Planning and Development Services or his or her authorized representative of a public or private club which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the or his or her authorized representative as a result of this annual review shall be compiled in a written staff report.

(c) At a meeting of the Board of Adjustment, the Director of Planning and Development Services or his or her authorized representative shall present to the Board of Adjustment the staff report of a public or private club for which the annual review includes a finding of one or more instances of noncompliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder as specified under subsection (F)(4) below shall be provided notice of the meeting and a copy of the staff report.

(d) Based on the staff report, the Board of Adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit.

1. An order for a rehearing shall be based upon a determination by the Board of Adjustment that either:

a. The use of the property is inconsistent with the approved application;

b. The use is not in full compliance with all specific requirements set out in this chapter;

c. The use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard; or

d. The use is not compliant with any additional conditions of approval established by the Board and set out in the order granting the permit.

2. The rehearing shall be in the nature of and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of section 9-4-81, the Board of Adjustment may grant a special use permit with conditions imposed pursuant to this subsection (F) and section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the Board of Adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a public or private club.

(e) The requirements and standards set forth in this subsection (F)(1) are in addition to other available remedies and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.

(2) The owner(s) and operator(s) of a public or private club shall collect and properly dispose of all litter and debris generated by their establishment or patrons immediately following the closure of business or not later than 7:00 a.m. each morning following any period of operation. All litter or debris shall be collected from within the boundaries of the establishment, associated parking areas, adjacent sidewalks and public rights-of-way or other adjacent public property open to the public. In addition, the owner(s) and operator(s) of a public or private club shall comply with the provisions of Title 11, Chapter 9 of the City Code, whether or not the establishment is a nightclub, bar or tavern.

(3) In addition to subsection (F)(2) above, the Board of Adjustment may establish specific and reasonable litter and trash mitigation standards or requirements.

(4) The special use permit shall be issued to the property owner as listed on the tax records of the county. When the ownership of any property, which has a special use permit for a public or private club, is transferred to a new owner by sale or other means, the new owner shall sign and file with the office of the Director of Planning and Development Services an acknowledgment of the rights, conditions and responsibilities of the special use permit prior to operation of the use under the permit. The acknowledgment shall be made on forms provided by the planning office.

(5) Any public or private club that has been issued a special use permit by the Board of Adjustment, that is subject to mandatory annual renewal, shall continue under the terms and conditions of the issued special use permit, until the expiration of the permit. All subsequent special use permit approvals for the location shall be subject to the specific criteria set forth under this subsection (F).

(6) No public or private club located in any district shall be located within a 500-foot radius of an existing or approved public or private club as measured from the nearest lot line in accordance with the following. When a public or private club is located or to be located on a lot exclusive to itself, the measurement shall be from the perimeter lot line of the exclusive lot. When a public or private club is located or to be located in a separate structure exclusive to itself on a lot containing multiple uses, the measurement shall be from the perimeter lot line of the lot containing multiple uses. When a public or private club is located or to be located in a common structure with other uses such as a shopping center on a common lot, the measurement shall be from the perimeter lot line of the common lot.

(7) At the time of special use permit approval, a public or private club shall not be located within a 500 foot radius, including street right-of-ways, of (i) a conforming use single-family dwelling located in any district, or (ii) any single-family residential zoning district. The required measurement shall be from the building or structure containing the public or private club to the nearest single-family dwelling lot line or single-family residential zoning district boundary line. For purpose of this section, the term "single-family residential zoning district" shall include any RA20, R15S, R9S, R6S, and MRS district.

(Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 10-11, § 1, passed 2-11-2010; Ord. No. 10-68, § 1, passed 8-12-2010)

(F)1. *Dining and entertainment establishments.*

(1) (a) A special use permit for a dining and entertainment establishment is subject to revocation in accordance with the provisions of this subsection (F)1. Nothing herein shall prohibit or restrict the authority of the

Board of Adjustment to rescind or revoke a special use permit for a dining and entertainment establishment in accordance with the provisions of section 9-4-83.

(b) An annual review shall be conducted by the Director of Planning and Development Services or his or her authorized representative of a dining and entertainment establishment which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the Director of Planning and Development Services or his or her authorized representative as a result of this annual review shall be compiled in a written staff report.

(c) At a meeting of the Board of Adjustment, the Director of Planning and Development Services or his or her authorized representative shall present to the Board of Adjustment the staff report of a dining and entertainment establishment for which the annual review includes a finding of one or more instances of noncompliance with applicable laws, codes, and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder as specified under subsection (F)1.(4) below shall be provided notice of the meeting and a copy of the staff report.

(d) Based on the staff report, the Board of Adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit.

1. An order for a rehearing shall be based upon a determination by the Board of Adjustment that either:

a. The use of the property is inconsistent with the approved application;

b. The use is not in full compliance with all specific requirements set out in Title 9, Chapter 4 of the Greenville City Code;

c. The use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard; or

d. The use is not compliant with any additional conditions of approval established by the Board and set out in the order granting the permit.

2. The rehearing shall be in the nature of, and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of section 9-4-81, the Board of Adjustment may grant a special use permit with conditions imposed pursuant to this subsection (F)1. and section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the Board of Adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a dining and entertainment establishment.

(e) The requirements and standards set forth in this subsection (F)1. are in addition to other available remedies, and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.

(2) The owner(s) and operator(s) of a dining and entertainment establishment shall collect and properly dispose of all litter and debris generated by their establishment or patrons immediately following the closure of business or not later than 7:00 a.m. each morning following any period of operation. All litter or debris shall be collected from within the boundaries of the establishment, associated parking areas, adjacent sidewalks and public rights-of-way or other adjacent public property open to the public. In addition, the owner(s) and operator(s) of a dining and entertainment establishment shall comply with the provisions of Title 11, Chapter 9, of the City Code entitled Litter Control in Parking Lots.

- (3) In addition to subsection (F)l.(2) above, the Board of Adjustment may establish specific and reasonable litter and trash mitigation standards or requirements.
- (4) The special use permit shall be issued to the property owner as listed on the tax records of the county. When the ownership of any property, which has a special use permit for a dining and entertainment establishment, is transferred to a new owner by sale or other means, the new owner shall sign and file with the office of the Director of Planning and Development Services an acknowledgment of the rights, conditions and responsibilities of the special use permit prior to operation of the use under the permit. The acknowledgment shall be made on forms provided by the planning office.
- (5) May require a membership, cover or minimum charge for admittance or service during regular or special periods of operation.
- (6) Weekdays. Except as further provided under subsection (F)l.(8) below, dining and entertainment establishments located in any zoning district shall not have amplified audio entertainment after 11:00 p.m. each Monday, Tuesday, Wednesday and Thursday night and before 11:00 a.m. of the next day. For purposes of this section, "amplified audio entertainment" shall mean any type of music or other entertainment delivered through and by an electronic system; provided, however, televisions operating with no amplification other than their internal speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment.
- (7) Weekends. Except as further provided under subsection (F)l.(8) below, dining and entertainment establishments located in any zoning district shall not have amplified audio entertainment after 2:00 a.m. each Friday and Saturday night and before 11:00 a.m. of the next day, and shall not have amplified audio entertainment after 11:00 p.m. each Sunday night and before 11:00 a.m. of the next day. For purposes of this section, "amplified audio entertainment" shall mean any type of music or other entertainment delivered through and by an electronic system; provided, however, televisions operating with no amplification other than their internal speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment.
- (8) Provisions for extended hours of operation for amplified audio entertainment.
- (a) The allowable period for amplified audio entertainment for any dining and entertainment establishment in any zoning district may be extended, at the option of the owner/operator, from the times specified under subsections (F)l.(6) and (7) above to not later than 2:00 a.m. the following day on December 31 (New Year's Eve).
- (b) The allowable period for amplified audio entertainment for any dining and entertainment establishment that meets the separation requirements as specified under subsection (F)l.(8)(d) below may be extended, at the option of the owner/operator, from the times specified under subsections (F)l.(6) and (7) above on each Thursday night to no later than 2:00 a.m. the following day.
- (c) The allowable period for amplified audio entertainment for any dining and entertainment establishment that meets the separation requirements as specified under subsection (F)l.(8)(d) below may be extended, at the option of the owner/operator, from the times specified under subsections (F)l.(6) and (7) above to no later than 2:00 a.m. the following day on March 17 (St. Patrick's Day), May 5 (Cinco de Mayo); July 4 (Independence Day) and October 31 (Halloween).
- (d) To qualify for extended hours of operation for amplified audio entertainment as provided in subsections (F)l.(8)(b) and (F)l.(8)(c) above, the dining and entertainment establishment shall not be located within a 500-foot radius, including street rights-of-way, of (i) a conforming use single-family dwelling located in any district, or (ii) any single-family residential zoning district. The required measurement shall be

from the building or structure containing the dining and entertainment establishment to the nearest single-family dwelling lot line or single-family residential zoning district boundary line. For purpose of this subsection, the term "single-family residential zoning district" shall include any RA20; R15S; R9S; R6S; and MRS district.

(e) In no event shall the noise generated by amplified audio entertainment exceed the noise control provisions as provided in Title 12, Chapter 5, of the Greenville City Code.

(9) Shall have sales of prepared and/or packaged foods, in a ready-to-consume state, in excess of 30% of the total gross receipts for the establishment during any month.

(a) In determining the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state, the following sales shall be included: food prepared in the establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order; packaged food sold to accompany the meal; and non-alcoholic beverages sold to accompany the meal.

(b) The following shall not be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state: mixed alcoholic beverages, including the mixer; any other alcoholic beverage; grocery items not ordered and purchased with meals; and any other product, item, entertainment, service or gratuity which is not specified in this subsection as a sale to be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state.

(c) A membership, cover or minimum charge for admittance or service shall not be included in either the total gross receipts for the establishment or in the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state.

(d) For purposes of determining compliance under this subsection, the Zoning Enforcement Officer may utilize and rely upon any routine or special audit report prepared by a department, division of a department, or agency of the State of North Carolina.

(10) Records related to the sale of prepared and/or packaged food in a ready-to-consume state and the sale of all other products and services shall be maintained on premises for not less than one year and shall be open for inspection or audit at all reasonable hours during any period of establishment operation by the Zoning Enforcement Officer. The Zoning Enforcement Officer may view the records on the premises of the establishment or may request copies of the written records be delivered to the city. Records of sales of prepared and/or packaged food in a ready-to-consume state and the sale of all other products and services shall be filed separate and apart from all other records maintained on the premises. The requirements of this subsection shall be for the purpose of determining compliance with subsection (F)1.(9) above. Failure to provide all records required by this subsection in a timely manner, to be determined by the city, upon written request of the Zoning Enforcement Officer shall constitute a violation of the zoning regulations.

(11) A lighting plan shall be submitted to the Director of Planning and Development Services or authorized agent for review and approval, and lighting fixtures shall be installed and maintained pursuant to the approved plan which illuminates all exterior portions of the building, lot area and parking lot as determined appropriate by the Director of Planning and Development Services, or authorized agent. Lighting shall be located and shielded to prevent the light cone of all exterior fixtures from encroaching beyond the property boundary line chapter 5 and into any adjacent public right-of-way, property or dwelling. Required or additional optional lighting shall comply with this subsection and section 9-4-104.

(12) A parking plan which conforms to the provisions of Article O shall be submitted to the Director of Planning and Development Services or authorized agent for site plan review and approval in accordance with the provisions of the Land Development Administrative Manual

c. The exemption provisions of section 9-4-243(B) shall not apply to a dining and entertainment establishment, and each establishment shall provide all required parking spaces specified under section 9-4-252 on-site or in an approved remote parking facility in accordance with section 9-4-250.

(13) No dining and entertainment establishment located in a CN (Neighborhood Commercial) District shall contain more than 7,000 total square feet of mechanically conditioned floor area, including but not limited to any activity area, kitchen, restroom, interior walk-in storage room, hallway, foyer, bar and serving station, seating area, dance floor and sound stage.

(14) No dining and entertainment establishment located in a CN (Neighborhood Commercial) District shall be located within a 200-foot radius of an existing or approved dining and entertainment establishment located within any CN (Neighborhood Commercial) District as measured from the nearest lot line.

(15) When a dining and entertainment establishment both: is located within a 500-foot radius, including street rights-of-way, of a residential zoning district as measured from the building or structure containing a dining and entertainment establishment to the nearest residential zoning district boundary; and the establishment provides or utilizes amplified audio entertainment as defined herein after 11:00 p.m. on any day, the establishment shall be subject to a security requirement during and after such period of amplified audio entertainment as follows:

(a) Establishments that have an approved occupancy above 50 but less than 200 total persons as determined by the Building Inspector shall employ not less than one uniformed off-duty law enforcement officer, or not less than one uniformed security guard provided by a security guard and control profession licensed in accordance with the provisions of G.S. Chapter 74C, to patrol the parking lot, and to disperse the crowd, and to direct traffic during the period 11:00 p.m. to the close of business and later to such time that all patrons and other persons, other than employees, have vacated the premises and associated parking area. The required security personnel shall remain on duty and visible outside the establishment, and shall be accessible to law enforcement officers at all time. This section shall apply regardless of the number of patrons actually within the establishment at the time of amplified audio entertainment.

(b) Establishments that have an approved occupancy of 200 or more total persons as determined by the Building Inspector shall employ not less than two uniformed off-duty law enforcement officers, or not less than two uniformed security guards provided by a security guard and control profession licensed in accordance with the provisions of G.S. Chapter 74C, to patrol the parking lot, and to disperse the crowd, and to direct traffic during the period 11:00 p.m. to the close of business and later to such time that all patrons and other persons, other than employees, have vacated the premises and associated parking area. The required security personnel shall remain on duty and visible outside the establishment, and shall be accessible to law enforcement officers at all time. This section shall apply regardless of the number of patrons actually within the establishment at the time of amplified audio entertainment.

(c) For purposes of this section, the term "residential zoning district" shall include the following districts: RA-20, R-6MH, R-6, R-6A, R-6A-RU, R-6N, R-6S, R9, R9S, R-15S, PUD, MR and MRS.  
(Ord. No. 09-27, § 8, passed 4-9-2009; Ord. No. 10-83, § 1, passed 10-14-2010; Ord. No. 11-078, § 1, passed 12-8-2011)

(G) *Fraternity or sorority.*

- (1) The minimum lot size shall be 20,000 square feet.
- (2) The gross floor area of the structure or structures shall be no less than 250 square feet per resident.
- (3) The total amount of land devoted to structures and parking shall not exceed 70% of the total lot area.
- (4) No part of any principal structure or accessory shall be located within 15 feet of any property line or street right-of-way for new construction and conversions.

(H) *Greenhouse or plant nursery.*

- (1) The growing of greenhouse or plant nursery products shall be the principal use. Retail sales shall be considered an accessory use, provided no more than 25% of the retail stock of a nursery shall be of products not grown on the premises.

(2) No power equipment, such as gas or electric lawn mowers and farm implements, may be sold wholesale or retail.

(I) *Group care facility.*

(1) The minimum lot size shall be two acres.

(2) The principal and accessory use side and rear setbacks shall be 20 feet for new construction in the case of single building development.

(3) Multi-family development standards shall apply except as provided under subsection (I)(2) above.

(4) Maximum occupancy shall be in accordance with the North Carolina State Building Code not to exceed 25 and as provided by definition.

(J) *Junkyard or automobile graveyard.*

(1) The use shall be set back at least two times the distance from the street right-of-way line as required for the district in which it is located.

(2) The yard shall be fenced with a visual screen eight feet in height in order that no junk or automobiles can be seen from the street or surrounding properties. In no case shall the eight-foot-high fence required by this subsection be substituted for the fence or vegetation required by the bufferyard regulations.

(K) *Manufacture of nonhazardous medical supplies or medical products, including distribution.*

(1) The minimum lot size shall be two acres.

(2) Exterior storage of materials shall be prohibited.

(3) All structures shall be a minimum of 75 feet from all exterior property lines.

(L) *Office; professional and business.*

(1) No more than 50% of the total number of operations located within the buildings or project may be devoted for business or professional purposes. All remaining operations shall be those that are permitted uses within the zoning district.

(2) Retail sales, pickup or deliveries of merchandise shall not be made from the premises and merchandise shall be displayed only within the building.

(M) *Public utility, building or use.*

(1) Any proposed use shall maintain a residential appearance to the greatest possible extent and shall be consistent in scale and environment with surrounding properties.



- (2) Any parking area designed to serve more than four vehicles shall be located in the rear of the principal structure.
- (N) *Radio and television studios, transmission and/or receiving facilities.*
- (1) The tower base shall be set back from adjoining property lines a minimum of 20% of the tower height or 30 feet, whichever is greater.
- (2) Guy wire anchors shall be set back from adjoining property lines in accordance with the minimum district setbacks.
- (O) *Residential quarters for resident manager or caretaker.*
- (1) The quarters shall be incidental and subordinate to the permitted or special use.
- (2) Only the caretaker and his or her immediate family shall permanently reside in the quarters.
- (3) The quarters shall be a self-contained dwelling unit.
- (4) The quarters shall be located within the principal structure except in the case of a mobile home sales lot, where the residential quarters may be located in a separate mobile home.
- (P) *Restaurant; conventional or fast food.*
- (1) Except as further provided, whenever a proposed restaurant is to be located adjacent to a permitted residential use, or a residential zoning district, the following minimum standards shall be required:
- (a) The restaurant principal structure shall maintain a public street (front yard) setback not less than the adjoining residential zoning district;
- (b) The restaurant principal structure shall maintain a side and rear yard setback not less than 25 feet from any property line which abuts a residential zoning district or a permitted residential use;
- (c) The maximum height of the restaurant principal and/or accessory structure(s) shall not exceed 35 feet; and
- (d) Any exterior menu reader board or order station which contains an audio speaker(s) shall be set back not less than 50 feet from any side or rear property line which abuts a permitted residential use or residential zoning district, and the speaker shall be oriented and directed away from any adjacent permitted residential use or residential zoning district in a manner approved by the Director of Planning and Development Services or the Director's authorized representative, and the requirements shall be indicated upon an approved site plan. Separation of the speaker from an adjacent permitted residential use or residential zoning district by an intervening nonresidential building or structure of sufficient dimension to negate or block the transmission of sound may, upon approval of the Director of Planning and Development Services or representative, substitute for the speaker setback, orientation and direction standards of this section. No exterior menu reader board or order station shall be utilized or operated in a manner which constitutes a nuisance or hazard to the general public.
- (2) No new restaurant within any MS Zoning District shall be located within 500 feet of any existing or vested restaurant in any zoning district or within 1,000 feet of any existing or vested restaurant in any MS District, as measured between the nearest enclosed structural part of the establishments.
- (3) Within any MO Zoning District no fast food restaurant shall be located in a freestanding detached structure exclusive to such use. All fast food restaurants in any MO Zoning District shall be located within and be part

of an attached multi-unit structure which contains not less than three individual units occupied by, or are available for sale or lease, to separate establishments.

(Ord. No. 06-75, § 1, passed 8-10-2006)

(Q) *Medical supply sales and rental of medically related products.* No products shall be visible from a public street right-of-way.

(R) *Mining and quarrying.*

(1) No mining, quarrying or excavation activity shall occur closer than 100 feet to an adjacent residential dwelling.

(2) Access to sites shall be located so as to avoid the routing of vehicles to and from the operation over streets that primarily serve abutting residential development. Maintenance of this access shall be the responsibility of the operator of the site. Measures to control dust along access roads shall be used as needed to maintain a relatively dust-free operation.

(3) Hours of operation may be from 7:00 a.m. to 6:00 p.m. Monday through Saturday except as further provided. Hours of operation, at sites where access is limited to ingress and egress over publicly maintained streets through areas which are residential in nature, shall be 8:00 a.m. to 6:00 p.m. Monday through Friday.

(4) A six-foot-high chain link fence shall be located not less than ten feet from the top edge of any exterior cut slope. Gates, the same height as the fence, shall be installed at all points of vehicular or pedestrian ingress and egress and shall be kept locked when not in regular use.

(5) Upon completion of mining or quarrying excavation activity, the land shall be restored to a condition that is suitable and amenable to existing or prospective uses of surrounding land.

(S) *Sanitary landfill or incinerator.* No refuse shall be deposited and no building or structure shall be located closer than 100 feet to a property line or street right-of-way line.

(T) *Noncommercial park or recreation facility; public or private.* No part of any structure or improvement shall be closer than 50 feet to any part of the principal structure of an adjacent residential use.

(U) *Home occupations.*

(1) Except as otherwise provided, all home occupations shall comply with all of the following standards:

(a) Shall only be permitted within single-family dwelling units;

(b) Shall not be permitted within any detached accessory structure or building;

(c) Shall constitute an accessory use to the principal use;

(d) Shall not occupy more than 20% of the mechanically conditioned enclosed floor space of the dwelling unit;

(e) Shall not employ more than one person other than those persons legally residing within the principal use dwelling;

(f) Shall not be visible from any public right-of-way or adjacent property line;

(g) Shall not involve the on-site sales of products;

(h) Shall not involve any outside storage of related materials, parts or supplies;

- (i) Shall have signage in accordance with Article N; and
  - (j) Shall not create any hazard or nuisance to the occupants residing or working within the principal use dwelling or to area residents or properties.
- (2) The following permitted limited in-home services and/or business activities shall not constitute a home occupation and shall be construed as an incidental accessory residential use within any dwelling, for purposes of regulation under this chapter, provided that: not more than one person is engaged in the conduct of the listed activity; the person that is engaged in the conduct of the activity shall be a permanent resident within the subject dwelling; not more than two customer/clients shall be allowed on the premises at any one time; no on-site signage shall be displayed in connection with the limited in-home service and/or business activity; and the activity is compliant with characteristics of subsection (U)(1)(b), (c), (d), (f), (g), (h) and (j) above:
- (a) Music or dance instructor, provided all associated amplified and/or non-amplified sound is not plainly audible, within any adjacent area dwelling unit or beyond the adjacent property line;
  - (b) Educational tutoring;
  - (c) Accountant, tax and/or financial advisor, stockbroker;
  - (d) Attorney at law;
  - (e) Counseling, including psychologist, marriage and similar professional counselor;
  - (f) Doctor, physical therapist or other similar health care professional;
  - (g) Consultant, including public relations, advertising, computer science, engineering, architect and other similar professional consultant;
  - (h) Clothes alteration seamstress; excluding garment manufacturing, shoe repair and sales of clothing items;
  - (i) Catalogue ordering sales consultant business wherein retail products are ordered by the end customer from a catalogue and/or by reference to limited samples displayed at off-site locations remote to the business address;
  - (j) Artist, photographer/videographer, graphic designer, writer;
  - (k) Real estate broker/realtor;
  - (l) Real estate/personal property appraiser;
  - (m) General contractor including building, painting, electrical, plumbing, mechanical, landscape, and cleaning/janitorial service, excluding any on-site: physical display and/or storage of products, and materials; manufacture or assembly; storage of construction or service delivery equipment including trucks, trailers, excavators, tractors, and mowers of a type and number uncommon to typical domestic residential use; provided, however, a personal transportation vehicle customarily associated with residential use shall be permitted; and
  - (n) The incidental use of any dwelling by the occupant(s) for the purpose of receiving or transmitting messages or mail, record or bookkeeping filing, address listing for applicable privilege license or tax identification and other similar activities, which do not involve the on-site sale, delivery, distribution, reception, storage or manufacture of goods, products or services.
- (3) Barber and beauty shop; manicure, pedicure or facial salon; and other similar personal service activities not otherwise listed: shall be limited to not more than one operator or service provider at all times. Concurrent and/or shift employment shall not be permitted.

(4) Bed and breakfast inn.

(a) Shall be restricted to property that is located both within a R-6S Zoning District, and within a locally designated Historic District (HD) Overlay Zoning District.

(b) The principal use single-family dwelling structure shall have a minimum of 3,000 square feet of mechanically conditioned enclosed floor area.

(c) Not more than 60% of the total mechanically conditioned enclosed floor area of the principal use single-family dwelling structure shall be utilized as part of the bed and breakfast establishment, including guest rooms and associated baths and closets, guest sitting or lounging areas and other interior spaces which exclusively serve such areas and rooms. Common areas utilized by both guests and the resident owner family, including but not limited to kitchens, dining rooms, foyers, halls, porches and stairs, shall not count towards the allowable percentage. A dimensional floor plan of the principal use dwelling shall be included at the time of initial application, which illustrates compliance with this section.

(d) The use shall be conducted completely within the single-family dwelling and no part of any detached accessory structure or building shall be devoted to the use; provided, however, a detached garage may be utilized to fulfill parking requirements.

(e) Not more than five rooms devoted to such overnight accommodations shall be permitted in addition to bathrooms or other common use areas.

(f) All entry and primary exits to the individual tenant occupancy rooms or common use areas shall be through the principal use dwelling area of the owner occupant. Other exits as shall be available or required shall only be utilized by the tenant occupants in the event of an emergency.

(g) In addition to the parking requirement of the principal use dwelling, one off-street parking space shall be required for each allowed tenant occupancy. No outdoor, unenclosed parking area associated with the accessory use shall be located in any front yard or any street right-of-way setback area. Such separate or joint parking facility shall comply with applicable design and construction standards.

(h) The parking area bufferyard, screening and landscaping requirements for each separate facility shall be established in the individual case; however, no side or rear bufferyard shall be less than Bufferyard B of the bufferyard regulations set forth in Article G.

(i) The maximum number of days allowed per individual tenancy shall be limited to applicable State and County Health Department standards, however, not to exceed 30 continuous days.

(j) Commercial cooking facilities shall not be allowed, and breakfast may only be served between the hours of 5:00 a.m. and 11:00 a.m. and shall be the only meal offered to overnight guests. No persons other than overnight guests shall be served food and/or beverages for compensation. No alcoholic permits shall be issued to any such facility.

(k) One nonresident person in addition to the resident owner family may be employed in connection with the operation of the establishment. For purposes of this section, the term "person" may be construed to include two or more shift employees, provided the employees are not on simultaneous duty.

(l) The principal structure or additions thereto which contain the accessory use shall maintain a single-family residential character of like scale and design to adjoining and area properties. A certificate of appropriateness shall be required prior to alteration of a locally designated historic property.

(m) The single-family dwelling and lot that is converted into a bed and breakfast inn shall meet the following minimum district requirements for construction of a new dwelling: lot area, lot width, street frontage, side yard setback and rear yard setback; provided, however, where the proposed bed and breakfast inn

is located adjacent to a property containing a nonconforming land use the setback requirements of this subsection shall not apply to that adjacent common boundary, at the time of initial application and approval. When a nonconforming adjacent use is converted to a conforming use, at any time after the initial approval of the bed and breakfast inn, the conversion shall not affect the continued use and/or renewal of the bed and breakfast inn with respect to the requirements of this subsection. The minimum lot area, lot width and lot frontage requirement shall not be reduced in accordance with section 9-4-33, and the minimum requirements set forth in section 9-4-94(E) shall apply for both new construction or conversion.

(n) Room renting, as defined under section 9-4-22, shall not be permitted within any dwelling that contains a bed and breakfast inn.

(o) The owner shall request that the Building Inspector and Zoning Enforcement Officer conduct an inspection of the premises each year during the month of original approval for compliance with applicable codes and conditions of special use permit approval. The owner shall pay any fee associated with the inspection as may be established by City Council.

(p) The special use permit may be approved for a three-year period and continued use shall be subject to renewal in accordance with original submission requirements.

(V) *Retirement center.*

(1) The minimum lot size shall be two acres.

(2) The density requirements of the prevailing zoning district shall apply.

(3) Multi-family development standards shall apply.

(W) *School.* All structures shall maintain side and rear setbacks of 50 feet and a front yard setback at least 25 feet greater than that required for single-family residences within the district, except as provided in subsection (1)(g) through (j) herein. Schools may be allowed as a special use in the IU (Unoffensive Industry) zoning district provided the school complies with the following additional criteria:

(1) The property shall have a minimum of eight acres.

(2) The maximum allowed building coverage shall be 40% of the property.

(3) The property shall have a minimum public road frontage of 450 feet.

(4) All loading and unloading of students shall be off-street.

(5) All parking areas shall be off-street in accordance with Article O, Parking.

(6) The school must be authorized by the State of North Carolina.

(7) All new structures shall maintain setbacks of 50 feet from property and public street right-of-way lines.

(8) Schools that occupy structures that existed upon the effective date of this section (August 13, 2015) shall maintain setbacks of 50 feet from public street right-of-way lines, but are exempt from setbacks from property lines.

(9) The setback exemption in section (h) is not applicable to parcels created after the effective date of this section (August 13, 2015).

(10) Buildings that existed upon the effective date of this section (August 13, 2015) shall not be expanded within a 50-foot setback from property and public street right-of-way lines.

- (1) No stable shall be erected closer than 100 feet to an existing dwelling or residential district.
- (2) Stables shall meet the minimum dimensional setbacks required within the applicable district except as provided under subsection (X)(1) above.

(Y) *Boarding house or rooming house.*

- (1) The total number of unrelated occupants in addition to the resident family shall not exceed four persons.
- (2) The minimum lot size shall be 9,000 square feet.
- (3) No boarding house or rooming house shall be located within a 400-foot radius of another boarding house or rooming house.
- (4) No more than two required parking spaces may be located in the front yard.
- (5) The total amount of land devoted to structures and parking shall not exceed 70% of the lot area.
- (6) The use shall be conducted as an accessory use within an owner occupied single-family dwelling.

(Z) *Nursing, convalescent or maternity home.*

(1) *Major care facility.*

- (a) The minimum lot size shall be two acres.
- (b) The side and rear setbacks shall be 20 feet for single building development for conversion or new construction.
- (c) The public street setback shall be in accordance with the prevailing zoning district for conversion or new construction.
- (d) Multi-family development standards shall apply except as provided under subsection (Z)(1)(b) and (c) above.
- (e) Maximum occupancy shall be in accordance with the North Carolina State Building Code and/or applicable licensing requirements.

(2) *Minor care facility.*

- (a) The minimum lot size and dimension shall be in accordance with two-family attached dwelling (duplex) standards for the prevailing zoning district for conversion or new construction.
- (b) The minimum setback of any principal structure shall be in accordance with two-family attached dwelling (duplex) standards for the prevailing zoning district for conversion or new construction.
- (c) One parking space shall be required for each resident manager or other on-site employee in addition to two visitor spaces per facility.
- (d) Maximum occupancy shall not exceed a total of eight persons, including up to six resident individuals receiving care and any resident manager(s).

(AA) *Shelter for homeless or abused persons.*

- (1) The minimum lot size shall be 15,000 square feet.

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- (2) Maximum occupancy shall be in accordance with the North Carolina State Building Code or not more than one person per each 500 square feet of lot area, whichever is less.
- (3) On-site supervision shall be maintained during all hours of operation.
- (4) Single-building development shall be in accordance with single-family standards.

- (5) Multiple-building development shall be in accordance with multi-family development standards.
- (6) Parking shall be required at a ratio of one space per every two supervisors and one space per each 500 square feet of habitable floor area.

(BB) *Multi-purpose center.*

- (1) Minimum lot area, width and dimension shall be not less than the district minimum.
- (2) Each activity, including the method and extent of operation, proposed for inclusion at each separate location shall be specifically considered by the Board of Adjustment. Activities not specifically approved shall be prohibited.
- (3) Specifically prohibited uses are set forth by definition.
- (4) Where specific activities are approved for concurrent operation the minimum parking requirement shall be the sum total of all spaces required for all concurrent uses in accordance with Article O.
- (5) Where specific activities are not approved for concurrent operation the minimum parking requirement shall be based on the activity which requires the greatest number of spaces in accordance with Article O.
- (6) Bufferyards and required vegetation for a Classification III use shall apply in accordance with Article G.

(CC) *Guest house for a college or other institution of higher learning.*

- (1) No [guest house; college and other institutions of higher learning] shall be located within one-quarter mile of any other [guest house; college and other institutions of higher learning] as measured to the nearest lot line.
- (2) The minimum lot area, width and dimension shall be not less than the district minimums.
- (3) Not more than three rooms devoted to overnight accommodations shall be permitted in addition to bathrooms or other common use areas.
- (4) One bathroom shall be required for the private use of each allowed tenant occupancy.
- (5) All entry and primary exits to the individual tenant occupancy rooms shall be through commons areas. Other exits as shall be available or required shall only be utilized by the tenant occupants in the event of an emergency.
- (6) One off-street parking space shall be required for each allowed tenant occupancy. Parking areas shall be located and improved in accordance with Article O.
- (7) The parking facility bufferyard and landscaping requirements for each separate facility shall be established in the individual case; however, no bufferyard shall be less than Bufferyard B of the bufferyard regulations set forth in Article G.
- (8) The maximum number of days allowed per individual tenancy shall not exceed 14 continuous days.

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- (9) Freestanding and wall signage for the use shall not exceed a combined total of three square feet. Illuminated signs shall not be allowed.

(10)The building(s) or additions thereto which contain the use shall maintain a single-family residential character of like scale and design to adjoining and area properties.

(11)A common kitchen and dining area is permitted; however, no meals shall be served for compensation.

(12)A common social/recreational sitting room accessible to the tenant occupants and other guests and/or representatives of the associated institution may be allowed.

(13)The special use permit shall terminate upon a change of use and/or transfer of title.

(14)The owner shall request that the Building Inspector conduct an inspection of the premises each year during the month of original approval for compliance with applicable codes and conditions of special use permit approval. The owner shall pay any fee associated with such inspection as may be established by City Council.

(DD) *Church or place of worship.* The special use permit shall be valid for 36 months from the date of the order granting the permit. From and after 36 months, the permit shall be considered void and of no effect and any reuse or continuance of use under this section shall be subject to reapplication and special use permit approval in accordance with current requirements.

(EE) *Billiard parlor or pool hall.*

- (1) A special use permit granted under this section shall be for a period of one year and must be renewed annually.
- (2) It shall be the responsibility of the owner/operator to make timely application for permit renewal.

(FF) *Convention center; private.* Convention centers (private) shall, in addition to other applicable requirements for the district and use, meet the following minimum standard(s) when located within any O & I and/or O & I-II District. Minimum lot area: ten acres.

(GG) *Athletic club; outdoor facilities.* With the exception of pedestrian walkways and fitness trails, no portion of any outdoor activity or recreation area shall be located within 100 feet of any residential zoning district boundary. Street rights-of-way shall count toward this requirement.

(HH) *Adult day care facilities.*

- (1) The minimum lot size shall be increased by a ratio of 100 square feet per adult in excess of five.
- (2) All accessory structures, including but not limited to exercise or recreation equipment and pools, must be located in the rear yard.
- (3) If located in a residential district, a residential appearance of the site shall be maintained to the greatest possible extent.
- (4) Employee parking shall be at the rear of the structure when a day care facility is located in a residential district.

(II) *Office and school supply, equipment sales.* Shall not exceed 5,000 square feet of gross enclosed floor area per each individual establishment, including all associated principal and accessory structures.

(JJ) *Hobby or craft shop.* Shall not exceed 5,000 square feet of gross enclosed floor area per each individual establishment including all associated principal and accessory structures.

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**Zoning**

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(KK) *Dry cleaning; household users, drop-off/pick-up station only.*

- (1) Shall not include any on-site laundry or dry cleaning process, activity or facility including but not limited to washing, cleaning, drying, pressing, mending, alteration, sale of apparel or laundry supplies.
- (2) Shall not exceed 2,000 square feet of gross enclosed floor area per each individual establishment including all associated principal and accessory structures.

(LL) *Building supply; lumber and material sales, plumbing and/or electrical supply including outside storage.*

- (1) The Board of Adjustment may attach additional reasonable screening conditions to any perimeter property boundary when the Board determines that the proposed outside storage area and use would otherwise be incompatible with, and detrimental to, adjacent and area land uses absent such additional screening.
- (2) Required screening may be accomplished by a solid wood fence, masonry wall, earth berm, evergreen vegetation, enclosed structure or combination thereof. Vegetation utilized for this purpose shall comply with Article P.
- (3) The requirements of this section shall be in addition to the applicable bufferyard and planting requirements set out under Article G and Article P; provided, however, that qualified existing and planted vegetation shall be credited and count toward

applicable requirements.

(MM) *Dormitory development within the CD District.*

(1) Minimum habitable (mechanically conditioned) floor area per each bedroom: 200 square feet. For purposes of this requirement, the term "floor area" shall include private living spaces and any connected common living spaces associated with the subject bedroom, provided however the common living space allocation devoted to a bedroom shall not qualify for or count toward the minimum floor area requirement of any other bedroom.

(2) Minimum lot area: None.

(3) Minimum lot width: None.

(4) Minimum street, side and rear yard setbacks: None.

(5) Minimum parking requirement: One-half space per bedroom.

(6) Parking location requirements:

(a) Each required parking space shall be located:

1. On the lot containing the associated residential use;

2. Within a remote parking facility located within 800 feet of the use it is intended to serve, as measured with and along an improved pedestrian path from the most distant parking space to the building entrance; or

3. Within a remote parking facility located in a Downtown Commercial (CD) District.

(b) Such remote parking facility shall be in accordance with the applicable provisions of Article O.

(7) Off-street parking: All off-street parking areas designed for three or more spaces shall be in accordance with Article O.

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(8) Preservation design: In order to protect the architectural integrity of existing buildings within the CD Zoning District, and in so doing to preserve the continuity of scale and design within those areas, the following requirements shall be met:

- (a) All slip covers previously applied to the facade of existing buildings shall be removed.
- (b) All canopies, except for those made of canvas, shall be removed from the facade.
- (c) Where evidence exists of original windows and door openings subsequently enclosed, the windows and doors shall be reopened in an operable manner and in a style in keeping with the building. Where other unique architectural features remain, including cornices, mid-cornices and window surrounds, they shall be repaired and/or replaced with elements of like design.
- (d) Nothing in this subsection shall supersede applicable North Carolina State Building Code requirements.
- (9) Maximum residential occupancy limits:

- (a) Residential occupancy within dormitory units shall be limited to one bed per each bedroom and one person per each bedroom.
- (b) Residential occupancy within dwelling units shall be limited to one family per each dwelling unit.

(10) Signage: All signs shall be erected in accordance with Article N of this chapter, but in no event shall a sign be mounted over existing windows, doors or other architectural features described in subsection (MM)(8)(c) above.

(11) Residential and nonresidential uses allowed: Subject to district standards, and requirements, development allowed under this section may include both residential and nonresidential use.

*(MM-1) Dormitory development within the CDF-UC District.*

(1) Maximum single and double occupancy limits shall comply with the following minimum habitable (mechanically conditioned) floor area per each bedroom. For purposes of these requirements, the term "floor area" shall include private living spaces and any connected common living spaces associated with subject bedroom, provided however the common living space allocation devoted to a bedroom shall not qualify for or count toward the minimum floor area requirement of any other bedrooms:

(a) Single residential occupancy within dormitory units shall be limited to one bed per each bedroom and one person per each bedroom having a minimum floor area of 200 square feet.

(b) Double residential occupancy within dormitory units shall be limited to two beds per each bedroom and two persons each bedroom having a minimum floor area of 400 square feet.

(2) Dormitory development within the CDF-UC District shall provide retail sales and/or other non-residential uses with a minimum floor area of 10,000 square feet. For purposes of this requirement, the term "floor area" shall mean non-storage floor area which is used as retail sales, or other non-residential uses. Where architectural layouts are not available for consideration, the "floor area" will be calculated by multiplying 80% times the gross area designated as non-residential use until such time architectural layouts are available for consideration or occupancy has commenced, whichever is earlier.

- (3) Minimum lot area: 2.0 acres.
- (4) Minimum lot width: 100 feet.
- (5) Minimum street setback: five feet.

(6) Minimum side and rear setbacks:

(a) When adjacent to single-family use: ten feet.

(b) When adjacent to any use other than single-family; per Article G, Bufferyard setback.

(7) Maximum height (above grade): none.

(8) Maximum lot coverage (excluding drives and parking): none.

(9) Minimum parking requirements.

(a) Single residential occupancy: Seventy-five hundredths space per bed.

(b) Double residential occupancy: One and one-half space per bedroom.

(c) Non-residential uses: The required number of parking spaces for non-residential uses shall be provided in accordance with Article O, except as modified herein. The parking requirements set forth in Article O for non-residential uses may be reduced to 25% where combined parking is available for the non-residential user. For purposes of this section, the term "combined parking" shall be that parking with is part of the required residential parking that is available and accessible to the non-residential user.

(10) Parking location requirements: Each required parking space shall be located on the lot containing the associated use.

(11) Parking spaces adjacent to principal or other structures including accessory structures per section 9-4-251(B)(9): The minimum separation requirement may be reduced at the option of the owner to not less than five feet.

(12) Off-street parking: All off-street parking areas designed for three or more spaces shall be in accordance with Article O except as modified in section 9-4-200.1(B)(6).

(13) Site vegetation location requirements per section 9-4-268(J)(1) may be modified for dormitory developments whereby, with the exception of street yard trees, site vegetation shall not be located within two feet of a principal and/or accessory structure in order to meet vegetation requirements.

(14) Signage: All signs shall be erected in accordance with Article N of this chapter.

(15) Residential and nonresidential uses allowed: Subject to district standards, and requirements, development allowed under this section may include both residential and nonresidential use.

(16) Nothing in this subsection shall supersede applicable North Carolina State Building and Code requirements.

(NN) *Mental health, emotional or physical rehabilitation center.*

(1) Multi-family development standards shall apply when located in the OR zoning district.

(2) Each three client occupants or major fraction thereof, in addition to any resident manager and blood relatives to the resident manager, shall constitute one dwelling unit for determining allowable density under this section.

(OO) *Beekeeping; major use.*

(1) The standards, requirements, conditions and restrictions of section 12-2-27(c) shall apply for locations and uses both within the city limits and within the extraterritorial jurisdiction.

(2) In addition to section (1) above the Board of Adjustment may require reasonable additional conditions as determined appropriate by the Board in the particular case.

(PP) *Solar energy facility.*

(1) *Setbacks.* Solar energy facilities and their appurtenant components and structures shall be a minimum of 50 feet from all property lines, and one-hundred feet from any residence. Inverters shall be a minimum of 150 feet from any residence.

(2) *Height requirements.* Individual modules/panels shall be a maximum of 25 feet in height as measured from the grade at the base of the structure to the apex of the structure.

(3) *Site plan.* A site plan, drawn and stamped by a North Carolina licensed surveyor or engineer, shall be submitted showing the following:

(a) A narrative describing the proposed solar energy facility including an overview of the project;

(b) The proposed location and dimensions of all solar panels, inverters, existing and proposed structures, screening, fencing, property lines, turnout locations, ancillary equipment, transmission lines, vegetation and the location of any residence within 100 feet of the perimeter of the facility;

(c) Any preexisting structures on the same lot and principal structures on other properties that would affect the placement of solar panels;

(d) Parking and access areas;

(e) Location of any proposed solar access easements;

(f) Location where wiring is brought together for inter-connection to system components and/or the local utility power grid, and location of disconnect switch;

(g) Standard drawings of the solar collection system components;

(h) Security fencing, a minimum of six feet in height, shall be provided along the entire perimeter of the facility;

(i) The entire perimeter of the facility shall be screened from adjoining properties by a ten foot buffer yard. The buffer yard shall consist of nine evergreen trees or shrubs per 100 linear feet or fraction thereof. The vegetation shall comply with § 9-4-267;

(j) Copies of any lease agreement and solar access easement(s);

(k) Evidence that the electrical utility provider has been informed of the customer's intent to install an interconnected, customer-owned generator (off-grid systems shall be exempt from this requirement);

(l) Decommissioning plans that describe the anticipated life of the facility, the estimated decommissioning costs in current dollars, and the anticipated manner in which the facility will be decommissioned and the site restored;

(m) Signature of the property owner(s) and the owner/operator of the facility (if different than the property owner); and

(n) Other relevant studies, reports, certifications, and approvals as may be reasonably requested by the City of Greenville to ensure compliance with this article.

(4) *Location.* Solar energy facilities will be permitted only in the RA-20 (Residential -Agricultural) zoning district on a parcel (or parcels) containing a minimum of 30 acres as a special use as permitted by the City of Greenville Board of Adjustment.

(5) *Other requirements.*

(a) Development of a solar energy facility will be subject to other overlay district regulations including watershed impervious surface limits.

(b) Solar energy facilities shall be fully screened from adjoining properties and adjacent roads by an evergreen buffer capable of reaching a height of six feet within three years of planting, with at least 75% opacity at the time of planting.

(c) All outdoor lighting shall be shielded to direct light and glare onto the system's premises and may be of sufficient intensity to ensure security.

(d) Any electrical wiring used in the system shall be underground (trenched) except where wiring is brought together for inter-connection to system components and/or the local utility power grid.

(e) Solar panels shall be mounted onto a pole, rack or suitable foundation, in accordance with manufacturer specifications, in order to ensure the safe operation and stability of the system. The mounting structure (fixed or tracking capable) shall be comprised of materials approved by the manufacturer, which are able to fully support the system components and withstand adverse weather conditions.

(f) Multiple mounting structures shall be spaced apart at the distance recommended by the manufacturer to ensure safety and maximum efficiency.

(g) No ground-mounted large solar energy systems shall be affixed to a block wall or fence.

(h) No signage shall be permitted on the perimeter fence, with the exception of one sign not to exceed 32 square feet that displays the name, address and emergency contact information of the facility as well as appropriate warning signs.

(i) All obsolete or unused systems shall be removed. Any structure or equipment associated with the solar farm that is not operated for a continuous period of 365 days shall be considered obsolete or unused system.

(j) Any lease agreement, solar access easement, and plan for removal of system/equipment shall be provided to the Planning and Development Services Director or designee. If the system is to be interconnected to the local utility power grid, a copy of the conditional approval from the local utility must also be provided before a special use permit will be granted.

(k) The solar energy facility and components shall meet all requirements of the North Carolina State Building Code.

(l) The solar energy facility and components shall comply with the current edition of the National Electrical Code; UL listed, and be designed with an anti-reflective coating.

(m) The electrical disconnect switch shall be clearly identified and unobstructed, and shall be noted clearly on the site plan.

(n) The owner or future owner of a property onto which a solar farm is installed assumes all risk associated with diminished performance of said system caused by any present or future adjacent structure or landscaping that may interfere with the system's ability to produce power at its rated capacity, regardless of when that adjacent structure or landscaping is constructed or installed.

(o) Inverter noise shall not exceed 40 dBA, measured at the property line.

(p) Other conditions, including, but not limited to, buffering and noise controls that provide adequate protection for adjacent residential properties as may be deemed reasonable and appropriate for the type of system, may be added by the City of Greenville Board of Adjustment.

(QQ) *Microbrewery (see also section 9-4-22).*

(1) Microbreweries are allowed within the CD (Downtown Commercial) zoning district, subject to an approved special use permit.

(2) The principal use is the production of malt beverages for retail sales for on-premises and off-premises consumption in accordance with ABC permit requirements set forth in G.S. 18B-1001 as amended and issuance of on-premises malt beverage permit for breweries as authorized by G.S. 18B-1104 as amended and all other laws pursuant to G.S. 18B, as amended.

(3) Accessory uses may include and be limited only to: retail sales, food and beverage consumption, entertainment, games, a tasting room, event room, and loading area.

(4) The portion of the building devoted to operating brewing equipment shall not exceed 5,000 square feet.

(5) A minimum of 30% of the microbrewery's floor area shall have operating brewing equipment that produces beer for retail sales. This percentage shall be satisfied at the time a Certificate of Occupancy inspection is conducted and shall be maintained thereafter.

(6) In addition to compliance with the noise control standards in Title 5, Chapter 5 of the City Code, exterior guest areas shall not have amplified equipment within 150 feet from any residential use as measured from the property line of the residential use to the exterior area where the speaker equipment is located.

(7) A microbrewery shall not require a membership, cover or minimum charge for admittance or service.

(8) (a) A special use permit for a microbrewery is subject to revocation in accordance with the provisions of this subsection (8)(a). Nothing herein shall prohibit or restrict the authority of the Board of Adjustment to rescind or revoke a special use permit for a microbrewery in accordance with the provisions of section 9-4-83.

(b) An annual review shall be conducted by the Director of **Planning and Development Services** or his or her authorized representative of a microbrewery which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the Director of **Planning and Development Services** or his or her authorized representative as a result of this annual review shall be compiled in a written staff report.

(c) At a meeting of the Board of Adjustment, the Director of **Planning and Development Services** or his or her authorized representative shall present to the Board of Adjustment the staff report of a microbrewery for which the annual review includes a finding of one or more instances of noncompliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder shall be provided notice of the meeting and a copy of the staff report.

(d) Based on the staff report, the Board of Adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit.

1. An order for a rehearing shall be based upon a determination by the Board of Adjustment that either:

a. The use of the property is inconsistent with the approved application;

b.The use is not in full compliance with all specific requirements set out in this chapter;

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c. The use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard; or

d. The use is not compliant with any additional conditions of approval established by the Board and set out in the order granting the permit.

2. The rehearing shall be in the nature of and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of section 9-4-81, the Board of Adjustment may grant a special use permit with conditions imposed pursuant to this subsection (QQ) and section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the Board of Adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a microbrewery.

(e) The requirements and standards set forth in this subsection (QQ)(8) are in addition to other available remedies and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.

(9) Existing conforming use conventional restaurants may add, subject to an approved special use permit, a microbrewery operation as an accessory use provided they comply with the following:

(a) The restaurant must be located within the CD (Downtown Commercial) zoning district, subject to an approved special use permit.

(b) The area of the restaurant devoted to operating brewing equipment shall not exceed 30% of the area of the restaurant including the area devoted to operating brewing equipment.

(c) Malt beverages produced for retail sales for on-premises and off-premises consumption shall comply with ABC permit requirements set forth in G.S. 18B-1001 as amended and issuance of on-premises malt beverage permit for breweries as authorized by G.S. 18B-1104 as amended and all other laws pursuant to G.S. 18B as amended.

(d) The restaurant and the microbrewery accessory use shall not require a membership, cover or minimum charge for admittance or service.

(e) A special use permit for a microbrewery accessory use shall be subject to revocation in accordance with the provisions of this subsection 9. Nothing herein shall prohibit or restrict the authority of the Board of Adjustment to rescind or revoke a special use permit for a microbrewery ancillary use in accordance with the provisions of section 9-4-83.

(f) An annual review of the microbrewery accessory use and all subsequent procedures to address review findings shall be in accordance with the provisions with subsection QQ.8(b) through (e).

*(RR) Live performance theater (see also section 9-4-22).*

(1) Events and/or banquets must be ticketed or free of charge to participants. No cover charges can be required for events.

(2) The following ticketed events shall be permitted: concerts, plays, motion pictures operas, musicals, ballets, other forms of modern dance.

(3) As an accessory use the facility may host private banquets and meetings.

(4) The following activities shall not be permitted at the theater: televised events, disc jockey-based events, dance parties, raves, house music-based events, outdoor events or outdoor amplified music.



(5) Recorded music events may be held by touring acts provided the same act does not return to the venue more than three times per calendar year. The maximum percentage of recorded music events shall not exceed 30% of total shows held per calendar year.

(6) May have as an ancillary or accessory use a full service bar which is only open to patrons of ticketed events, private banquets or meetings and is limited to operate only during the hours the above listed permitted ticketed events, private banquets or meetings are being held.

(7) The facility shall not operate as a public or private club as defined by Title Chapter 4, Article B, Section 9-4-22.

(8) Minimum square footage of live performance theaters shall be 7,500 square feet.

(9) The facility shall have a fixed permanent stage platform of 800 square feet minimum.

(10) Accessory retail sales shall be permitted for the sale of theater or event related items.

(11) The portion of the building devoted to live performances may have open or fixed seating.

(12) Closing time shall be no later than 1:00 A.M.

(13) (a) A special use permit for a live performance theater is subject to revocation in accordance with the provisions of this subsection (10). Nothing herein shall prohibit or restrict the authority of the Board of Adjustment to rescind or revoke a special use permit for a live performance theater in accordance with the provisions of section 9-4-83.

(b) An annual review shall be conducted by the Director of Planning and Development Services or his or her authorized representative of a live performance theater which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the Director of Planning and Development Services or his or her authorized representative as a result of this annual review shall be compiled in a written staff report.

(c) At a meeting of the Board of Adjustment, the Director of Planning and Development Services or his or her authorized representative shall present to the Board of Adjustment the staff report of a live performance theater for which the annual review includes a finding of one or more instances of noncompliance with applicable laws, codes and ordinances, including but not limited to noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder shall be provided notice of the meeting and a copy of the staff report.

(d) Based on the staff report, the Board of Adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit.

1. An order for a rehearing shall be based upon a determination by the Board of Adjustment that either:

a. The use of the property is inconsistent with the approved application;

b. The use is not in full compliance with all specific requirements set out in this chapter;

c. The use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard; or

d. The use is not compliant with any additional conditions of approval established by the Board and set out in the order granting the permit.

2. The rehearing shall be in the nature of and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of section 9-4-81, the Board of Adjustment may grant a special use permit with conditions imposed pursuant to this subsection (RR) and section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the Board of Adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a live performance theater.

(e) The requirements and standards set forth in this subsection (RR)(10) are in addition to other available remedies and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.

(SS) *Wine, beer and keg stores (see also section 9-4-22).*

(1) Properties eligible to be considered for a wine, beer and keg store through approval of a special use permit must be located within a CN (Neighborhood Commercial) zoning district and must be located within a 500-foot radius, including street rights-of-way, of a Regional, Community, Intermediate or Neighborhood Focus Area as identified in Horizons: Greenville's Community Plan, Focus Area Map, adopted in 2004 as measured from the center point of the Focus Area map label to the nearest lot line of properties zoned CN (Neighborhood Commercial).

(2) A wine, beer and keg store may sell malt beverages for consumption on the premises, provided that the on-premises consumption of malt beverages is limited to only serving two-ounce tastings and constitutes an accessory and incidental use to the wine, beer and keg store.

(3) A wine, beer and keg store that also has the requisite state permit(s) that allows retail sales of malt beverages for on-premises consumption, in accordance with G.S. 18B-1001 as amended, may sell only malt beverages for consumption on the premises, provided that the on-premises consumption of malt beverages is limited to the sale of two-ounce tastings and constitutes an accessory and incidental use to the primary retail use of the wine, beer and keg store.

(4) For purposes of this section, on-premises consumption of malt beverages shall be deemed an accessory and incidental use to a wine, beer and keg store, provided the sale of malt beverages for consumption on the premises does not exceed 40% of the wine, beer and keg store's total sales of wine and malt beverages including both on-premises and off-premises consumption, for any 30-day period. The term "sale(s)" as used herein shall be the receipt of payment for the wine and malt beverages sold and/or consumed and shall not be a measure of the volume of wine and malt beverages sold and/or consumed.

(5) Records related to the wine, beer and keg store's total sales of wine and malt beverages for both on-premises and off-premises consumption shall be maintained on the premises for not less than one year and shall be open for inspection and audit at all reasonable hours when the establishment is open for business by the Zoning Enforcement Officer. The Zoning Enforcement Officer may view the records on the premises or may request that copies of the written records be delivered to the city. The requirements of this subsection shall be for the purpose of determining compliance with subsection (4) above.

(6) To help avoid high concentrations of businesses within close proximity that sell wine and malt beverages, no wine, beer and keg store that includes the on-premises consumption malt beverages, limited to two-ounce tastings, shall be located within a 25-foot radius, including street rights-of-way, of an existing or approved public or private club, dining and entertainment establishment, including a wine and craft beer shop or other wine, beer and keg store that includes the on-premises consumption of wine and malt beverages, limited to two-ounce tastings. The required measurement shall be from the building or structure containing the wine, beer and keg store to the nearest property line of the parcel containing the existing or approved public or private club, dining and entertainment establishment, including a wine and craft beer shop or other wine, beer and keg store that includes the on-premises consumption of wine and malt beverages.

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(7)A wine, beer and keg store shall not operate after 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, and Thursday or after 12:00 a.m. on Friday and Saturday.

(8)A wine, beer and keg store shall not require a membership, cover or minimum charge for admittance or service during regular or special periods of operation.

(9)A wine, beer, and keg store that does not meet the requirements of this section shall be deemed a public or private club for the purpose of zoning and land use classification.

(10)The provisions of this section shall apply to all wine, beer and keg stores whether operated as a principal or accessory use.

(TT) *Temporary sand mining (see also section 9-4-22).*

(1)No excavation shall occur closer than 100 feet to an adjacent residential dwelling.

(2)A 50 foot buffer (minimum) shall be maintained between the mining activity and adjacent property lines.

(3)The borrow site shall be directly related to a designated and approved NC Department of Transportation (NCDOT) highway construction project.

(4)The duration of the borrow material excavation and use of the borrow site for excavation shall be limited to the completion of the NCDOT highway construction project.

(5)Upon completion of the NCDOT highway construction project, the borrow site shall be reclaimed in accordance with NCDOT requirements, and shall result in the creation of a recreational water body (lake or pond).

(6)The borrow site shall have direct access to a primary highway and that highway shall be utilized for the transport of borrow materials from the excavation area in order to minimize the use of secondary roads or residential streets for this purpose.

(7)No blasting shall be permitted in conjunction with the borrow material excavation or borrow site.

(8)Any dust or other airborne emissions shall be minimized from the borrow material excavation and excavation area, whether at the borrow site or during transport of borrow materials over the haul route from the site in accordance with NCDOT regulations.

(9)All loads of borrow material shall be covered when leaving the borrow site for transport over roadways.

(10)All trucks used for transport of borrow material from the excavation site shall be registered, licensed and meet emissions standards for the State of North Carolina.

(11)A gravel construction entrance shall be installed and maintained at the borrow site to prevent the tracking of borrow materials onto the roadways from the site, in accordance with NCDOT regulations.

(12) Hours of operation at the borrow site shall be limited to 6:30 a.m. to 7:30 p.m. Monday through Saturday.

(13)In order to protect the integrity and safety of roadways, trucks leaving the borrow site shall comply with all weight and load requirements for North Carolina roadways.

(14) A six-foot earthen berm shall be installed and maintained in the excavation buffer area where no naturally wooded or vegetative screening exists between the borrow site and adjacent residential uses. This berm may be removed at the conclusion of the borrow site activity.

(Ord. No. 2383, § 4, passed 11-7-1991; Ord. No. 2390, § 4, passed 12-12-1991; Ord. No. 2417, § 3, passed 2-10-1992; Ord. No. 2511, § 1, passed 8-24-1992; Ord. No. 2541, § 1, passed 11-12-1992; Ord. No. 2544, § 3, passed 11-12-1992; Ord. No. 2545, § 3, passed 11-12-1992; Ord. No. 2701, § 3, passed 8-12-1993; Ord. No. 94-132, § 13, passed 10-13-1994; Ord. No. 97-38, § 5, passed 4-10-1997; Ord. No. 97-85, § 1, passed 8-14-1997; Ord. No. 97-88, § 3, passed 8-14-1997; Ord. No. 98-143, § 4, passed 11-12-1998; Ord. No. 00-66, § 1, passed 5-11-2000; Ord. No. 03-49, § 2, passed 6-12-2003; Ord. No. 03-49, § 14, passed 6-12-2003; Ord. No. 05-89, § 7, passed 8-11-2005; Ord. No. 05-90, § 1, passed 8-11-2005; Ord. No. 07-25, § 3, passed 2-8-2007; Ord. No. 07-74, § 3, passed 6-14-2007; Ord. No. 07-121, § 2, passed 9-13-2007; Ord. No. 08-04, § 5, passed 1-10-2008; Ord. No. 09-27, § 8, passed 4-9-2009; Ord. No. 09-59, § 1, passed 8-13-2009; Ord. No. 09-75, § 4, passed 9-10-2009; Ord. No. 10-106, § 5, passed 12-9-2010; Ord. No. 13-014, § 4, passed 4-11-2013; Ord. No. 14-010, passed 2-13-2014; Ord. No. 14-048, § 3, passed 8-14-2014; Ord. 15-020, § 3, passed 4-9-2015; Ord. 15-041, § 4, passed 8-13-2015; Ord. 15-051, § 3, passed 9-10-2015; Ord. 15-059, § 4, passed 10-8-2015; Ord. 15-067, § 1, passed 12-10-2015; Ord. 16-010, § 3, passed 2-11-2016; Ord. 19-045, § 1, passed 9-12-2019)

**ARTICLE F. DIMENSIONAL STANDARDS, MODIFICATIONS AND  
SPECIAL STANDARDS**

**SEC. 9-4-93 APPLICABILITY.**

Unless otherwise provided in these regulations, the minimum standards and requirements established in this article shall apply to all uses. See also Article E and Article L.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2640, § 2, passed 6-10-1993)

**SEC. 9-4-94 SCHEDULE OF DEVELOPMENT STANDARDS BY ZONING DISTRICT.**

(A) *RA-20 District.*

- (1) Lot area (net).
  - (a) Single-family, without public water: 20,000 square feet.
  - (b) Single-family, with public water: 10,000 square feet.
  - (c) Two-family attached, without public water: 25,000 square feet.
  - (d) Two-family attached, with public water: 15,000 square feet.
  - (e) Mobile home: in accordance with subsection (1)(a) or (b) above.
  - (f) All other uses: in accordance with subsection (1)(a) or (b) above.



- (2) Lot width (at the MBL).
    - (a) Single-family: 70 feet.
    - (b) Two-family attached: 90 feet.
    - (c) Mobile home: 70 feet.
    - (d) All other uses: 100 feet.
  - (3) Public street setback (MBL).
    - (a) Single-family: 30 feet.
    - (b) Two-family attached: 30 feet.
    - (c) Mobile home: 30 feet.
    - (d) All other uses: 30 feet and per Article G.
  - (4) Side setback.
    - (a) Single-family: Ten feet.
    - (b) Two-family attached: 12 feet.
    - (c) Mobile home: 12 feet.
    - (d) All other uses: 12 feet and per Article G.
  - (5) Rear setback.
    - (a) Single-family: 20 feet.
    - (b) Two-family attached: 20 feet.
    - (c) Mobile home: 20 feet.
    - (d) All other uses: 20 feet and per Article G.
  - (6) Height (above grade).
    - (a) Single-family: 35 feet.
    - (b) Two-family attached: 35 feet.
    - (c) Mobile home: 35 feet.
    - (d) All other uses: 65 feet.
  - (7) Lot coverage (excluding drives and parking). All uses: 40%.
- (B) *R-15S District.*
- (1) Lot area (net). All uses: 15,000 square feet.

- (2) Lot width (at the MBL). All uses: 80 feet.
- (3) Public street setback (MBL). All uses: 30 feet.
- (4) Side setback. All uses: Ten feet.
- (5) Rear setback. All uses: 15 feet.
- (6) Height (above grade). All uses: 35 feet.
- (7) Lot coverage (excluding drives and parking). All uses: 40%.

(C) *R-9S District.*

- (1) Lot area (net). All uses: 9,000 square feet.
- (2) Lot width (at the MBL). All uses: 70 feet.

(3) Public street setback (MBL). All uses: 25 feet.

- (4) Side setback. All uses: Ten feet.
- (5) Rear setback. All uses: 15 feet.
- (6) Height (above grade). All uses: 35 feet.
- (7) Lot coverage (excluding drives and parking). All uses: 40%.

(D) *R-9 District.*

- (1) Lot area (net).
  - (a) Single-family: 9,000 square feet.
  - (b) Two-family attached: 13,500 square feet.
  - (c) All other uses: 9,000 square feet.
- (2) Lot width (at the MBL).
  - (a) Single-family: 70 feet.
  - (b) Two-family attached: 90 feet.
  - (c) All other uses: 70 feet.
- (3) Public street setback (MBL).
  - (a) Single-family: 25 feet.
  - (b) Two-family attached: 25 feet.
  - (c) All other uses: 25 feet and per Article G.
- (4) Side setback.

- (a) Single-family: Ten feet.
  - (b) Two-family attached: 14 feet.
  - (c) All other uses: Ten feet and per Article G.
- (5) Rear setback.
- (a) Single-family: 15 feet.
  - (b) Two-family attached: 15 feet.
  - (c) All other uses: 15 feet and per Article G.
- (6) Height (above grade). All uses: 35 feet.
- (7) Lot coverage (excluding drives and parking). All uses: 40%.

(E) *R-6S District.*

- (1) Lot area (net). All uses: 6,000 square feet.
- (2) Lot width (at the MBL). All uses: 60 feet.
- (3) Public street setback (MBL). All uses: 25 feet.
- (4) Side setback. All uses: Eight feet.
- (5) Rear setback. All uses: 15 feet.
- (6) Height (above grade). All uses: 35 feet.
- (7) Lot coverage (excluding drives and parking). All uses: 40%.

(F) *R-6 District.*

- (1) Lot area (net).
  - (a) Single-family: 6,000 square feet.
  - (b) Two-family attached: 6,000 square feet.
  - (c) Multi-family: Per Article I.
  - (d) All other uses: 6,000 square feet.
- (2) Lot width (at the MBL).
  - (a) Single-family: 60 feet.
  - (b) Two-family attached: 60 feet.
  - (c) Multi-family: Per Article I.
  - (d) All other uses: 60 feet.

- (3) Public street setback (MBL).
    - (a) Single-family: 25 feet.
    - (b) Two-family attached: 25 feet.
    - (c) Multi-family: Per Article I.
    - (d) All other uses: 25 feet and per Article G.
  - (4) Side setback.
    - (a) Single-family: Eight feet.
    - (b) Two-family attached: Eight feet.
    - (c) Multi-family: per Article I.
    - (d) All other uses: Eight feet and per Article G.
  - (5) Rear setback.
    - (a) Single-family: 15 feet.
    - (b) Two-family attached: 15 feet.
    - (c) Multi-family: Per Article I.
    - (d) All other uses: 15 feet and per Article G.
  - (6) Height (above grade).
    - (a) Single-family: 35 feet.
    - (b) Two-family attached: 35 feet.
    - (c) Multi-family: per Article I.
    - (d) All other uses: 35 feet.
  - (7) Lot coverage (excluding drives and parking). All uses: 40%.
- (G) *R-6A District.*
- (1) Lot area (net).
    - (a) Single-family: 6,000 square feet.
    - (b) Two-family attached: 9,000 square feet.
    - (c) Multi-family: Per Article I.
    - (d) All other uses: 6,000 square feet.
  - (2) Lot width (at the MBL).

- (a) Single-family: 60 feet.
  - (b) Two-family attached: 70 feet.
  - (c) Multi-family: Per Article I.
  - (d) All other uses: 60 feet.
- (3) Public street (MBL).
- (a) Single-family: 25 feet.
  - (b) Two-family attached: 25 feet.
  - (c) Multi-family: Per Article I.
  - (d) All other uses: 25 feet and per Article G.
- (4) Side setback.
- (a) Single-family: Eight feet.
  - (b) Two-family attached: 12 feet.
  - (c) Multi-family: Per Article I.
  - (d) All other uses: Eight feet and per Article G.
- (5) Rear setback.
- (a) Single-family: 15 feet.
  - (b) Two-family attached: 15 feet.
  - (c) Multi-family: Per Article I.
  - (d) All other uses: 15 feet and per Article G.
- (6) Height (above grade).
- (a) Single-family: 35 feet.
  - (b) Two-family attached: 35 feet.
  - (c) Multi-family: Per Article I.
  - (d) All other uses: 35 feet.
- (7) Lot coverage (excluding drives and parking). All uses: 40%.
- (H) *R-6N District (per Article L).*
- (1) Lot area (net).
    - (a) Single-family: 6,000 square feet.

- (b) Two-family attached: 9,000 square feet.
  - (c) Multi-family: Per Article I.
  - (d) All other uses: 6,000 square feet.
- (2) Lot width (at the MBL).
- (a) Single-family: 60 feet.
  - (b) Two-family attached: 70 feet.
  - (c) Multi-family: Per Article I.
  - (d) All other uses: 60 feet.
- (3) Public street setback (MBL). All uses: 25 feet and per Article G and Article L.
- (4) Side setback.
- (a) Single-family: Eight feet.
  - (b) Two-family: 12 feet and per Article L.
  - (c) Multi-family: Per Article I and Article L.
  - (d) All other uses: Eight feet and per Article G and Article L.
- (5) Rear setback.
- (a) Single-family: 15 feet.
  - (b) Two-family: 15 feet and per Article L.
  - (c) Multi-family: Per Article I and Article L.
  - (d) All other uses: 15 feet and per Article G and Article L.
- (6) Height (above grade).
- (a) Single-family: 35 feet.
  - (b) Two-family attached: 35 feet.
  - (c) Multi-family: Per Article I.
  - (d) All other uses: 35 feet.
- (7) Lot coverage (excluding drives and parking). All uses: 40%.
- (I) *R-6MH District (per Article H).*
- (1) Lot area (net).
- (a) Single-family: 6,000 square feet.

- (b) Two-family attached: 6,000 square feet.
  - (c) Mobile home: 6,000 square feet.
  - (d) Mobile home park units: Per Article H.
  - (e) Multi-family: Per Article I.
- (2) Lot width (at the MBL).
- (a) Single-family: 60 feet.
  - (b) Two-family attached: 60 feet.
  - (c) Mobile home: 60 feet.
  - (d) Mobile home park units: Per Article H.
  - (e) Multi-family: Per Article I.
- (3) Public street setback (MBL). All uses: 25 feet and per Article G and Article H.
- (4) Side setback.
- (a) Single-family: Eight feet.
  - (b) Two-family attached: Eight feet.
  - (c) Mobile home: Eight feet.
  - (d) Mobile home park units: Per Article H.
  - (e) Multi-family: Per Article I.
- (5) Rear setback.
- (a) Single-family: 15 feet.
  - (b) Two-family attached: 15 feet.
  - (c) Mobile home: 15 feet.
  - (d) Mobile home park units: Per Article H.
  - (e) Multi-family: Per Article I.
- (6) Height (above grade).
- (a) Single-family: 35 feet.
  - (b) Two-family attached: 35 feet.
  - (c) Mobile home: 35 feet.
  - (d) Mobile home park units: Per Article H.

(e) Multi-family: Per Article I.

(7) Lot coverage (excluding drives and parking). All uses: 40%.

(J) *PUD District (per Article J).*

(1) Lot area (net). All uses: Per Article J.

(2) Lot width (at the MBL). All uses: Per Article J.

(3) Public street setback (MBL). All uses: Per Article J.

(4) Side setback. All uses: Per Article J.

(5) Rear setback. All uses: Per Article J.

(6) Height (above grade). All uses: Per Article J.

(7) Lot coverage (excluding drives and parking) All uses: Per Article J.

(K) *MI District.*

(1) Lot area (net). All uses: 40,000 square feet.

(2) Lot width (at the MBL). All uses: 175 feet.

(3) Public street setback (MBL). All uses: 50 feet and per Article G.

(4) Side setback. All uses: Per Article G.

(5) Rear setback. All uses: Per Article G.

(6) Maximum height (above grade). All uses: none.

(7) Maximum lot coverage (excluding drives and parking). All uses: 50%.

(L) *MS District.*

(1) Lot area (net). All uses: 10,000 square feet.

(2) Lot width (at the MBL). All uses: 100 feet.

(3) Public street setback (MBL). All uses: 40 feet and per Article G.

(4) Side setback. All uses: Per Article G.

(5) Rear setback. All uses: Per Article G.

(6) Maximum height (above grade). All uses: 80 feet.

(7) Maximum lot coverage (excluding drives and parking). All uses: 40%.

(M) *MO District.*

(1) Lot area (net). All uses: 15,000 square feet.

- (2) Lot width (at the MBL). All uses: 75 feet.
  - (3) Public street setback (MBL). All uses: 40 feet and per Article G.
  - (4) Side setback. All uses: Per Article G.
  - (5) Rear setback. All uses: Per Article G.
  - (6) Maximum height (above grade). All uses: 80 feet.
  - (7) Maximum lot coverage (excluding drives and parking). All uses: 40%.
- (N) *MCG District (per Article L).*
- (1) Lot area (net). All uses: Per Article L.
  - (2) Lot width (at the MBL).
    - (a) Lots containing four or more acres: 150 feet.
    - (b) Lots containing less than four acres: Per Article L.
  - (3) Public street setback (MBL). All uses: 50 feet and per Article G.
  - (4) Side setback. All uses: Per Articles G and Article L.
  - (5) Rear setback. All uses: per Articles G and Article L.
  - (6) Maximum height (above grade): All uses: 80 feet.
  - (7) Maximum lot coverage (excluding drives and parking): All uses: 40%.
- (O) *MR District.*
- (1) Lot area (net).
    - (a) Single-family: 6,000 square feet.
    - (b) Two-family attached: 6,000 square feet.
    - (c) Multi-family: Per Article I.
    - (d) All other uses: 6,000 square feet and Article G.
  - (2) Lot width (at the MBL). All uses: 60 feet.
  - (3) Public street setback (MBL).
    - (a) Single-family: 25 feet.
    - (b) Two-family attached: 25 feet.
    - (c) Multi-family: Per Article I.
    - (d) All other uses: 25 feet and Article G.

- (4) Side setback.
    - (a) Single-family: Eight feet.
    - (b) Two-family attached: Eight feet.
    - (c) Multi-family: Per Article I.
    - (d) All other uses: Per Article G.
  - (5) Rear setback.
    - (a) Single-family: 15 feet.
    - (b) Two-family attached: 15 feet.
  - (6) Maximum height (above grade).
    - (a) Single-family: 40 feet.
    - (b) Two-family attached: 40 feet.
    - (c) Multi-family: Per Article I.
    - (d) All other uses: 40 feet.
  - (7) Maximum lot coverage (excluding drives and parking). All uses: 40%.
- (P) *MCH District.*
- (1) Lot area (net). All uses: 15,000 square feet.
  - (2) Lot width (at the MBL). All uses: 100 feet.
  - (3) Public street setback (MBL). All uses: 50 feet and per Article G.
  - (4) Side setback. All uses: Per Article G.
  - (5) Rear setback. All uses: Per Article G.
  - (6) Maximum height (above grade). All uses: 80 feet.
  - (7) Maximum lot coverage (excluding drives and parking). All uses: 40%.
- (Q) *MRS District.*
- (1) Lot area (net).
    - (a) Single-family, without public water: 20,000 square feet.
    - (b) Single-family, with public water: 10,000 square feet.
    - (c) All other uses: In accordance with subsection (Q)(1)(a) or (b) above.
  - (2) Lot width (at the MBL). All uses: 100 feet.

- (3) Public street setback (MBL).
    - (a) Single-family: 30 feet.
    - (b) All other uses: 30 feet and in accordance with Article G.
  - (4) Side setback.
    - (a) Single-family: 12 feet.
    - (b) All other uses: 12 feet and per Article G.
  - (5) Rear setback.
    - (a) Single-family: 20 feet.
    - (b) All other uses: 20 feet and per Article G.
  - (6) Maximum height. All uses: 40 feet.
  - (7) Maximum lot coverage (excluding drives and parking). All uses: 40%.
- (R) *OR District.*
- (1) Lot area (net).
    - (a) Two-family attached: 7,500 square feet.
    - (b) Multi-family: Per Article I.
    - (c) All other uses: 7,500 square feet.
  - (2) Lot width (at the MBL). All uses: 50 feet.
  - (3) Public street setback (MBL).
    - (a) Two-family attached: 25 feet.
    - (b) Multi-family: Per Article I.
    - (c) All other uses: Ten feet and per Article G.
  - (4) Side setback.
    - (a) Two-family attached: Eight feet.
    - (b) Multi-family: per Article I.
    - (c) All other uses: per Article G.
  - (5) Rear setback.
    - (a) Two-family attached: 15 feet.
    - (b) Multi-family: Per Article I.

- (c) All other uses: Per Article G.
- (6) Maximum height (above grade).
  - (a) Two-family attached: 35 feet.
  - (b) Multi-family: Per Article I.
  - (c) All other uses: 90 feet.
- (7) Maximum lot coverage (excluding drives and parking).
  - (a) Two-family attached: 40%.
  - (b) Multi-family: 40%.
  - (c) All other uses: None.
- (S) *O District.*
  - (1) Lot area (net). All uses: 12,000 square feet.
  - (2) Lot width (at the MBL). All uses: 100 feet.
  - (3) Public street setback (MBL). All uses: 10 feet and per Article G.
  - (4) Side setback. All uses: Per Article G.
  - (5) Rear setback. All uses: Per Article G.
  - (6) Maximum height (above grade). All uses: 35 feet.
  - (7) Maximum lot coverage (excluding drives and parking). All uses: None.
- (T) *CN District.*
  - (1) Lot area (net). All uses: None.
  - (2) Lot width (at the MBL). All uses: None.
  - (3) Public street setback (MBL). All uses: 40 feet and per Article G.
  - (4) Side setback. All uses: Per Article G.
  - (5) Rear setback. All uses: Per Article G.
  - (6) Maximum height (above grade). All uses: None.
  - (7) Maximum lot coverage (excluding drives and parking) All uses: None.
- (U) *CD District.*
  - (1) Lot area (net).
    - (a) Multi-family: Per Article I.

- (b) Other uses: None.
  - (2) Lot width (at the MBL). All uses: None.
  - (3) Public street setback (MBL). All uses: None.
  - (4) Side setback. All uses: None.
  - (5) Rear setback. All uses: None.
  - (6) Maximum height (above grade). All uses: None.
  - (7) Maximum lot coverage (excluding drives and parking). All uses: None.
- (V) *CDF District.*
- (1) Lot area (net).
    - (a) Single-family: 6,000 square feet.
    - (b) Two-family attached: 6,000 square feet.
    - (c) Multi-family: Per Article I.
    - (d) All other uses: None.
  - (2) Lot width (at the MBL).
    - (a) Single-family: 60 feet.
    - (b) Two-family attached: 60 feet.
    - (c) Multi-family: Per Article I.
    - (d) All other uses: None.
  - (3) Public street setback (MBL).
    - (a) Single-family: 25 feet.
    - (b) Two-family attached: 25 feet.
    - (c) Multi-family: Per Article I.
    - (d) All other uses: Ten feet and per Article G.
  - (4) Side setback.
    - (a) Single-family: Eight feet.
    - (b) Two-family attached: Eight feet.
    - (c) Multi-family: Per Article I.
    - (d) All other uses: Per Article G.

- (5) Rear setback.
  - (a) Single-family: 15 feet.
  - (b) Two-family attached: 15 feet.
  - (c) Multi-family: Per Article I.
  - (d) All other uses: Per Article G.
- (6) Maximum height (above grade).
  - (a) Single-family: 35 feet.
  - (b) Two-family attached: 35 feet.
  - (c) Multi-family: Per Article I.
  - (d) All other uses: None.
- (7) Maximum lot coverage (excluding drives and parking).
  - (a) Single-family: 40%.
  - (b) Two-family attached: 40%.
  - (c) Multi-family: 40%.
  - (d) All other uses: None.

(W) *CG District.*

- (1) Lot area (net). All uses: None.
- (2) Lot width (at the MBL). All uses: None.
- (3) Public street setback (MBL). All uses: 20 feet and per Article G.
- (4) Side setback. All uses: Per Article G.
- (5) Rear setback. All uses: Per Article G.
- (6) Maximum height (above grade). All uses: None.
- (7) Maximum lot coverage (excluding drives and parking). All uses: None.

(X) *CH District.*

- (1) Lot area (net). All uses: None.
- (2) Lot width (at the MBL). All uses: None.
- (3) Public street setback (MBL). All uses: 20 feet and per Article G.
- (4) Side setback. All uses: Per Article G.

- (5) Rear setback. All uses: Per Article G.
- (6) Maximum height (above grade). All uses: None.
- (7) Maximum lot coverage (excluding drives and parking) All uses: None.

(Y) *IU District.*

- (1) Lot area (net). All uses: None.
- (2) Lot width (at the MBL). All uses: None.
- (3) Public street setback (MBL). All uses: 25 feet and per Article G.
- (4) Side setback. All uses: Per Article G.
- (5) Rear setback. All uses: Per Article G.
- (6) Maximum height (above grade). All uses: None.
- (7) Maximum lot coverage (excluding drives and parking). All uses: 50%.

(Z) *PIU District (per Article L).*

- (1) Lot area (net). All uses: 217,800 square feet (five acres).
- (2) Lot width (at the MBL). All uses: 400 feet.
- (3) Public street setback (MBL). All uses: 75 feet and per Article G.
- (4) Side setback. All uses: 60 feet and per Article G.
- (5) Rear setback. All uses: 60 feet and per Article G.
- (6) Maximum height (above grade). All uses: none; heights in excess of 75 feet shall be allowed provided the side and rear setbacks are increased one foot for each one foot or fraction thereof in height in excess of 75 feet.
- (7) Maximum lot coverage (excluding drives and parking). All uses: 40%.

(AA) *I District.*

- (1) Lot area (net). All uses: None.
- (2) Lot width (at the MBL). All uses: None.
- (3) Public street setback (MBL). All uses: 25 feet and per Article G.
- (4) Side setback. All uses: Per Article G.
- (5) Rear setback. All uses: Per Article G.
- (6) Maximum height (above grade). All uses: None.
- (7) Maximum lot coverage (excluding drives and parking). All uses: 50%.

(BB) *PI District (per Article L).*

- (1) Lot area (net). All uses: 217,800 square feet (five acres).
- (2) Lot width (at the MBL). All uses: 400 feet.
- (3) Public street setback (MBL). All uses: 75 feet and per Article G.
- (4) Side setback. All uses: 60 feet and per Article G.
- (5) Rear setback. All uses: 60 feet and per Article G.
- (6) Maximum height (above grade). All uses: none: heights in excess of 75 feet shall be allowed, provided the side and rear setbacks are increased one foot for each one foot or fraction thereof in height in excess of 75 feet.
- (7) Maximum lot coverage (excluding drives and parking). All uses: 40%.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2543, §§ 1-4, passed 11-12-1992; Ord. No. 94-129, § 1, passed 9-19-1994; Ord. No. 94-156, § 3, passed 12-8-1994; Ord. No. 95-29, § 4, passed 3-9-1995; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997; Ord. No. 98-68, §§ 1, 2, 3, 4, 5, 6, 7, passed 6-11-1998; Ord. No. 04-44, § 1, passed 5-13-2004; Ord. No. 10-84, §§ 1, 2, passed 10-14-2010; Ord. No. 13-020, § 1, passed 5-9-2013)

***Cross-reference:***

*Similar provisions, see § 9-4-103*

**SEC. 9-4-95 MEASURING SETBACKS.**

(A) Public street setbacks state the minimum distance required between the exterior finished wall of all structures and any adjacent public street right-of-way line. Where property is developed adjacent to an existing or future thoroughfare as identified on the city Thoroughfare Plan, the public street setback shall be measured from the future thoroughfare right-of-way as determined by the plan or policy of the city.

(B) Side and rear setbacks state the minimum distance required between the exterior finished wall of all structures and the adjacent side or rear property line.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-96 LOT FRONTAGE REQUIREMENTS.**

(A) *Generally.* Unless otherwise provided, no principal and/or accessory building, structure or use shall be erected, expanded, enlarged, increased or initiated on any lot that does not abut a public street a minimum distance of 50 feet, except on the radius of a cul-de-sac where such distance may be reduced to 40 feet. The minimum distance shall be measured along the right-of-way line of the public street.

(B) *Unimproved and/or unaccepted street exemption.* A permit may be issued for improvement, construction or use on a lot that abuts a dedicated street for the minimum distance which is an unimproved and/or unaccepted street, provided the street meets the applicable requirements of the subdivision regulations including, but not limited to, Article E and Article F.

(C) *Single-family exemption.* A single-family dwelling may be constructed on a lot that does not abut a public street, provided that the lot is at least two acres in size and is provided with direct access to a public street by an easement created for the exclusive use of the dwelling. Any easement created pursuant to this exemption shall be at least 40 feet in width and shall not exceed 300 feet in length.

(D) *Planned unit development and multi-family development exemption.* A permit for construction or use within any planned unit development or multi-family development may be allowed on a lot that does not abut a public street, provided the development is platted pursuant to the subdivision regulations set forth in Chapter 5 of this Title, and where the original development tract or lot met the minimum lot frontage requirement and the resulting lots are provided direct access to a public street across common property or an approved private street perpetually maintained for that purpose.

(E) *Office, commercial and industrial exemption.* A permit for construction or use within any office, commercial and industrial development may be allowed on a lot that does not abut a public street, provided the development is platted pursuant to the Subdivision Regulations and where the original development tract or lot met the minimum lot frontage requirement and the resulting lots are provided direct access to a public street across common property, or an approved private street or a recorded access easement perpetually maintained for the purpose.

(F) *Proximity to streets.*

(1) All portions of each building erected in accordance with this section shall be located within 500 feet of an approved public or private street, except as further provided under subsection (F)(2) below.

(2) All portions of each building located within any development which has exclusive and/or common property access drives and parking areas meeting the requirements of the North Carolina State Fire Code for a fire apparatus access road shall be located within 1,000 feet of an approved public or private street. The fire apparatus access road shall extend to within 150 feet of all portions of the facility as approved by the Chief of Fire and Rescue.

(3) No portion of this subsection shall preclude the city from requiring the construction of a new public street or extension of an existing public street where such is necessary to provide access to adjacent property and/or provide appropriate levels of access and linkages associated with the city's street network.

(G) *Fire hydrants.* All portions of each building erected in accordance with this section shall be located within an acceptable distance to a fire hydrant as required by the subdivision regulations.  
(Ord. No. 2440, § 1, passed 3-12-1992; Ord. No. 94-84, §§ 1, 2, passed 6-9-1994; Ord. No. 11-061, § 1, passed 10-13-2011)

#### **SEC. 9-4-97 LOT WIDTH REDUCTION.**

The minimum width for lots which abut the radius of a cul-de-sac may be reduced; provided, however, no lot shall have a width of less than 60 feet. To qualify under this section, the subject lot shall abut by not less than 80% of its frontage on the cul-de-sac.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2593, § 1, passed 2-11-1993)

#### **SEC. 9-4-98 HEIGHT EXEMPTIONS.**

(A) The height limits of these regulations shall not apply to a church spire, belfry, cupola or dome; an ornamental tower not intended for human occupancy; a conveyor or a parapet wall not extended more than three feet above the roof line of the building; and other necessary mechanical or communications appurtenances attached to the roof of a building. Height limits of these regulations shall apply to distributed antenna systems (DAS) installed on all types of posts, towers and structures.

(B) The height of the following freestanding structures may exceed the height limits of the district, provided that the public street, side and rear setbacks are increased one foot for every one foot or fraction thereof in height above the district maximum:

- (1) Monuments;
- (2) Water towers;
- (3) Observation towers;

- (4) Transmission towers;
- (5) Chimneys or smoke stacks;
- (6) Flag poles;
- (7) Masts or aerals;
- (8) Farm structures;
- (9) Stadiums; and
- (10) Satellite dish antennas which are 80 inches or less in diameter.

(C) All uses, including those listed under this section, shall in accordance with section 9-4-14, be limited to the height, locational standards and requirements of the Pitt-Greenville Airport zoning ordinance. (Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2593, § 2, passed 2-11-1993; Ord. No. 97-5, § 5, passed 1-9-1997; Ord. No. 16-066, § 4, passed 12-8-2016)

#### **SEC. 9-4-99 VISIBILITY; SIGHT DISTANCES MAINTAINED.**

Visibility shall be reserved in accordance with the sight distance standards and requirements of Title 6, Chapter 2, Streets and Sidewalks, of the Greenville City Code and as provided by notation or description upon any map recorded pursuant to the subdivision regulations.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2530, § 1, passed 10-8-1992)

#### **SEC. 9-4-100 RESIDENTIAL ACCESSORY STRUCTURE AND BUILDING STANDARDS; EXCEPT AS OTHERWISE REGULATED UNDER ARTICLES H, I, J, K AND M.**

(A) *Residential; detached accessory.*

(1) *Location.*

(a) May be located in the rear yard and shall not be located in any front or side yard, except as provided under subsection (A)(1)(b) below.

(b) Garages and carports may be located in a side yard.

(2) *Setbacks.*

(a) *Side yard.*

1. Not less than the principal building setback for the district and use.
2. Public street setbacks for the district shall apply for all corner or double frontage lots.

(b) *Rear yard.*

1. Not less than the principal building setback for the district and use, except as further provided.
2. a. Structures or buildings not exceeding 15 feet in height shall be set back not less than five feet and per Article G. Public street setbacks for the district shall apply for all corner or double frontage lots except as provided under subsection (A)(2)(b)2.b. below.

b. The rear yard setback of single-family and two-family attached (duplex) double frontage lots shall be not less than 15 feet provided that: the reverse rear frontage public street is a minor or major thoroughfare street as shown on the adopted Thoroughfare Plan; no driveway access is existing or permitted by regulation, at the time of building permit application, for the subject lot at any point on the reverse rear frontage; and the front orientation of adjacent dwellings, located on all sides of the subject lot, which share common side and/or rear yard boundaries with the subject lot, shall be to a street frontage other than the reverse rear frontage street of the subject lot.



3. For purposes of this section, the term "reverse rear frontage" shall be construed as the street frontage opposite to the front orientation of the subject dwelling.

(c) *Building separation.*

1. Detached accessory structures which are constructed with a one-hour fire rated assembly as required by the North Carolina State Building Code, as amended, shall not be located less than five feet from any principal structure. It shall be the responsibility of the property owner to demonstrate compliance with this section.

2. Detached accessory structures not qualified under subsection (A)(2)(c)1. above shall not be located less than ten feet from any principal structure.

3. No detached accessory structure shall be located less than five feet from any other detached accessory structure located on the same lot.

(3) *Height.*

(a) Except as otherwise provided under subsection (A)(3)(b) below, the height of any accessory structure or building shall not exceed the height of the existing principal building or district maximum height, whichever is less.

(b) In cases where the provisions of this subsection will not allow an accessory structure or building of at least 15 feet in height, then the requirements of this subsection shall be waived to allow an accessory structure or building of 15 feet or less in height at the option of the owner. All other provisions of this section shall apply.

(B) *Residential; attached accessory.* The location, setback and height shall be in accordance with the district standards established for the principal building unless otherwise provided.

(C) *Electric service.*

(1) Except as further provided, no accessory building located on a lot containing a single-family residential use shall have a separate electric service.

(2) Single-family accessory buildings may, at the option of the owner, have a separate electric service provided compliance with all of the following:

(a) The accessory building shall not be utilized as a temporary or permanent dwelling;

(b) The principal use single-family dwelling shall both: have not less than an existing and installed 400 amperage electric service, and the existing service shall not have available reserve capacity to adequately serve the accessory use, as determined by the Building Inspector;

(c) The accessory building shall not have separate sanitary sewer service;

(d) The accessory building shall not contain all independent housekeeping facilities and/or qualify as a dwelling unit. For purposes of this section, the term "independent housekeeping facilities" shall be construed to include bathroom, sanitation, living, dining, sleeping, and a permanently installed kitchen that includes residential code compliant electric wiring and plumbing; and

(e) No single-family lot shall have more than two electric services as provided herein; provided, however, a bona fide farm may have electric service to nonresidential farm related buildings without restriction to the total number of electric services allowed under this section.

(D) *List of accessory structures or buildings.* Residential accessory structures and buildings may include, but not be limited to, the following:

- (1) Carport;
- (2) Garage;
- (3) Greenhouse;
- (4) Playhouse;
- (5) Pumphouse;
- (6) Storage shed;
- (7) Swimming pool;
- (8) Tool shed;
- (9) Work shop;
- (10) Dog pen and/or house, keeping of three or fewer dogs; and
- (11) Satellite dish antennas.

(E) *Special requirements for certain accessory structures or buildings.*

(1) *Outdoor swimming pools.* An outdoor swimming pool, including an in-ground, above-ground or on-ground pool structure intended for recreational bathing that contains water over two feet in depth or which exceeds 40 square feet in water surface area shall be surrounded by a four-foot or higher barrier consisting of a fence, wall or building wall or combination thereof which obstructs access to the swimming pool, in accordance with the North Carolina State Building Code.

(2) *Satellite dish antennas.* Shall be subject to section 9-4-103(I) of this article.

(3) *Stables and/or kennels.* Shall be subject to section 9-4-103(J) of this article.

(4) *Sports ramps.* Sports ramps shall comply with all of the following:

(a) Sports ramps, including all elevated activity surface areas and all associated flat bottom, standing, stopping or seating surfaces which are six or more inches above the adjacent grade shall not exceed 500 square feet in total on-site elevated surface activity area;

(b) No portion of a sports ramp including structural supports, railings, walls and/or barriers shall exceed ten feet in height above the adjacent grade, as measured at 90 degrees;

(c) A sports ramp that is attached to or which contains an accessory building or other enclosed storage area shall be designed and constructed in accordance with the applicable provisions of the N.C. State Building Code; and

(d) No sports ramp or associated structure shall be attached to or supported by a dwelling structure.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 95-82, § 1, passed 8-10-1995; Ord. No. 96-106, §§ 1, 2, passed 11-14-1996; Ord. No. 97-5, § 1, passed 1-9-1997; Ord. No. 97-39, § 1, passed 4-10-1997; Ord. No. 02-117, §§ 1, 2, passed 11-14-2002; Ord. No. 03-51, § 1, passed 6-12-2003; Ord. No. 04-95, § 2, passed 8-12-2004; Ord. No. 05-91, § 1, passed 8-11-2005; Ord. No. 07-145, § 1, passed 11-8-2007)

**SEC. 9-4-101 COMMERCIAL, INDUSTRIAL AND OFFICE ACCESSORY STRUCTURE AND BUILDING STANDARDS.**

(A) *Dimensions.* The location, setback and height of any commercial, industrial and office accessory structure or building shall be in accordance with the district minimum established for the principal use and the bufferyard regulations.

(B) *Garbage/trash container pad standards.* Container pads shall be enclosed on three sides by a complete visual screen consisting of a fence, vegetation or combination thereof.

(C) *Special requirements for certain accessory structures or buildings.*

(1) *Swimming pools.* Except as otherwise provided, pools permanently or semipermanently constructed below grade and which exceed 40 square feet in water surface area shall be protected by a five-foot or higher fence containing a latching gate to keep children and animals from having unsupervised access. Pools located completely within an enclosed structure shall be exempt from the requirements of this subsection.

(2) *Satellite dish antennas.* Shall be subject to section 9-4-103(I) of this article.

(3) *Stables and/or kennels.* Shall be subject to section 9-4-103(J) of this article.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2466, § 1, passed 6-8-1992; Ord. No. 97-5, § 2, passed 1-9-1997)

**SEC. 9-4-101.1 SETBACK EXEMPTION.**

(A) Except as further provided, minimum non-screening Bufferyard B setbacks set forth under section 9-4-119, and/or minimum street right-of-way building setbacks may be reduced by up to 10%, at the option of the owner, where the reduction is necessary to retain an existing ten-inch-plus caliper large tree, provided:

(1) The tree is determined, by the Director of Planning and Development Services or his or her designated representative, to be either natural growth (seedling) vegetation or that the tree has been in existence for not less than 20 years at the current location, otherwise previously transplanted trees shall not qualify for purposes of this section;

(2) That the reduction is indicated upon an approved site plan; including the location, type and caliper of the subject tree, and the building separation and future no-build zone as further described;

(3) That a building to tree trunk separation of not less than ten feet is maintained at the time of initial construction;

(4) No new future buildings, expansions or additions to existing buildings, or other impervious areas including parking areas and/or drives, shall be allowed to encroach into a designated future no-build zone, described as a ten-foot radius from the center of the trunk of the retained tree; and

(5) A six-inch or greater caliper large tree shall be substituted in replacement of any dead or diseased tree qualified under this requirement, at the location of the removed tree, within 60 days of removal of the tree by the owner or within the period following notice by the city.

(B) The setback reduction allowance shall not apply to single-family and two-family attached (duplex) development or associated accessory structures.

(Ord. No. 05-103, § 8, passed 10-13-2005; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-102 PROJECTIONS INTO REQUIRED YARDS.**

The following attached structures will be permitted to project into the specified yard for the following distance:

(A) Sills and eaves: Two feet into any yard.

- (B) Fire escape: Four feet into any yard.
- (C) Chimneys: Three feet into any yard.
- (D) Bay windows: Three feet into any yard provided that the projection is not an extension of the foundation; if it is an extension of the foundation, the setback shall be measured from the exterior finished wall.
- (E) Stoops; open unenclosed: Three feet into any yard.
- (F) Porches; open unenclosed and covered or uncovered (excluding screened or glassed): Seven feet into a front or rear yard provided such porch does not exceed 200 square feet in surface area.
- (G) Carports; open unenclosed: Open and unenclosed carports which are attached to and part of the principal structure and which are unenclosed on all exterior sides except for necessary supports may project into interior side or rear yards but shall be no closer than five feet to a side or rear property line.
- (H) Deck/balcony; open unenclosed and uncovered: Three feet into any yard.
- (I) Steps open unenclosed and uncovered: can project into any yard; however, no steps shall be located closer than five feet to any property line.
- (J) Gas pump island: can project into any yard in accordance with the bufferyard regulations; however, no gas pump island shall be located closer than ten feet to a public street right-of-way except as further provided. Within any MD-Medical District, no gas pump island shall be located within 30 feet of any public street right-of-way line.
- (K) Canopies and awnings: Can project into any yard in accordance with the bufferyard regulations or the following requirements, whichever is greater:
- (1) CDF District: Not closer than five feet to any public street right-of-way.
  - (2) All other nonresidential districts: Not closer than ten feet to any public street right-of-way.
  - (3) All residential districts: Five feet into any yard.
- (L) Mechanical equipment; habitable area heating and air conditioning units: Three feet into any yard. Commercial mechanical equipment including food and freezer lockers, furnaces, ovens and the like or any equipment which utilizes a structure shall not be included under this exemption.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2382, § 1, passed 11-7-1991; Ord. No. 94-21, § 1, passed 2-10-1994; Ord. No. 09-74, § 1, passed 9-10-2009)

#### **SEC. 9-4-103 SPECIAL STANDARDS FOR CERTAIN SPECIFIC USES.**

- (A) *Church or place of worship.* Shall be subject to the bufferyard regulations; however, no principal or accessory structure shall be located within 20 feet of any adjoining property zoned R-6, R-6A, R-6MH, R-6S, R-9, R-9S, R-15S, MR, MRS, RA-20 or PUD.
- (B) *Schools; public and private.* Shall be subject to the bufferyard regulations; however, no principal or accessory building shall be located within 50 feet of any adjoining property or public street right-of-way line.
- (C) *Municipal government building or use.* When municipal buildings, parks or other recreational areas to be used for athletic events or night programs are located in a residential zone or adjoining a lot containing a permitted residential use, a ~~public~~ legislative hearing shall be properly advertised and conducted before the City Council for the purposes of hearing and considering any comments by the public as to the location under consideration.

(D) *Family care home.*

(1) For purposes of this section, a family care home shall be as defined herein.

(2) Family care homes shall be deemed a residential use of property and shall be permissible in all residential districts subject to subsection (D)(3) below.

(3) No family care home shall be permitted within a one-fourth-mile (1,320 foot) radius of an existing family care home as measured from the nearest lot line.

(4) The Board of Adjustment may grant a reasonable accommodation to the one-fourth-mile (1,320 foot) separation requirement established by subsection (D)(3) above in accordance with the provisions of this subsection in order to allow for a reasonable accommodation under the Federal Fair Housing Act.

(a) The Board of Adjustment shall grant a reasonable accommodation under the Federal Fair Housing Act to the one-fourth-mile (1,320 foot) separation requirement established by subsection (D)(3) above if the Board finds from the evidence produced that the proposed accommodation is reasonable and necessary.

1. *Reasonable.* Factors which may be considered to determine whether an accommodation is reasonable include but are not limited to the following:

a. The legitimate purposes and effects of existing zoning regulations are not undermined by the accommodation;

b. The benefits that the accommodation provides to individuals with disabilities;

c. Alternatives to the accommodation do not exist which accomplish the benefits more efficiently; and

d. A significant financial and administrative burden is not imposed by the accommodation upon the city.

2. *Necessary.* Factors which may be considered to determine whether an accommodation is necessary include but are not limited to the following:

a. Direct or meaningful amelioration of the effects of the particular disability or handicap is provided by the accommodation; and

b. Individuals with disabilities are afforded by the accommodation equal opportunity to enjoy and use housing in residential neighborhoods.

(b) The procedures governing the consideration of a special use as established by state law and the rules of procedure of the Board of Adjustment shall apply to the consideration of a reasonable accommodation under the Federal Fair Housing Act to the one-fourth-mile (1,320 foot) separation requirement established by subsection (D)(3) above. In determining whether to grant a reasonable accommodation under the Federal Fair Housing Act to the one-fourth-mile (1,320 foot) separation requirement established by subsection (D)(3) above, the general criteria set forth in section 9-4-81 may be considered when determining whether the accommodation is reasonable and necessary in accordance with subsection (D)(4)(a) above.

(c) In granting a reasonable accommodation under the Federal Fair Housing Act to the one-fourth-mile (1,320 foot) separation requirement established by subsection (D)(3) above, the Board of Adjustment may prescribe appropriate conditions and safeguards to ensure the purposes of this chapter.

(E) *Bona fide farms.*

- (1) Buildings and structures shall meet the minimum standards for the applicable district. Bona fide farm buildings and structures located in a residential district within the corporate limits shall meet applicable single-family dwelling standards.
- (2) Agricultural cultivation shall be exempt from any required setbacks, provided no structures are required or utilized within the setbacks listed under subsection (E)(1) above.
- (3) Bufferyard vegetation standards shall not apply to any bona fide farm.

(F) *Temporary field office.*

- (1) Shall be limited to 90 days; however, applicable permits may be renewed as necessary.
- (2) No living quarters shall be allowed.
- (3) May only be utilized in conjunction with construction activity.

(G) *Condominium (unit ownership) and townhouse type development.* Attached residential and nonresidential units constructed for individual owner occupancy shall be subject to the following:

- (1) Interior units of each structure may be constructed on common property lines (zero lot line setbacks) provided the overall structure meets the side, rear and public or private street setback for the applicable use and district. If there is an offset of the wall from the interior common lot line the offset shall be set back not less than five feet.
- (2) No two units shall be considered attached unless the units share a five-foot common party wall.
- (3) Common party walls shall be constructed in accordance with the North Carolina State Building Code, G.S. Chapter 47C (the North Carolina Condominium Act) and other applicable requirements.
- (4) The overall density of the development shall be no greater than that permitted by applicable district requirements.
- (5) The maximum lot coverage for the district shall apply to the development.
- (6) Buildings, units or lots separated by a public street right-of-way shall be considered individually for compliance under subsections (G)(4) and (5) above.
- (7) In the case of staggered or extended common property line walls, a five-foot maintenance and access easement with a maximum two-foot eave encroachment easement within the maintenance easement shall be established on the adjoining lot and shall assure ready access to the lot line wall for normal maintenance. Designated common area which satisfies such access shall meet the requirements of this section.
- (8) The minimum lot width of each townhouse lot shall be no less than 16 feet, provided that when the lot is combined with other contiguous lots within the development the combined lot widths are equal to or exceed the minimum lot width of the prevailing district for the particular use. Townhouse lots having preliminary or final subdivision plat approval prior to April 9, 1981 may have a minimum lot width of 14 feet.
- (9) All development regulated in accordance with this section shall be subject to the requirements, conditions and restrictions of the subdivision regulations.

(H) *Circus, carnival or fairs; temporary only.*

- (1) The maximum frequency of such temporary use shall not exceed one occurrence within any 12-month period and the maximum duration of the temporary use shall not exceed ten days per occurrence.
- (2) No associated activity or storage area, temporary structure, tent, booth, stand, mechanical ride or apparatus or the like shall be located or operated within 500 feet of any residential zoning district.
- (3) No such use shall be operated or conducted between the hours of 11:00 p.m. and 8:00 a.m.
- (4) Such use shall be subject to applicable setback, parking space requirements and other standards for the district and use; however, the use shall be exempt from the vegetation and parking lot surface improvement standards.
- (5) No permanent building, structure or facility shall be located on any lot for the exclusive purpose of operating any temporary use.
- (6) Signage shall be allowed in accordance with Article N.
- (7) Prior to any operation, a site plan of sufficient detail to ensure compliance with required standards shall be submitted to the city for review and approval of the temporary use.

(I) *Satellite dish antennas.*

- (1) *Purpose.* It is the purpose of this section to allow the use of satellite dish antennas in both residential and nonresidential districts in a manner which will best provide and ensure:
  - (a) The health, safety and welfare of the people by ensuring adequate line of sight clearance of the motoring public and adequate light and air to adjacent properties; and
  - (b) That the aesthetic quality of the city and environs is maintained by minimizing visual obstruction to streetscapes and vistas to and from adjacent properties.

(2) *Satellite dish antenna standards.*

- (a) *Sight distance area observed.* No satellite dish antenna regardless of size (diameter) and district shall be located within any street sight distance area as described and defined under Title 6, Chapter 2 of the Greenville City Code, whether or not the area has been dedicated by easement or notation on any plat or plan. For purposes of this section all private streets and/or driveways shall be construed as nonthoroughfare streets.
- (b) *Satellite dish antenna standards; residential districts specifically.* (See also subsections (I)(2)(d) and (e).)
  1. *Location.*
    - a. Except as otherwise provided, dish antennas may be located in the rear yard and shall not be located in any front or side yard.
    - b. Dish antennas which exceed 80 inches in diameter shall be prohibited from roof tops.



2. *Setbacks.*

- a. Not less than the principal building setback for the district, except as otherwise provided.
- b. Dish antennas which exceed 80 inches in diameter shall be prohibited from roof tops.

3. *Height.*

a. Except as otherwise provided under subsection (I)(2)(b)3.b. below, the height of any dish antenna shall not exceed the height of the existing principal building or district maximum height, whichever is less.

b. In cases where the provisions of this subsection will not allow a dish antenna of at least 15 feet in height, then the requirements of this subsection shall be waived to allow a dish antenna of 15 feet or less in height at the option of the owner. All other provisions of this section shall apply.

(c) *Satellite dish antenna standards; nonresidential districts specifically.* (See also subsections (I)(2)(d) and (e).) Except as otherwise provided, the location, setback and height of any dish antenna shall be in accordance with the district minimum established for the principal use and per Article G.

(d) *Exemptions.*

1. *Residential districts.* Except as otherwise provided under subsection (I)(2)(e) below, within any residential district any dish antenna that is 40 inches or less in diameter shall be exempt from the requirements set forth under subsection (I)(2)(b) above.

2. *Nonresidential districts.* Except as otherwise provided under subsection (I)(2)(e) below, within any nonresidential district any satellite dish antenna that is 80 inches or less in diameter shall be exempt from the requirements set forth under subsection (I)(2)(c) above.

(e) *Historic districts and historic property and/or landmark application.*

1. a. Within any Historic District (HD) Overlay District and/or for any individually designated historic property and/or landmark, no dish antenna shall be located except in conformance with this section and the applicable requirements set forth under Title 9, Chapter 7, Historic Preservation Commission, of the City Code and associated *Design Guidelines Standards Handbook*, City of Greenville Historic Preservation Commission; and

b. No dish antenna regardless of size (diameter) shall be erected in any front yard, side yard or public street setback area unless the owner by competent and accepted engineering analysis certifies and demonstrates to the Historic Preservation Commission that reception will be materially limited due to compliance with this section and that there is no available location at the rear of the principal structure and outside any front yard, side yard or public street setback area where service can be obtained; and

c. Where application of this section imposes additional minimal costs on the erection of any dish antenna, the additional minimal costs shall not be construed as a limit on any alternate available location for obtaining service.

2. The Historic Preservation Commission may seek the advice of any competent authority concerning the accuracy and sufficiency of any engineering analysis submitted for consideration under this section.

(J) *Stables and/or kennels.*

- (1) Shall be located no closer than 100 feet to any existing dwelling or residential district; and
- (2) Shall otherwise meet the minimum dimensional standards and setbacks within the applicable district, except as provided under subsection (J)(1) above.

(K) *Hotel, motel, bed and breakfast inn.*

(1) In addition to the specific requirements listed below under subsections (K)(2) and (3), all hotel, motel, bed and breakfast inns including both limited and extended stay lodging facilities shall be subject to the following requirements:

- (a) No lodging unit shall be occupied by more than one family. See also definition of family.
  - (b) The lodging facility shall contain a registration office or area which is staffed 24 hours per day during all periods of operation. A resident manager, supervisor or caretaker shall qualify for purposes of this section.
  - (c) Housekeeping services shall be provided. Housekeeping services shall include but not be limited to: changing linen, cleaning bathroom and kitchen areas, removal of trash, dusting and vacuuming.
  - (d) Shall be designed and marketed in a fashion that reflects the intended use for transient lodgers. No person other than an approved resident manager, supervisor or caretaker shall utilize, consider or reference any lodging unit as a secondary or primary place of residence.
  - (e) The lodging facility may contain restaurants, meeting rooms, indoor recreation facilities, lounges, outdoor swimming pool, entertainment facilities, retail sales of personal accessories for occupants, maid and bell boy service, laundry services, telephone and secretarial services, as accessory uses.
  - (f) Lodging units which contain cooking facilities must provide a sink which shall be located in the cooking area and shall be in addition to any sink provided for bathroom or bathing purposes.
  - (g) No lodging unit shall share kitchen or cooking facilities with any other lodging unit.
- (2) Limited stay lodging facilities shall be subject to the following additional requirements:
- (a) Lodging shall be limited to daily or weekly periods not to exceed 30 continuous days.
  - (b) Housekeeping services shall be provided on a daily basis.
  - (c) Not more than 25% of the units may have kitchen and/or cooking facilities.
- (3) Extended stay lodging facilities shall be subject to the following additional requirements.
- (a) Lodging shall be limited to daily, weekly or monthly periods, not to exceed 90 continuous days.
  - (b) Housekeeping services shall be provided on a weekly basis or other more frequent period at the option of the owner/operator.
  - (c) Each extended stay unit may contain kitchen and/or cooking facilities.

(L) *Tents.*

- (1) For purposes of this section, the term "tent" shall be construed to include any temporary shelter, canopy or enclosure of canvas, fabric, plastic film or other stretch material supported and sustained by a pole(s) and/or guy line(s).
- (2) Except as otherwise provided, this section shall apply to any commercial, office, institutional, industrial or public assembly activity which utilizes a tent and is conducted as a principal or accessory use regardless of district.
- (3) The following shall be exempt from the provisions of this section, provided the tent structure(s) and use thereof comply with all applicable requirements, including but not limited to zoning, building code, fire code and flood damage prevention regulations.
  - (a) Awnings attached to and supported by a building.
  - (b) Temporary funeral tents at grave sites.
  - (c) Temporary noncommercial private special event tents as an accessory activity to a residential dwelling.
  - (d) Temporary noncommercial recreational camp tents as an accessory activity to a residential dwelling or within an approved campground.
- (4) No tent shall be utilized as a permanent principal or accessory structure. Tents shall only be utilized on a limited duration basis in accordance with the following:
  - (a) Tents that are utilized for principal use purposes shall be subject to the requirements and conditions of a temporary use in accordance with Article B of this chapter.
  - (b) Tents that are utilized for accessory use purposes shall be subject to all of the following requirements:
    1. Not more than one tent shall be displayed on any lot at any one time.
    2. No tent shall be erected for more than 30 consecutive days.
    3. No lot or establishment shall utilize any tent(s) for more than four separate events within any calendar year.
  - (c) For purposes of this subsection (L)(4), the term "lot" shall be construed to include all contiguous parcels occupied by an establishment.
- (5) Except as otherwise provided, tents shall be setback not less than the principal building setback applicable for the district and in accordance with the bufferyard setback regulations. Support poles, guy lines and stakes may encroach into the street right-of-way setback, provided the encroachments are set back not less than the applicable bufferyard setback.
- (6) No tent shall be located within a street sight distance area as defined per Title 6, Chapter 2 of the Greenville City Code.
- (7) No tent shall be located so as to obstruct a fire lane; public sidewalk; fire hydrant; building entrance way or emergency exit; public alley; public utility; active driveway, parking lot drive isle or required parking space; garbage/trash container or other area which in the opinion of the Building Inspector would constitute a hazard or danger to the public.
- (8) No tent shall be located within a stormwater detention area or structure except as specifically approved by the City Engineer or designee.

(9) No tent shall be located within a floodway as defined per Chapter 6 of this Title.

(10) No tent shall be located within an area of special flood hazard as defined per Chapter 6 of this Title, except as specifically approved by the City Engineer or designee.

(11) All tents shall display a fire retardant certificate approved by the Chief of Fire Rescue or his or her authorized representative.

(12) The proposed use of each separate tent shall be included on the zoning compliance and building permit application. No new use or change of use, other than as specifically approved under the current permit, shall be allowed except upon reapplication and approval.

(13) No tent shall utilize active or mechanical heat and/or air conditioning, electric service and/or artificial lighting or water/wastewater disposal facilities except as specifically approved by the Building Inspector.

(14) All above-grade tent guy line stakes shall be cushioned in a manner approved by the Building Inspector.

(15) All tent support guy lines shall be of a fluorescent color and/or flagged in a manner approved by the Building Inspector.

(16) Tents shall be exempt from and shall not count towards the maximum lot coverage requirement for the district.

(17) Tents and the use thereof shall comply with all applicable fire and building code requirements.

(18) In addition to other requirements, tents utilized for accessory residential purposes shall comply with section 9-4-100 of this article.

(M) *Christmas tree sales lot; temporary only.*

(1) Such use must qualify as a temporary use per Article B of this chapter.

(2) Christmas tree sales lots located within an OR (Office-Residential) District shall be subject to the following requirements:

(a) No portion of a sales lot shall be located within 100 feet, including public street rights-of-way, of a residential zoning district.

(b) For purposes of this section, the term "sales lot" shall be constructed as any portion of a parcel which is utilized for Christmas tree sales including display areas and related activities and any accessory sales office.

(N) *Mobile home.*

(1) No mobile home established (new setup) or relocated within the city planning and zoning jurisdiction shall be occupied until the mobile home has been inspected and approved for compliance with the Minimum Housing Code set forth under Title 9, Chapter 1, Article F of the City Code when the Building Inspector makes a finding of noncompliance with the Minimum Housing Code.

(2) Mobile homes shall, upon installation, have either a permanent, continuous masonry foundation, or a continuous and opaque skirt consisting of vinyl, fiberglass or other similar solid nonmetal material. The skirt for a mobile home shall be attached to weather resistant material when required for support.

(O) *Restaurant; fast food and/or restaurant; conventional utilizing drive-through services.* Except as further provided, whenever a proposed restaurant is to be located adjacent to a permitted residential use, or a residential zoning district, the following minimum standards shall be required:

- (1) The restaurant principal structure shall maintain a public street (front yard) setback not less than the adjoining residential zoning district;
- (2) The restaurant principal structure shall maintain a side and rear yard setback not less than 25 feet from any property line which abuts a residential zoning district or a permitted residential use;
- (3) The maximum height of the restaurant principal and/or accessory structure(s) shall not exceed 35 feet; and
- (4) Any exterior menu reader board or order station which contains an audio speaker(s) shall be set back not less than 50 feet from any side or rear property line which abuts a permitted residential use or residential zoning district, and the speaker shall be oriented and directed away from any adjacent permitted residential use or residential zoning district in a manner approved by the Director of Planning and Development Services or his or her designee, and the requirement shall be indicated upon an approved site plan. Separation of the speaker from an adjacent permitted residential use or residential zoning district by an intervening nonresidential building or structure of sufficient dimension to negate or block the transmission of sound may, upon approval of the Director of Planning and Development Services or his or her designee, substitute for the speaker setback, orientation or direction standards of this section. No exterior menu reader board or order station shall be utilized or operated in a manner which constitutes a nuisance or hazard to the general public.  
(Ord. No. 06-75, § 1, passed 8-10-2006)

(P) *Restaurant, conditional and/or restaurant, fast food; records retention requirement.* Records related to the sale of prepared and/or packaged food in a ready-to-consume state and the sale of all other products and services shall be maintained on premises for not less than one year and shall be open for inspection or audit at all reasonable hours during any period of establishment operation by the Zoning Enforcement Officer. The Zoning Enforcement Officer may view the records on the premises of the establishment or may request copies of the written records be delivered to the city. Records of sales of prepared and/or packaged food in a ready-to-consume state and the sale of all other products and services shall be filed separate and apart from all other records maintained on the premises. The requirements of this section shall be for the purpose of determining the portion of sales attributed to the sale of prepared and/or packaged food in a ready-to-consume state. Failure to provide all records required by this section in a timely manner, to be determined by the city, upon written request of the Zoning Enforcement Officer shall constitute a violation of the zoning regulations.  
(Ord. No. 09-27, § 10, passed 4-9-2009)

(Q) *Television and radio broadcast, cellular telephone, wireless communication towers and distributed antenna systems (DAS).*

- (1) Towers located within a CG District shall be subject to all of the following requirements:
  - (a) Shall not exceed 200 feet in height above the adjacent grade, as measured to the highest point, including the support structure and any communication equipment;
  - (b) Shall be a monopole or other self-supporting structure that does not utilize or require guy-wire or other similar support; and
  - (c) Co-location of television, radio, cellular telephone or other wireless communication equipment shall be permitted on all tower(s), provided compliance with all requirements.
- (2) Towers located within an OR District shall be subject to all of the following requirements:
  - (a) Shall not exceed 120 feet in height above the adjacent grade, as measured to the highest point, including the support structure and any communication equipment;
  - (b) Shall be a monopole structure that does not utilize or require guy-wire or other similar support;

- (c) Shall be located on a two-acre or larger lot, hereafter referred to as the "parent lot." A tower lease lot of less than two acres within the two-acre or larger parent lot that includes the tower structure, tower accessory structures, ground level mechanical and/or communication equipment, fencing, landscaping, attendant parking, and drives shall be permitted, provided compliance with all requirements;
- (d) No tower shall be located within a 500-foot radius of any other existing or vested tower located in an OR District as measured from the center of the towers;
- (e) Except as provided in subsection (Q)(2)(f) of this section, the tower structure shall be set back from all perimeter property lines of the parent lot either a distance equal to the total tower height, or in accordance with the bufferyard regulations, whichever is greater;
- (f) The tower structure shall be setback from any residential zoned lot or tract either a distance equal to twice the total tower height, or 200 feet, whichever is greater;
- (g) For purposes of subsections (Q)(2)(e) and (f) above, the required setback shall be measured from the outside edge of the base of the tower structure to the nearest property line or zoning boundary line; and
- (h) Co-location of television, radio, cellular telephone, or other wireless communication equipment shall be permitted on all tower(s), provided compliance with all requirements.
- (3) Towers located within the MCH, MCG, MS, MI, and/or MO Districts shall be subject to all of the following requirements:
- (a) Shall not exceed 80 feet in height above the adjacent grade, as measured to the highest point, including the support structure and any communication equipment;
- (b) Shall be a monopole structure that does not utilize or require guy-wire or other similar support;
- (c) Shall be located on a one-acre or larger lot, hereafter referred to as the "parent lot." A tower lease lot of less than one-acre within the one-acre or larger parent lot that includes the tower structure, tower accessory structures, ground level mechanical and/or communication equipment, fencing, landscaping, attendant parking, and drives shall be permitted, provided compliance with all requirements;
- (d) No tower shall be located within a 500-foot radius of any other existing or vested tower as measured from the center of the towers;
- (e) The tower structure shall be setback from any residential zoned lot or tract a distance equal to 75% of the tower height. The required setback shall be measured from the outside edge of the base of the tower structure to the nearest property line or zoning boundary line; and
- (f) Co-location of television, radio, cellular telephone, or other wireless communication equipment shall be permitted on all tower(s), provided compliance with all requirements.
- (4) Digital antenna systems (DAS) located within right-of-way, on city owned infrastructure, on Greenville Utilities Commission owned infrastructure and/or on city property shall be subject to all of the following requirements even if they are intended to replace existing light poles, utility poles or similar structures or are proposed as free-standing towers. Only the minimal use of the public right-of-way and/or city owned and Greenville Utilities Commission owned infrastructure is allowed because the space in the right-of-way should be reserved for public utilities and should be free of safety hazards. In addition, telecommunications facilities located in the right-of-way and mounted on city owned and Greenville Utilities Commission owned infrastructure have the potential of being very visible to pedestrians and the traveling public. In order to locate in a public right-of-way, the size and visibility of DAS equipment and their support structures must use be minimized. Application and permitting of DAS equipment are subject to review procedures in Title 6, Chapter 2:

(a) DAS located within right-of-way, on city owned infrastructure, on Greenville Utility Commission owned infrastructure, replacing existing power or lights poles owned by the City or Greenville Utilities Commission and/or on city owned property within any district and adjacent to a designated major or minor thoroughfare except within the CD District, shall be subject to all of the following requirements:

1. The height of DAS equipment, including support poles, whether they are replacing existing light posts, are mounted to existing light posts or are freestanding poles shall not exceed 35 feet above grade, including the top of an antenna.
2. Where ground-mounted equipment and support poles are proposed on city owned sidewalks, there must be a minimum of five feet of unobstructed sidewalk remaining for pedestrians to pass by the installation or as determined by the Director of Public Works.
3. The location of DAS equipment and support structures must not restrict sight triangles of pedestrians or motorists to roadway intersections and public or private driveways.

(b) DAS located within right-of-way, on city owned infrastructure, on Greenville Utility Commission owned infrastructure, replacing existing power or lights poles owned by the City or Greenville Utilities Commission and/or on city owned property within the CD District, shall be subject to all of the following requirements:

1. The height of DAS equipment, including support poles, whether they are replacing existing light posts, are mounted to existing light posts or are freestanding poles shall not exceed 35 feet above grade, including the antenna, must not have antennas longer than six feet, must be painted to match the color of the poles.
2. Ground-mounted DAS accessory equipment is not allowed in the CD district.
3. Where DAS support poles are proposed on city owned sidewalks, there must be a minimum of five feet of unobstructed sidewalk remaining for pedestrians to pass by the installation or as determined by the Director of Public Works.
4. The location of DAS equipment and support structures must not restrict sight triangles of pedestrians or motorists to roadway intersections and public or private driveways.
5. DAS equipment shall be painted to match the poles to which they are affixed or shall match the color of city-owned and Greenville Utilities Commission owned light poles if they are new or are replacing light poles and shall be designed to minimize the visibility of cables and other appurtenances.

(R) *Portable temporary storage unit.*

- (1) No individual unit shall exceed 320 square feet in floor surface storage area.
- (2) No storage unit shall be utilized as a principal use structure.
- (3) Except as further provided below under subsection (R)(10), not more than two units totaling 320 square feet in combined total floor surface storage area shall be permitted concurrently on any residential zoned lot and/or on any lot used for residential purposes. Exempt from this requirement are lots containing residential quarters for resident managers, supervisors or caretakers as set forth under section 9-4-78 and Appendix A to this chapter. For purposes of this section, the on-site and/or right-of-way placement of the first unit shall begin the running of time set forth under subsection (R)(7) below. See also subsection (R)(8) below.



(4) Except as further provided below under subsection (R)(10), not more than three units totaling 960 square feet in combined floor surface storage area shall be permitted concurrently on any non-residential zoned lot and/or on any lot used for commercial, office, institutional and/or industrial purposes. For purposes of this section, the on-site and/or right-of-way placement of the first unit shall begin the running of time set forth under subsection (R)(7) below. See also subsection (R)(9) below.

(5) Except as further provided below under subsection (R)(10), all unit(s) subject to this subsection shall be located on an improved parking surface in accordance with Article O. Units located on any site for 336 continuous hours or less may be located on an unimproved surface.

(6) Except as further provided below under subsection (R)(10), no unit on-site parking area, in addition to other improved on-site vehicle parking areas, shall exceed 30% of the front yard area of a single-family dwelling lot or more than 40% of any two-family attached dwelling lot in accordance with Article O.

(7) Except as further provided below under subsection (R)(10), the maximum duration of any temporary unit located on any lot shall not exceed 120 continuous days or more than 120 total days in any 12-month period. The placement of the first unit shall begin the running of time under this subsection.

(8) Except as further provided below under subsection (R)(10), the maximum frequency of any temporary unit located on any residential zoned lot and/or on any lot used for residential purposes shall not exceed three separate occurrences in any 12-month period. Exempt from this requirement are lots containing residential quarters for resident managers, supervisors or caretakers as set forth under section 9-4-78 and Appendix A. Each separate period of one or more concurrently placed units shall count toward the maximum frequency.

(9) Except as further provided below under subsection (R)(10), the maximum frequency of any temporary unit located on any non-residential zoned lot and/or on any lot used for commercial, office, institutional and/or industrial purposes shall not exceed three separate occurrences in any 12-month period. Each separate period of one or more concurrently placed units shall count toward the maximum frequency.

(10) Placement in conjunction with an active construction permit, natural disaster damage repair permit or other building permit may exceed the maximum number, duration and frequency set forth above under subsections (R)(3), (4), (7), (8) and (9) above, and the improved parking surface material and maximum coverage requirements set forth above under subsections (R)(5) and (6), provided the unit(s) shall be removed immediately following completion of the associated permit activity; provided, however, no unit(s) located on a single-family or duplex lot, excepting placement in conjunction with a building permit for the construction of the principal dwelling(s) and/or in conjunction with a natural disaster damage repair permit for any single-family or duplex dwelling(s), shall exceed 180 continuous days. Maximum frequency under this section shall not exceed one occurrence in any 12-month period.

(11) When located on property containing a principal residential use the unit shall only be used for temporary incidental residential accessory use purposes. No unit located on any principal use residential property shall be used for commercial, office, institutional and/or industrial purposes or storage. No unit shall be used in conjunction with any home occupation.

(12) The unit may temporarily displace minimum required parking for the associated principal use dwelling or nonresidential use.

(13) Any unit located on a residential lot may encroach into the minimum public and/or private street (MBL) setback; provided, however, no unit shall be located within any public street right-of-way or private street easement, except as further provided. No such unit shall be located in any minimum side and/or rear yard setback or minimum bufferyard setback applicable to an accessory structure except when located on an existing improved driveway or qualified parking area. A unit may be located within a public street right-of-way upon issuance of an encroachment agreement from the authority having jurisdiction, provided compliance with all other provisions of this section.

(14)Any unit located on a commercial, office, institutional and/or industrial lot may encroach into the minimum public and/or private street (MBL) setback, provided however no unit shall be located within any minimum perimeter and/or street bufferyard.

(15)No unit shall encroach within the [ ]area of minimum protection (by plant material type)[ ] set forth under section 9-4-265(G)(2) for required vegetation.

(16)No unit shall contain or receive permanent or temporary electric service, water and/or sanitary sewer service.

(17)No unit shall be used for human or animal occupancy.

(18)The unit shall comply with Accessory Structure Building Code placement, tie-down and other applicable standards as determined by the Building Inspector in the particular case.

(19)Except as further provided, no unit shall be stored in any public street right-of-way or private street easement. A licensed motor vehicle unit or wheeled trailer unit attached to a licensed motor vehicle may be stored in the street right-of-way or street easement on a temporary basis in accordance with this section and applicable zoning and traffic regulations. A unit may be located within a public street right-of-way upon issuance of an encroachment agreement from the authority having jurisdiction, provided compliance with all other provisions of this section.

(20)Permanent signage attached to a licensed motor vehicle unit, licensed wheeled trailer unit or other non-wheeled container unit transported to the lot on a removable chassis shall be exempt from the sign regulations; provided, however, any permanent use of any unit shall not be exempt from the sign regulations.

(21)No unit shall be located in any street sight distance area, or in any manner that obstructs vehicle or pedestrian access or lines of sight.

(22)No unit shall be located and/or used in any manner that creates a nuisance, public health or safety hazard. When a nuisance, public health or safety hazard condition is found to exist, the owner of the lot and/or unit shall immediately remove the unit to a location in compliance with this section following personal and/or written notice from any building Inspector, nuisance abatement officer or Zoning Enforcement Officer. Any location or use inconsistent with the provisions of this section shall be construed as both a nuisance and a violation of the zoning regulations.

(23)No unit shall be located in any manner that obstructs any designated fire lane or that otherwise obstructs or blocks access to any fire hydrant, building or structure.

(24)Except as provided above under subsection (R)(18) above, no additional permit shall be required for any unit regulated under this section.

(25)Any storage units to be located and used as permanent accessory structures on a nonresidential zoned lot and/or on any lot used for commercial, office, institutional and/or industrial purposes shall meet the minimum requirements applicable to an accessory building and/or structure for the district and use as well as the following:

(a) The number of units that may be located and utilized as permanent accessory structures will be determined by the size of the lot on which the unit(s) is (are) proposed to be located as follows:

1. If the lot is one acre or less in area, then no more than one unit totaling no more than 320 square feet in total floor surface storage area may be utilized as a permanent accessory structure.

2. If the lot is greater than one acre, but less than three acres in area, than no more than two units totaling no more than 640 square feet in combined total floor surface storage area may be utilized as permanent accessory structures.

3. If the lot is three acres or greater in area, then no more than three units totaling no more than 960 square feet in combined total floor surface storage area may be utilized as permanent accessory structures.

(b) No storage unit shall be used as a permanent accessory structure in the CD or CDF Districts.

(26) No storage unit shall be used as a permanent accessory structure or building on any residential zoned lot and/or on any lot containing a residential use; provided, however, lots containing residential quarters for resident managers, supervisors or caretakers as set forth under section 9-4-78 and Appendix A shall be exempt from this requirement.

(S) *Wine and craft beer shop (see also Section 9-4-22).*

(1) A wine and craft beer shop may sell wine and/or craft beer for consumption on the premises, provided that the on-premises consumption of wine and/or craft beer constitutes an accessory and incidental use to the wine and craft beer shop.

(2) A wine and craft beer shop that also has the requisite state permit(s) that allows retail sales of malt beverages for on-premises consumption, in accordance with G.S.18B-1001 as amended, may sell both wine and malt beverages for consumption on the premises, provided that the combined on-premises consumption of wine and malt beverages constitute an accessory and incidental use to the primary retail use wine and craft beer shop.

(3) For purposes of this section, on-premises consumption of wine and malt beverages shall be deemed an accessory and incidental use to a wine and craft beer shop, provided the combined sale of wine and malt beverages for consumption on the premises does not exceed 40% of the wine and craft beer shop's total sales of wine and malt beverages including both on-premises and off-premises consumption, for any 30-day period. The term "sale(s)" as used herein shall be the receipt of payment for the wine and malt beverages sold and/or consumed and shall not be a measure of the volume of wine and malt beverages sold and/or consumed.

(4) Records related to the wine and craft beer shop's total sales of wine and malt beverages for both on-premises and off-premises consumption shall be maintained on the premises for not less than one year and shall be open for inspection and audit at all reasonable hours when the establishment is open for business by the Zoning Enforcement Officer. The Zoning Enforcement Officer may view the records on the premises or may request that copies of the written records be delivered to the city. The requirements of this subsection shall be for the purpose of determining compliance with subsection (S)(3) above.

(5) No wine and craft beer shop that includes the on-premises consumption of wine and malt beverages shall be located within a 200-foot radius, including street rights-of-way, of an existing or approved public or private club, dining and entertainment establishment, or other wine and craft beer shop that includes the on-premises consumption of wine and malt beverages. The required measurement shall be from the building or structure containing the wine and craft beer shop to the nearest property line of the parcel containing the existing or approved public or private club, dining and entertainment establishment, or other wine shop that includes the on-premises consumption of wine and malt beverages.

(6) A wine and craft beer shop shall not operate after 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, and Thursday or after 12:00 a.m. on Friday and Saturday.

(7) A wine and craft beer shop shall not require a membership, cover or minimum charge for admittance or service during regular or special periods of operation.

(8) A wine and craft beer shop that does not meet the requirements of section 9-4-103(S) shall be deemed a public or private club for the purpose of zoning and land use classification.

(9) The provisions of this section shall apply to all wine and craft beer shops whether operated as a principal or accessory use.

(T) *Golf course, 18-hole regulation length and/or golf course, nine-hole regulation length.* A golf course; 18-hole regulation length and/or golf course, nine-hole regulation length, or portion thereof, located within a residential district shall be subject to the following requirements:

- (1) A golf course, 18-hole regulation length, may include an accessory use member-guest only dining facility and/or a public restaurant, snack bar, pro-shop, member-guest only social club, tennis courts, swimming facilities and/or other customarily associated golf course activity, which is open to members, guests and/or the general public.
- (2) A golf course, nine-hole regulation length, may include an accessory use member-guest only dining facility, snack bar, pro-shop, member-guest only social club, tennis courts, swimming facilities and/or other customarily associated golf course activity, which is open to members, guests and/or the general public, unless otherwise provided. A nine-hole regulation length course shall not contain an accessory public restaurant.
- (3) Accessory public restaurant facilities must be located within the principal use golf course structure (i.e., golf clubhouse) and shall not be located in a separate and detached single-use stand-alone structure. Outdoor seating and dining areas shall be subject to subsection (T)(5) below. No public restaurant may be located in any detached accessory structure.
- (4) Except as further provided under subsection (T)(6) below, accessory public restaurant hours shall be limited to the period 7:00 a.m. to 10:00 p.m. No food or beverage may be sold to the general public prior to 7:00 a.m. or after 10:00 p.m. of any day.
- (5) Except as further provided under subsection (T)(6) below, no accessory public "restaurant; outdoor activity" area shall be located within 300 feet, as measured to the closest point, of any abutting residential lot or parcel located within a residential district which allows single-family dwellings as a permitted use.
- (6) An accessory public restaurant associated with a golf course may provide food services for golf course and/or golf club sponsored member-guest only events without regard to the limitations of subsections (T)(4) and (5).
- (7) Restaurant drive-through and/or drive-in facilities and services shall be prohibited.
- (8) Golf course signage, including accessory use identification signage, shall be in accordance with section 9-4-233(L).
- (9) For purposes of this section, the term "public restaurant" shall be construed as an eating establishment as defined herein under the term "restaurant, conventional," that is open to the general public, and is not restricted to members and their guests, or patrons of the golf course.

(U) *Dining and entertainment establishments not subject to Article E.* Shall comply with all of the following:

- (1) When a dining and entertainment establishment both: is located within a 500-foot radius, including street rights-of-way, of a residential zoning district as measured from the building or structure containing a dining and entertainment establishment to the nearest residential zoning district boundary; and the establishment provides or utilizes amplified audio entertainment as defined herein after 11:00 p.m. on any day, the establishment shall be subject to a security requirement during and after the period of amplified audio entertainment as follows:
  - (a) Establishments that have an approved occupancy above 50 but less than 200 total persons as determined by the Building Inspector shall employ not less than one uniformed off-duty law enforcement officer, or not less than one uniformed security guard provided by a security guard and control profession licensed in accordance with the provisions of G.S. Chapter 74C, to patrol the parking lot, and to disperse the crowd, and to direct traffic during the period 11:00 p.m. to the close of business and later to such

time that all patrons and other persons, other than employees, have vacated the premises and associated parking area. The required security personnel shall remain on duty and visible outside the establishment, and shall be accessible to law enforcement officers at all time. This section shall apply regardless of the number of patrons actually within the establishment at the time of amplified audio entertainment.

(b) Establishments that have an approved occupancy of 200 or more total persons as determined by the Building Inspector shall employ not less than two uniformed off-duty law enforcement officers, or not less than two uniformed security guards provided by a security guard and control profession licensed in accordance with the provisions of G.S. Chapter 74C, to patrol the parking lot, and to disperse the crowd, and to direct traffic during the period 11:00 p.m. to the close of business and later to such time that all patrons and other persons, other than employees, have vacated the premises and associated parking area. The required security personnel shall remain on duty and visible outside the establishment, and shall be accessible to law enforcement officers at all time. This section shall apply regardless of the number of patrons actually within the establishment at the time of amplified audio entertainment.

(c) For purposes of this section, the term "residential zoning district" shall include the following districts: RA-20, R-6MH, R-6, R-6A, R-6A-RU, R-6N, R-6S, R9, R9S, R-15S, PUD, MR and MRS.

(2) The owner(s) and operator(s) of a dining and entertainment establishment shall collect and properly dispose of all litter and debris generated by their establishment or patrons immediately following the closure of business or not later than 7:00 a.m. each morning following any period of operation. All litter or debris shall be collected from within the boundaries of the establishment, associated parking areas, adjacent sidewalks and public rights-of-way or other adjacent public property open to the public. In addition, the owner(s) and operator(s) of a dining and entertainment establishment shall comply with the provisions of Title 11, Chapter 9, of the City Code entitled "Litter Control in Parking Lots."

(3) May require a membership, cover or minimum charge for admittance or service during regular or special periods of operation;

(4) Weekdays. Except as further provided under subsection (U)(6) below, dining and entertainment establishments located in any zoning district shall not have amplified audio entertainment after 11:00 p.m. each Monday, Tuesday, Wednesday, and Thursday night and before 11:00 a.m. of the next day. For purposes of this section, "amplified audio entertainment" shall mean any type of music or other entertainment delivered through and by an electronic system; provided; however; televisions operating with no amplification other than their internal speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment;

(5) Weekends. Except as further provided under subsection (U)(6) below, dining and entertainment establishments located in any zoning district shall not have amplified audio entertainment after 2:00 a.m. each Friday and Saturday night and before 11:00 a.m. of the next day, and shall not have amplified audio entertainment after 11:00 p.m. each Sunday night and before 11:00 a.m. of the next day. For purposes of this section, "amplified audio entertainment" shall mean any type of music or other entertainment delivered through and by an electronic system, provided however televisions operating with no amplification other than their internal speakers or televisions connected to a master sound system operating at low amplification and indoor background music system operating at a low amplification and not intended as a principal form of entertainment shall not be deemed amplified audio entertainment;

(6) Provisions for extended hours of operation for amplified audio entertainment.

(a) The allowable period for amplified audio entertainment for any dining and entertainment establishment in any zoning district may be extended, at the option of the owner/operator, from the times specified under subsections (U)(4) and (5) above to not later than 2:00 a.m. the following day on December 31 (New Year's Eve).

(b) The allowable period for amplified audio entertainment for any dining and entertainment establishment that meets the separation requirements as specified under subsection (U)(6)(d) below may be extended, at the option of the owner/operator, from the times specified under subsections (U)(4) and (5) above on each Thursday night to no later than 2:00 a.m. the following day.

(c) The allowable period for amplified audio entertainment for any dining and entertainment establishment that meets the separation requirements as specified under subsection (U)(6)(d) below may be extended, at the option of the owner/operator, from the times specified under subsections (U)(4) and (5) above to no later than 2:00 a.m. the following day on March 17 (St. Patrick's Day), May 5 (Cinco de Mayo); July 4 (Independence Day) and October 31 (Halloween).

(d) To qualify for extended hours of operation for amplified audio entertainment as provided in subsections (U)(6)(b) and (U)(6)(c) above, the dining and entertainment establishment shall not be located within a 500-foot radius, including street rights-of-way, of (i) a conforming use single-family dwelling located in any district, or (ii) any single-family residential zoning district. The required measurement shall be from the building or structure containing the dining and entertainment establishment to the nearest single-family dwelling lot line or single-family residential zoning district boundary line. For purpose of this subsection, the term "single-family residential zoning district" shall include any RA20; R15S; R9S; R6S; and MRS district.

(e) In no event shall the noise generated by amplified audio entertainment exceed the noise control provisions as provided in Title 12, Chapter 5, of the Greenville City Code.

(7) Shall have sales of prepared and/or packaged foods, in a ready-to-consume state, in excess of 30% of the total gross receipts for the establishment during any month.

(a) In determining the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state, the following sales shall be included: food prepared in the establishment's kitchen and served as a meal to be consumed on the premises or as a take-out order; packaged food sold to accompany the meal; and non-alcoholic beverages sold to accompany the meal.

(b) The following shall not be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state: mixed alcoholic beverages, including the mixer; any other alcoholic beverage; grocery items not ordered and purchased with meals; and any other product, item, entertainment, service, or gratuity which is not specified in this subsection as a sale to be included in the portion of sales that can be attributed to the sales of prepared and/or packaged food in a ready-to-consume state.

(c) A membership, cover or minimum charge for admittance or service shall not be included in either the total gross receipts for the establishment or in the portion of sales that can be attributed to the sale of prepared and/or packaged food in a ready-to-consume state.

(d) For purposes of determining compliance under this subsection, the Zoning Enforcement Officer may utilize and rely upon any routine or special audit report prepared by a department, subsection of a department, or agency of the State of North Carolina;

(8) Records related to the sale of prepared and/or packaged food in a ready-to-consume state and the sale of all other products and services shall be maintained on premises for not less than one year and shall be open for inspection or audit at all reasonable hours during any period of establishment operation by the Zoning Enforcement Officer. The Zoning Enforcement Officer may view the records on the premises of the establishment or may request copies of the written records be delivered to the city. Records of sales of prepared and/or packaged food in a ready-to-consume state and the sale of all other products and services shall be filed separate and apart from all other records maintained on the premises. The requirements of this subsection shall be for the purpose of determining compliance with subsection (U)(7) above. Failure to provide all records required by this subsection in a timely manner, to be determined by the city, upon written request of the Zoning Enforcement Officer shall constitute a violation of the zoning regulations;

(9) A lighting plan shall be submitted to the Director of Planning and Development Services or authorized agent for review and approval and lighting fixtures shall be installed and maintained pursuant to the approved plan which illuminates all exterior portions of the building, lot area and parking lot as determined appropriate by the Director of Planning and Development Services or authorized agent. Lighting shall be located and shielded to prevent the light cone of all exterior fixtures from encroaching beyond the property boundary line and into any adjacent public right-of-way, property or dwelling. Required or additional optional lighting shall comply with this subsection and section 9-4-104; and

(10) A parking plan which conforms to the provisions of Article O shall be submitted to the Director of Planning and Development Services, or authorized agent for site plan review and approval in accordance with the provisions of the Land Development Administrative Manual. The exemption provisions of section 9-4-243(B) shall not apply to a dining and entertainment establishment and each establishment shall provide all required parking spaces specified under section 9-4-252 on-site or in an approved remote parking facility in accordance with section 9-4-250.

(V) *Beekeeping; minor use.*

(1) The standards, requirements, conditions and restrictions of section 12-2-27(c) shall apply for locations and uses both within the city limits and within the extraterritorial jurisdiction.

(W) Reserved.

(X) *Shelters for the homeless or abused located within the OR District.* Shall be located on a parcel of land at least two acres in area.

(Y) *Internet sweepstakes business (see also section 9-4-22).*

(1) No internet sweepstakes business shall be located within a one-half mile (2,640 foot) radius of an existing or approved internet sweepstakes business.

(2) No internet sweepstakes business shall be located within a 500-foot radius of the following:

(a) An existing conforming use single-family dwelling located in any district;

(b) Any single-family residential zoning district; and

(c) An existing or approved school, church, park or multi-family use.

(3) The measurements associated with subsections (1) and (2) above shall be made from the exterior wall of the proposed internet sweepstakes business to the nearest exterior wall of any existing or approved internet sweepstakes business, existing conforming use single-family dwelling located in any district, or existing or approved school, church or multi-family use. The measurement shall be made from the exterior wall of the proposed internet sweepstakes business to the nearest property line of any single-family residential zoning district or park.

(4) No internet sweepstakes business shall be located within any certified redevelopment area.

(5) The use shall be conducted within a completely enclosed building with no outside congregation of customers permitted for any purpose.

(Z) *Major or Minor repair facilities.*

(1) All tires displayed outside shall comply with section 9-4-86(B)(7). All tires stored outside shall comply with section 9-4-86(B)(9).

(AA) *Hookah Café (see also section 9-4-22).*

(1) No hookah café shall be located within a one-fourth mile (1,320 foot) radius of an existing or approved hookah café.

(BB) *Tobacco Shop (Class 1) (see also section 9-4-22).*

(1) No tobacco shop (class 1) shall be located within a 500-foot radius of an existing or approved school. This measurement shall be made from the exterior wall of the proposed tobacco shop (class 1) to the nearest exterior wall of any existing or approved school.

(2) No tobacco shop (class 1) shall be located within any certified redevelopment area.

(CC) *Tobacco Shop (Class 2) (see also section 9-4-22).*

(1) No tobacco shop (class 2) shall be located within a one-half mile (2,640 foot) radius of an existing or approved tobacco shop (class 1) or tobacco shop (class 2).

(2) No tobacco shop (class 2) shall be located within a 500-foot radius of the following:

- (a) An existing conforming use single-family dwelling located in any district;
- (b) Any single-family residential zoning district; and
- (c) An existing or approved school, church, park or multi-family use.

(3) The measurements associated with divisions (BB)(1) and (2) above shall be made from the exterior wall of the proposed tobacco shop (class 2) to the nearest exterior wall of any existing or approved tobacco shop (class 1 or 2), existing conforming use single-family dwelling located in any district, or existing or approved school, church or multi-family use. The measurement shall be made from the exterior wall of the proposed tobacco shop (class 2) to the nearest property line of any single-family residential zoning district or park.

(4) No tobacco shop (class 2) shall be located within any certified redevelopment area.

(DD) *Domestic Violence Center (see also section 9-4-22).*

(1) The minimum lot size shall be 15,000 square feet.

(2) Maximum occupancy shall be in accordance with the North Carolina State Building Code or not more than one person per each 500 square feet of lot area, whichever is less.

(3) On-site supervision shall be maintained during all hours of operation.

(4) Single-building development shall be in accordance with single-family standards.

(5) Multiple-building development shall be in accordance with multi-family development standards.

(6) Parking shall be required at a ratio of one space per every two supervisors and one space per each 500 square feet of habitable floor area.

(EE) *Digital broadcast studio.*

(1) No living quarters shall be allowed.

(2) No transmission towers and/or monopoles are allowed.

(FF) *Pet grooming facility.*

- (1) Pet grooming and holding will not extend before 7 a.m. or beyond 8 p.m.
- (2) Standalone pet grooming facilities are not to include training, exercise, socialization, keeping or boarding, breeding or sale or rental of pets.
- (3) In the event of a combined use within a single premise any and all pet grooming activities shall occur exclusively within an enclosed area.
- (4) In no event shall pets be kept outside of the structure for purposes of grooming or holding.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2423, § 1, passed 2-13-1992; Ord. No. 95-116, § 1, passed 11-9-1995; Ord. No. 96-80, § 4, passed 8-8-1996; Ord. No. 97-5, §§ 3, 4, passed 1-9-1997; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997; Ord. No. 97-86, § 5, passed 8-14-1997; Ord. No. 98-21, § 1, passed 2-12-1998; Ord. No. 98-67, § 2, passed 6-11-1998; Ord. No. 98-115, § 1, passed 9-10-1998; Ord. No. 99-5, § 1, passed 1-14-1999; Ord. No. 00-19, § 8, passed 2-10-2000; Ord. No. 03-31, § 4, passed 4-10-2003; Ord. No. 04-43, § 2, passed 5-13-2004; Ord. No. 04-96, § 2, passed 8-12-2004; Ord. No. 04-143, § 2, passed 11-8-2004; Ord. No. 05-64, § 3, passed 6-9-2005; Ord. No. 06-25, § 2, passed 3-9-06; Ord. No. 06-93, § 2, passed 9-14-2006; Ord. No. 06-113, § 4, passed 11-9-2006; Ord. No. 07-11, § 4, passed 1-11-2007; Ord. No. 09-27, § 9, passed 4-9-2009; Ord. No. 10-83, § 2, passed 10-14-2010; Ord. No. 10-106, § 6, passed 12-9-2010; Ord. No. 11-055, § 3, passed 9-8-2011; Ord. No. 11-078, § 2, passed 12-8-2011; Ord. No. 12-004, § 1, passed 1-12-2012; Ord. No. 12-033, § 1, passed 8-9-2012; Ord. No. 12-044, § 2, passed 10-11-2012; Ord. No. 12-045, § 3, passed 10-11-2012; Ord. No. 12-051, § 2, passed 11-8-2012; Ord. No. 12-069, § 2, passed 12-13-2012; Ord. No. 13-007, § 3, passed 2-14-2013; Ord. No. 14-010, passed 2-13-2014; Ord. No. 14-020, passed 4-10-2014; Ord. No. 15-019, § 3, passed 4-9-2015; Ord. No. 16-003, § 3, passed 1-14-2016; Ord. No. 16-066, §§ 5, 6, passed 12-8-2016; Ord. No. 17-036, § 1, passed 5-11-2017; Ord. 19-045, § 1, passed 9-12-2019; Ord. 19-051, § 3, passed 10-10-2019; Ord. 19-052, § 3, passed 10-10-2019)

#### **SEC. 9-4-104 LIGHTING STANDARDS; EXTERNAL.**

- (A) Unless otherwise provided all external site illumination for any use shall be in accordance with this section.
- (B) No lighting shall be directed toward or placed in such a manner as to shine directly into a public right-of-way or residential premises. For purposes of this section, the term "residential premises" shall constitute a structure which is designed and approved for use as a dwelling unit.
- (C) No lighting shall illuminate any public right-of-way, street or any adjoining or area property in such a manner as to constitute a nuisance or hazard to the general public.
- (D) No lighting shall contain flashing or intermittent lights or lights of changing degrees of intensity.
- (E) This section shall not abrogate the City of Greenville or Greenville Utilities Commission authority to erect or maintain any site and/or street lighting in the interest of the public health, safety and welfare.  
(Ord. No. 2722, § 1, passed 10-14-1993)

#### **SEC. 9-4-105 EXEMPTIONS AND MODIFICATIONS.**

If a proposed single-family dwelling, or an existing single-family dwelling proposed for expansion, is located directly adjacent to one or more existing conforming residential uses located on the same side of the street, and the existing public street setback of the adjacent residential structure(s) is less than the minimum requirement for the district, then the public street setback of the proposed dwelling or expansion may be established at a point equal to or greater than the public street setback of the adjacent residential dwelling having the greatest setback; provided, however, no modified public street setback shall be less than ten feet. When a proposed single-family dwelling or an existing single-family dwelling proposed for expansion is located directly adjacent to an existing residential structure located on the same side of the street which meets the minimum public street setback requirement for the district, the provisions of this section shall not apply.  
(Ord. No. 95-81, § 1, passed 8-10-1995)

**SEC. 9-4-106 RELATIONSHIP TO GREENWAY PLAN.**

If any portion of the area proposed for development lies within an area designated in the officially adopted Greenway Master Plan as a greenway corridor, the area so designated shall, **in accordance with applicable laws, ordinances, and conditions of development approval**, be dedicated and/or reserved to the public **as determined by** the city.

(Ord. No. 96-74, § 1, passed 8-8-1996)

**ARTICLE G. BUFFERYARD SETBACKS****SEC. 9-4-115 GENERALLY.**

(A) Bufferyards are the open space setbacks which separate site improvements from adjacent property lines and street rights-of-way. These may contain natural materials including but not limited to vegetation, ground cover, mulch and other pervious materials.

(B) The provisions contained in the bufferyard requirements shall not apply to those uses located within the CD Downtown Commercial Zoning District.

(C) To determine the bufferyard required by this article, the following steps shall be taken:

(1) Identify the land use classification number of the proposed and existing adjacent land use(s) as listed under Article D, section 9-4-78, Table of Uses, of this chapter.

(2) Use the bufferyard chart to determine the appropriate letter designation for each required bufferyard.

(3) Match the letter designation obtained from the bufferyard chart with the letter designation of the bufferyard setback table to determine the required bufferyard.

(4) The bufferyard chart and bufferyard setback table are contained herein.

(Ord. No. 95-111, § 1, passed 11-9-1995)

**SEC. 9-4-116 ILLUSTRATION OF BUFFERYARD SETBACKS.**

Prior to the issuance of any permit or the granting of any other approval the applicant shall indicate on all required plans the location, type and dimension of all bufferyards required by this article.

(Ord. No. 95-111, § 1, passed 11-9-1995)

**SEC. 9-4-117 DETERMINING THE APPROPRIATE LAND USE CLASSIFICATION NUMBER.**

(A) The land use classification number for proposed and adjacent uses shall be obtained from the table of uses set forth in Article D, section 9-4-78 and Appendix A of this chapter.

(B) Where uncertainty exists as to the appropriate land use classification number for any proposed and/or adjacent use the Director of Planning and Development Services shall determine the land use classification number in each individual case. In reaching the determination, the Director of Planning and Development Services shall be guided by the requirements for similar uses.

(C) Prior to the issuance of any permit an appeal, from a decision of the Director of Planning and Development Services pursuant to subsection (B) above, shall be made to the Board of Adjustment in the nature of an interpretation.

(Ord. No. 95-111, § 1, passed 11-9-1995; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-118 BUFFERYARD SETBACK REQUIREMENTS.**

(A) *Bufferyard chart.* See also subsection (B).

Proposed Land Use Classification	Adjacent Permitted Land Use Classification					Adjacent Vacant Zone or Zone With Nonconforming Use		Public/Private Streets or Railroad R/W
	1	2	3	4	5	Residential Zone	Nonresidential Zone	
2	C NOTE :1	B NOTE :1	B NOTE :1	B NOTE :1	B NOTE :1	C NOTE :1	B NOTE :1	A NOTE :1
3	D NOTE :2	D NOTE :2	B NOTE :2	B NOTE :2	B NOTE :2	D NOTE :2	B NOTE :1	A NOTE :1
4	E NOTE :2	E NOTE :2	B NOTE :2	B NOTE :2	B NOTE :2	E NOTE :2	B NOTE :2	A NOTE :1
5	F NOTE :2	F NOTE :2	B NOTE :2	B NOTE :2	B NOTE :2	F NOTE :2	B NOTE :2	A NOTE :1

(B) *Exemptions.*

(1) Within any CDF and/or OR District all existing adjacent Classification 1 and/or Classification 2 land uses shall be construed as Classification 3 land uses for purposes of determining proposed land use bufferyard requirements.

(2) Within any district all existing adjacent church uses shall be construed as a Classification 3 land use for purposes of determining proposed land use bufferyard requirements.

(3) Within any district, parking areas for two-family attached development or conversion shall be subject to the bufferyard setback and screening requirement applicable to a Classification 2 land use whenever the parking area is located in a side and/or rear yard and the yard abuts a lot located in any residential district which contains an existing single-family dwelling or abuts a vacant lot or tract located in a single-family district. The bufferyard setback and screening requirement of this section shall only apply to that portion of the parking area located within the side and/or rear yard.

(C) *Notes.* Pursuant to the bufferyard chart the following notes are additional minimum setback requirements:

(1) Note: 1. Building setbacks shall be in accordance with applicable regulations for the zoning district and use.

(2) Note: 2. Unless otherwise provided, building setbacks shall be determined in the following manner:

(a) No structure shall exceed the maximum height allowance as specified under Article F of this chapter.

(b) Structures 35 feet in height and under, in accordance with prescribed bufferyards.

(c) Structures over 35 feet in height, in accordance with prescribed bufferyards or by using the following formula, whichever is greater:  $D = 6 + 2(S) + L/10$  where D is the minimum setback distance, S is the number of stories and L is the length of the wall. Where the length of the wall is set back eight feet or more, the length (L) of each segment or plane is measured separately in determining the required yard depth (see definition of story).

(d) Setbacks for parking, storage, dumpsters and the like shall be in accordance with prescribed bufferyards. (Ord. No. 95-111, § 1, passed 11-9-1995; Ord. No. 95-138, § 1, passed 12-14-1995; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997; Ord. No. 99-6, § 4, passed 1-14-1999)

#### **SEC. 9-4-119 BUFFERYARD SETBACK TABLE.**

(A) *Bufferyards A and B.*

- (1) Lot size less than 25,000 square feet: Four feet.
- (2) Lot size 25,000 square feet to 175,000 square feet: Six feet.
- (3) Lot size over 175,000 square feet: Ten feet.

(B) *Bufferyard C.*

- (1) All lots: Ten feet.
- (2) Where a fence or evergreen hedge option is used the bufferyard setback may be reduced to: Not less than eight feet.

(C) *Bufferyard D.*

- (1) All lots: 20 feet.
- (2) Where a fence, evergreen hedge or berm option is used the bufferyard setback may be reduced to: Not less than ten feet.

(D) *Bufferyard E.*

- (1) All lots: 30 feet.
- (2) Where a fence, evergreen hedge or berm option is used the bufferyard setback may be reduced to: Not less than 15 feet.

(E) *Bufferyard F.*

- (1) All lots: 50 feet.
- (2) Where a fence, evergreen hedge or berm option is used the bufferyard setback may be reduced to: Not less than 25 feet.

(F) *Fences option.* Must create a complete visual barrier for at least six feet in height. Acceptable materials are cedar, masonry, redwood, chain link with slats and treated lumber resistant to rot. Fence installation should be consistent with acceptable building practices.

(G) *Evergreen hedge option.* In lieu of fence installation as required or optioned the owner may elect to install an evergreen hedge to satisfy the bufferyard width reduction standards under Bufferyards C, D, E and F in accordance with the following:

- (1) The evergreen hedge vegetation material shall be in addition to any vegetation requirement applicable to the site pursuant to Article P of this chapter.
  - (2) The hedge shall consist of qualified materials designed to create a complete year-round visual barrier to a height of six feet within 12 months of planting.
  - (3) Vegetation material types and installation shall be in accordance with Article P of this chapter.
- (H) *Existing fencing.* Where there is an existing fence of acceptable material located on adjacent property which creates a complete visual barrier of at least five feet in height and the fence is located adjacent to and along the abutting property line, as determined by the Director of Planning and Development Services, the developer may elect to reduce the bufferyard width for Bufferyards C, D and E in accordance with subsections (B), (C) and (D) above.
- (I) *Berm option.* In lieu of fence installation as required or optioned the owner may elect to install a berm to satisfy the bufferyard width reduction standards under Bufferyards D, E and F in accordance with the following:
- (1) Minimum height: Six feet as measured vertically from the inside bufferyard setback line to a point parallel to the top of the berm crown.
  - (2) Maximum slope: One and one-half feet horizontal for each one foot vertical; provided however, berms having a slope greater than two feet horizontal for each one foot vertical shall be constructed in multiple terraces which are bound by retaining structures specifically designed for that purpose.
  - (3) Minimum crown width: Two feet; provided, however, if a berm is shared between adjoining properties the portion of the crown located on any lot shall not be less than one foot.
  - (4) Where qualified vegetation materials are planted on a berm slope, a terraced planting area designed in accordance with acceptable and recognized practice shall be provided.
  - (5) A berm may be shared between adjoining properties provided the properties individually comply with all requirements.
  - (6) Berm slopes shall be stabilized to prevent erosion.
  - (7) Berms shall be installed in accordance with acceptable and recognized engineering practice. No berm shall be installed and/or altered without the approval of the City Engineer.
- (J) Where a bufferyard width is reduced pursuant to the fence, evergreen hedge, or berm option all required visual barriers shall be continued to the property line or not less than 20 feet beyond any encroachment, whichever is less.
- (K) (1) Except as further provided, minimum non-screening Bufferyard B setbacks set forth under this section 9-4-119, and/or minimum street right-of-way building setbacks for residential and nonresidential uses may be reduced by up to 10%, at the option of the owner, where the reduction is necessary to retain an existing ten-inch-plus caliper large tree, provided:
- (a) The tree is determined, by the Director of Planning and Development Services or his or her designated representative, to be either natural growth (seedling) vegetation or that the tree has been in existence for not less than 20 years at the current location, otherwise previously transplanted trees shall not qualify for purposes of this section;
  - (b) The reduction is indicated upon an approved site plan; including the location, type and caliper of the subject tree, and the building separation and future no-build zone as further described;
  - (c) A building to tree trunk separation of not less than ten feet is maintained at the time of initial construction;

(d) No new future buildings, expansions or additions to existing buildings, or other impervious areas including parking areas and/or drives, shall be allowed to encroach into a designated future no-build zone, described as a ten-foot radius from the center of the trunk of the retained tree; and

(e) A six-inch or greater caliper large tree shall be substituted in replacement of any dead or diseased tree qualified under this requirement, at the location of the removed tree, within 60 days of removal of the tree by the owner or within the period following notice by the city.

(2) The setback reduction allowance shall not apply to single-family and two-family attached (duplex) development or associated accessory structures.

(Ord. No. 95-111, § 1, passed 11-9-1995; Ord. No. 05-123, § 4, passed 10-13-2005; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-4-120 STANDARDS.**

(A) *Measurements; location of bufferyards.* Bufferyard setbacks shall be measured from lot boundary lines except as further provided.

(B) *Thoroughfares.* Where a lot is located in proximity of an existing or future thoroughfare, as shown on the officially adopted Thoroughfare Plan, all bufferyard setbacks shall be measured from the ultimate future thoroughfare right-of-way line or property line, which yields the greatest setback.

(C) *Overlapping bufferyards.* Whenever two or more bufferyard requirements are applicable to the same use or combination of uses, then the more stringent of the bufferyard requirements shall apply, except as further provided.

(D) *Planned center.* In the case of planned centers containing multiple principal uses, such as shopping centers, office/commercial unit ownership type developments and the like, the initial bufferyard requirement shall be based on the anticipated primary occupancy of the center and the requirement shall apply to all subsequent uses absent any change in zoning for the planned center.

(E) *Shopping centers, condominium/townhouse, multi-family group and planned center type developments.* Bufferyards are required only along exterior property lines of the project.

(F) *Easement.* No fence, evergreen hedge or berm optioned or required by this article shall be located on property subject to utility or drainage easements without the written consent of the city and easement holder. Site plan approval from the respective easement holder shall be construed as approval of all noted encroachments.

(G) *Drainage ditch.* No fence, evergreen hedge or berm optioned or required by this article shall be located within five feet of the outer edge of a drainage ditch. Stormwater detention structures having a slope of two feet horizontal for each one foot vertical or steeper shall be considered a drainage ditch for purposes of this section.

(H) *Encroachments.*

(1) Bufferyards for adjacent public and/or private streets may only be encroached upon by driveways, signage and general (public/customer) pedestrian access walkways, provided the walkways comply with subsection (H)(3) below.

(2) Bufferyards for peripheral lot boundaries shall not be encroached upon by vehicular areas (except common access drives and parking lots), service access walkways, exterior storage, mechanical equipment, principal and/or accessory structures, garbage/trash container pads and the like unless otherwise provided. Encroachments by stormwater detention structures may be allowed subject to the approval of the City Engineer. Exterior lighting may encroach three feet into required bufferyards. General (public/customer) pedestrian access walkways may encroach into required bufferyards provided the walkways comply with subsection (H)(3) below.

(3) General (public/customer) pedestrian access walkways shall be subject to compliance with all of the following requirements:

(a) Such walkways shall be designed to provide direct access to and from adjacent public and/or private streets, designated common property, public access easements and lot lines;

(b) Encroachment zone. Walkways are allowed to cross individual or abutting bufferyards within an area equal in width to the minimum bufferyard as measured perpendicular to the property line;

(c) Maximum width of each individual walkway shall not exceed six feet; and

(d) Within the minimum bufferyard area two or more walkways providing access to a lot along any single property line shall be separated by not less than 50 feet as measured from center of walkway to center of walkway.

(4) Aboveground public utility apparatus, structures or covers including transmission lines, poles and support wires, transformers, meters, pumps, regulators, catch basins, manholes, vents, switching or control boxes and the like may encroach into any bufferyard setback provided the use does not constitute a public utility building or use as defined under Article B of this chapter.

(I) *Recreational use of bufferyards.* A bufferyard may be used for passive recreation; it may contain pedestrian, bike or equestrian trails, provided that:

(1) The total width of the bufferyard is increased in direct proportion to the width of any encroachment(s) except as further provided;

(2) Public dedicated greenway improvements shall be exempt from subsection (I)(1) above; and

(3) All other regulations of this article and Article P of this chapter are met. In no event, however, shall the following uses be permitted in bufferyards: playground equipment, playfields, stables, swimming pools and ball courts.

(J) *Maintenance of on-site fences.* To ensure that fencing will be maintained in a safe and aesthetic manner, the following maintenance requirements shall be observed for all fencing required by this article:

(1) No fence shall have more than 20% of its surface area covered with disfigured, cracked or missing materials or peeling paint for a period of more than 30 successive days.

(2) No fence shall be allowed to remain with bent or broken supports, or be allowed to stand more than 15 degrees away from perpendicular for a period of more than 30 successive days.

(Ord. No. 95-111, § 1, passed 11-9-1995; Ord. No. 96-78, § 1, passed 8-8-1996)

#### **SEC. 9-4-121 NONCONFORMING BUFFERYARDS.**

(A) Except as further provided, developments that do not comply with the bufferyard setback requirements of this article shall be subject to the provisions contained in Article C of this chapter.

(B) Where there is noncompliance with any bufferyard setback standard(s) and when an applicant requests a change of use permit one of the two following situations shall apply:

(1) Where there is a change of land use and the new land use is of the same or lower land use classification no additional requirements shall apply for the existing improvements; provided, however, any expansion shall be subject to the current requirements of this article.

(2) Except as otherwise provided, where there is a change of land use and the new land use is of a higher land use classification the new use shall comply with all bufferyard setback standards in accordance with subsections (C) and (D) of this section.

(C) Where there is a substandard C, D, E or F bufferyard setback separating existing improvements from an adjacent property line the fence, evergreen hedge or berm option contained in section 9-4-119 shall apply. The improvements shall be installed prior to issuance of any final occupancy permit.

(D) The provisions of this section shall not be construed to require the removal of existing structures, buildings, improved parking areas, improved drives, mechanical equipment and lighting or other fixed improvements; provided, however, all other encroachments including but not limited to concrete islands and the like shall be removed.

(Ord. No. 95-111, § 1, passed 11-9-1995)

#### **SEC. 9-4-122 VEGETATION REQUIREMENTS; APPLICABILITY.**

Vegetation requirements shall be installed where and when applicable in accordance with Article P of this chapter.

(Ord. No. 95-111, § 1, passed 11-9-1995)

### ***ARTICLE H. MOBILE HOME PARKS***

#### **SEC. 9-4-129 CONFORMANCE WITH REGULATIONS.**

(A) It shall be unlawful for any person to locate or cause to be located or to allow one or more mobile homes to be located on a tract owned, possessed, or otherwise controlled by him or her after December 7, 1981, unless the act conforms to one of the following requirements or conditions:

- (1) The mobile home is nonconforming as defined in Article C;
- (2) The mobile home is within an approved mobile home park;
- (3) The mobile home is used in connection with an allowable temporary use; or
- (4) The mobile home is on an individual lot in a district in which it is a permitted use.

(B) (1) The owner or operator of a mobile home park shall not permit a recreational vehicle or travel trailer to locate within the boundaries of the park for periods greater than one week if the travel trailer is being used or intended to be used as a dwelling.

(2) The storage of individual travel trailers and recreational vehicles shall be permitted, provided that only one such unit is stored on a mobile home site by the site occupant and the units are not used for purposes of living, sleeping or cooking while in storage.

(C) Recreational vehicles and travel trailers may be parked or stored on any residential lot which contains a principal use provided the units are not utilized for purposes of living, sleeping or cooking while in storage. No such units may occupy more than 20% of the minimum required open space on an individual lot.

(D) (1) These regulations shall not be construed to prohibit parking and/or storing of any mobile home for the purpose of sale by the owner or licensed dealer upon any lot or tract on which the sale of mobile homes is permitted under these regulations.

(2) It shall be unlawful for any person to sell mobile homes within a mobile home park on a commercial basis, except that individual mobile home owners shall be allowed to sell their mobile homes.

(E) Except as provided herein, it shall be unlawful to store or park any unoccupied mobile home for longer than 48 hours except in an emergency and then only after first obtaining an emergency storage permit from the Building Inspector. No emergency storing permit shall be issued for a period longer than seven days.  
(Ord. No. 2337, § 1, passed 6-13-1991)

#### **SEC. 9-4-130 PROCEDURES; REQUIRED REVIEW, CONTENTS.**

(A) *Required review.* The developer shall submit a development plan to the Director of Planning and Development Services or designee for review and approval prior to the issuance of any construction or building permits in accordance with the following:

- (1) *Site plan approval.* Where no right-of-way or utility service extension is requested or required.
- (2) *Preliminary and final subdivision approval.* Shall be required in accordance with Title 9, Chapter 5, Subdivisions of the Greenville City Code.

(B) *Contents.* Shall be as necessary to determine and ensure compliance with the standards, conditions and restrictions of the zoning and subdivision regulations and related laws. Specific site design elements, submission requirements and procedures are set forth in the *Land Development Administration Manual* which is incorporated herein by reference.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-4-131 PERMITTED USES.**

(A) Mobile home parks and buildings, when constructed, altered, extended or used shall be arranged, intended and designed to be used exclusively for one or more of the following uses according to the conditions specified in this article:

- (1) Mobile homes for use as dwelling units;
- (2) Caretaker's or manager's office; or
- (3) Services for occupants of the mobile home park only, including management office, mail pick-up, rest rooms, vending machines, washing and drying machines for domestic laundry and recreation facilities accessory to the mobile home park and other similar uses.

(B) There shall be no more than one mobile home and its accessory structure(s) located on any site or lot.  
(Ord. No. 2337, § 1, passed 6-13-1991)

#### **SEC. 9-4-132 DENSITY; AVAILABILITY REQUIREMENT.**

- (A) The maximum density shall be eight units per net acre.
- (B) There shall be no less than ten sites available at first occupancy.  
(Ord. No. 2337, § 1, passed 6-13-1991)

#### **SEC. 9-4-133 DEVELOPMENT STANDARDS.**

- (A) *Minimum area.* The minimum area of any mobile home park development shall be three net acres.
- (B) *Site-lot minimum dimensions; stakes.*
  - (1) *Single-wide units (site).*
    - (a) Net area: 4,000 square feet.

(b) Width: 40 feet.

(2) *Double-wide units (site).*

(a) Net area: 5,000 square feet.

(b) Width: 50 feet.

(3) *Subdivision; for sale of individual lots.*

(a) Net area: 6,000 square feet.

(b) Width: 60 feet.

(4) *Stakes.* The limits of each mobile home site shall be clearly marked on the ground by permanent flush stakes. Location of sites on the ground shall be approximately the same as shown on the approved plans. Precise description of space limits is not required either on the plans or on the ground, except when a mobile home subdivision is proposed.

(C) *Setbacks for mobile homes; principal structures.*

(1) Public street right-of-way: 25 feet.

(2) Private street easement: Ten feet.

(3) Peripheral boundary: 20 feet.

(4) In mobile home subdivisions, the location of mobile homes and principal structures shall be in accordance with Article F.

(D) *Setbacks for detached accessory structures.*

(1) Public street right-of-way: 25 feet.

(2) Private street easement: Ten feet.

(3) Peripheral boundary: 20 feet.

(4) No accessory structure to any mobile home shall be located in any front yard.

(5) Accessory structures shall be located on the individual mobile home site as established and stated in accordance with subsection (B)(4) above. Zero stake limit line setbacks shall be allowed.

(6) In mobile home subdivisions, the location of accessory structures shall be in accordance with Article F.

(E) *Separation between, mobile homes; stands; other structures.*

(1) Mobile homes: 20 feet.

(2) Mobile home stands: 20 feet.

(3) Other structures: Ten feet.

(4) Attached structures such as awnings, storage cabinets, carports, and porches which have a floor area exceeding 25 square feet and are roofed shall for all purposes of the separation requirements be considered to be part of the mobile home.

(F) *Mobile home stand requirements.*

- (1) Each mobile home shall be located on a permanently established stand within the limits of the staked mobile home site or lot.
- (2) The mobile home stand and lot shall be graded to provide adequate storm drainage away from the mobile home.
- (3) Single-wide stands shall consist of a rectangular plot of ground which at minimum measures 14 feet by 70 feet.
- (4) Double-wide stands shall consist of a rectangular plot of ground which at minimum measures 28 feet by 70 feet.
- (5) The location of each mobile home stand shall be such that placement and removal of individual units can be achieved without disturbance to other mobile homes, sites, patios, walkways or accessory structures.

(G) *Patio requirements.* For each mobile home, there shall be constructed a permanent patio, located adjacent to or attached to the mobile home stand and the patio shall be of the following characteristics:

- (1) Each patio shall be at least 64 square feet in area.
- (2) Each patio shall have sufficient gradient to facilitate adequate drainage away from the mobile home stand.
- (3) Each patio shall have a compacted base, and shall be concrete or masonry construction.

(H) *Walkway requirements.* For each mobile home, there shall be constructed a permanent walkway which connects the parking area, patio and mobile home stand and the walkway shall be of the following characteristics:

- (1) The width of the walkway shall be a minimum of three feet; and
- (2) The walkway shall have a compacted base, and shall be concrete or masonry construction.

(I) *Parking requirement.*

- (1) Number of spaces: two per mobile home.
- (2) Required spaces may be within common parking lots containing three or more spaces which are designed and improved in accordance with Article O.
- (3) All required spaces for each mobile home shall be located within 150 feet of the mobile home stand it is intended to serve.
- (4) No parking space shall be located closer than five feet to any mobile home stand.

(J) *Recreation area requirement (private).*

- (1) Common recreation area shall be provided at a ratio of 100 square feet per dwelling unit.
- (2) The recreation requirement for a mobile home park development shall not apply if the project is within one-half-mile radius of a public recreation facility.
- (3) No portion of an active recreation area shall be located within the peripheral boundary setback or less than 20 feet from any mobile home stand.

- (4) Passive recreation areas may be located in the peripheral boundary setback in accordance with the bufferyard regulations.
- (5) Swimming pools shall be fenced in accordance with Article F.

(K) *Access to public streets.* Mobile home stands may be located with direct access to terminal public streets which exclusively serve the mobile home park or on private streets located within the mobile home park. No mobile home stand shall have direct access to public streets which do not exclusively serve the mobile home park.

(L) *Addresses.* A permanent street address shall be assigned to each mobile home stand in accordance with Title 6, Chapter 2 of the Greenville City Code.

(M) *Bufferyard setbacks and vegetation requirements.*

- (1) Bufferyard setbacks shall be in accordance with Article G of this chapter.
- (2) Vegetation requirements shall be in accordance with Article P of this chapter.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 95-117, § 1, passed 11-9-1995)

(N) *Perimeter skirting.* Mobile homes shall, upon installation, have either a permanent, continuous masonry foundation; or a continuous and opaque skirt consisting of vinyl, fiberglass or other similar solid nonmetal material. The skirt for a mobile home shall be attached to weather resistant material when required for support.

(Ord. No. 00-19, § 10, passed 2-10-2000)

#### **SEC. 9-4-134 GARBAGE/TRASH CONTAINER PAD LOCATIONS.**

- (A) No container pad shall be located closer than 20 feet to any mobile home stand.
- (B) Each container pad required to service the development shall be located within 200 feet of the mobile home stands the container is intended to serve.
- (C) Container pads shall be enclosed on three sides by a complete visual screen consisting of a fence, vegetation or combination thereof.
- (D) Container pads shall be in accordance with Title 6, Chapter 3, Garbage and Refuse Collection and Disposal, of the City Code.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2466, § 3, passed 6-8-1992)

#### **SEC. 9-4-135 COMPLIANCE WITH SUBDIVISION STANDARDS.**

All development regulated in accordance with this section shall be subject to the requirements, conditions and restrictions of the subdivision regulations whether or not the subject tract is actually divided for the purpose of transferring title.

(Ord. No. 2337, § 1, passed 6-13-1991)

#### **SEC. 9-4-136 MINIMUM FITNESS REQUIREMENTS.**

No mobile home established (new setup) or relocated within the city planning and zoning jurisdiction shall be occupied until the mobile home has been inspected and approved for compliance with the Minimum Housing Code set forth under Title 9, Chapter 1, Article F of the City Code when the Building Inspector makes a finding of noncompliance with the Minimum Housing Code.

(Ord. No. 00-19, § 9, passed 2-10-2000)

**ARTICLE I. MULTI-FAMILY DEVELOPMENT**

**SEC. 9-4-141 APPLICABILITY.**

The standards established in sections 9-4-141 through 9-4-151 shall apply to new construction and conversions of all multi-family development except in the CD Zoning District where the standards are established in sections 9-4-152 and 9-4-153.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 94-156, § 5, passed 12-8-1994)

**SEC. 9-4-142 PROCEDURES; REQUIRED REVIEW, CONTENTS.**

(A) *Required review.* The developer shall submit a development plan to the Director of Planning and Development Services for review and approval prior to the issuance of any construction or building permits in accordance with the following:

(1) *Site plan approval.* For one structure containing three or more attached dwelling units and/or two or more dwelling structures located on a common lot.

(2) *Preliminary and final subdivision plat approval.* Shall be required in accordance with the Title 9, Chapter 5, Subdivisions of the Greenville City Code.

(B) *Contents.* Shall be as necessary to determine and ensure compliance with the standards, conditions and restrictions of the zoning and subdivision regulations and related laws. Specific site design elements, submission requirements and procedures are set forth in the *Land Development Administration Manual* which is incorporated herein by reference.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-143 DENSITY.**

(A) The minimum lot area requirement per dwelling unit is as follows:

(1) *All districts (except R-6A and CD).*

(a) One-bedroom unit: 2,300 square feet (net) per unit.

(b) Two or more bedroom unit: 2,900 square feet (net) per unit.

(2) *R-6A District.*

(a) One-bedroom unit: 4,500 square feet (net) per unit.

(b) Two or more bedroom unit: 5,500 square feet (net) per unit.

(3) *CD District.* Shall be in accordance with section 9-4-153.

(B) For purposes of this section, the area within any public street right-of-way shall not be utilized to determine the net area.

(C) Area dedicated or deeded to the city pursuant to section 9-4-144(E) shall count toward net area for the purposes of density calculation.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2437, § 1, passed 3-12-1992; Ord. No. 94-156, § 6, passed 12-8-1994; Ord. No. 95-29, § 5, passed 3-9-1995)

**SEC. 9-4-143.1 MINIMUM HABITABLE (MECHANICAL CONDITIONED) FLOOR AREA PER UNIT.**

(A) The minimum habitable (mechanically conditioned) floor area requirement per dwelling unit is as follows:

- (1) *All districts (except R-6A and CD).* None.
- (2) *R-6A District.*
  - (a) One-bedroom: 650 square feet per unit.
  - (b) Two- or more bedroom unit: 1,000 square feet per unit.
- (3) *CD District.* Shall be in accordance with section 9-4-153.

(B) For purposes of this section, minimum habitable (mechanically conditioned) floor area shall include clothes closets, cabinets and other similar interior storage areas except as further provided. The following shall not count toward or qualify as habitable floor area for purposes of this section: garages; attics; crawl spaces; storage areas accessed via a garage, attic or crawl space; storage areas utilizing outside (exterior) access; detached principal or accessory structures; screened or open porches, balconies and the like.

(Ord. No. 95-29, § 6, passed 3-9-1995)

**SEC. 9-4-144 OPEN SPACE.**

- (A) Thirty percent of the net area shall be reserved as common and/or private open space.
- (B) Public and/or private streets, driveways, off-street parking area, principal and accessory structures shall not be utilized in calculating or counting towards the open space requirement.
- (C) Recreation areas may be counted as open space provided impervious surfaces constitute no more than 50% of the recreation area.
- (D) Detached accessory structures shall not cover more than 20% of any individually designated, reserved or common area.
- (E) If any portion of the area proposed for a multi-family development lies within an area designated in the officially adopted Greenway Master Plan as a greenway corridor, the area so designated shall be included as part of the area set aside to satisfy the open space requirements of this section. The area within the greenway corridor shall be dedicated and/or reserved to the public at the option of the city.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2437, § 2, passed 3-12-1992)

**SEC. 9-4-145 DEVELOPMENT STANDARDS.**

- (A) *Lot dimensions.*
  - (1) Net area: 15,000 square feet.
  - (2) Primary width: 75 feet at the minimum building line.
  - (3) Secondary width: 16 feet, provided that when combined with adjoining common lots the total width equals or exceeds the primary width. Lots established prior to April 9, 1981 may have a minimum secondary width of 14 feet.

(B) *Setbacks for principal structures.*

- (1) Public street right-of-way: 15 feet.
- (2) Private street easement: Ten feet.
- (3) Group development peripheral boundary: 20 feet.
- (4) Single structure peripheral boundary:
  - (a) Side building wall elevation: Ten feet.
  - (b) Rear building wall elevation; 20 feet.

(C) *Setbacks for accessory structures.*

- (1) Detached accessory structures:
  - (a) Public street right-of-way: 25 feet.
  - (b) Private street easement: Ten feet.
  - (c) Peripheral boundary: In accordance with Article G.
  - (d) No accessory structure shall be located in any front or side building wall elevation peripheral boundary, separation setback or yard.
  - (e) Shall not be located within ten feet of any principal or attached accessory structure or within five feet of any other detached accessory structure except as further provided under subsection (C)(1)(f) below.
  - (f) Detached accessory structures may share a common party wall of unspecified minimum length with other detached accessory structures; provided, however, if there is an offset of the wall, the offset or separation shall be not less than five feet.
  - (g) Shall not cover more than 20% of any individually designated, reserved or common area.
  - (h) Specific accessory structures such as satellite dish antennae and swimming pools shall comply with the applicable provisions of Article F.
- (2) Attached accessory structures:
  - (a) For purposes of this section any accessory structure attached to a principal structure shall be subject to the height, open space, setback, building separation and bufferyard requirements of the principal structure except as further provided.
  - (b) Attached accessory structures may project into a rear building wall elevation peripheral boundary or rear building wall elevation separation setback provided the projection meets all of the following requirements:
    1. The maximum individual projection, including and in addition to the requirements set forth under section 9-4-102. Projections into required yards shall not exceed ten feet;
    2. Access to and from the accessory structure shall be by an exterior doorway. No interior window or doorway shall be permitted;
    3. No attached accessory structure shall be considered or utilized as habitable space;

4. The combined horizontal dimension of all attached accessory structures shall not exceed 30% of the horizontal dimension of the exterior rear wall elevation of the common principal structure to which attached;

5. Attached accessory structures may share a common party wall of unspecified minimum length with other accessory structures; provided, however, if there is an offset of the wall the offset shall be subject to subsection (C)(2)(b)6. below;

6. Attached accessory structures, associated with a common principal building, which do not share a common party wall with other attached accessory structures shall be separated by not less than five feet; and

7. Shall not be located within ten feet of any adjacent principal or attached accessory structure or detached accessory structure.

(D) *Setbacks for recreation areas.*

(1) Active: No portion of an active recreation area shall be located within the peripheral boundary setback or less than 20 feet from any dwelling unit.

(2) Passive: May be located within the peripheral boundary setback in accordance with the bufferyard regulations.

(E) *Building separation within group developments containing two or more principal structures on one lot of record.*

(1) No portion of a principal structure front or rear building wall elevation shall be located less than 40 feet from an adjacent principal structure front or rear building wall elevation as measured at 90 degrees, except as provided herein.

(2) No portion of a principal structure side building wall elevation shall be located less than 20 feet from an adjacent principal structure as measured at 90 degrees, except as provided herein.

(3) Single-family and two-family attached group developments shall be exempt from subsections (E)(1) and (2) above, provided the structures meet all other requirements of this section.

(4) No portion of any principal structure shall be located less than 16 feet from any other principal structure as measured to the closest point.

(5) No two units or structures shall be considered attached unless the units or structures share a five-foot common party wall.

(6) Architectural extensions including but not limited to bay windows, chimneys, open porches and decks, roof overhangs and balconies shall not be considered in calculating building separation, provided the encroachments are not more than three feet.

(F) *Building height.* No structure shall exceed 35 feet in height above the property grade unless the required setbacks and building separations are increased one foot for each one foot or fraction thereof of building height in excess of 35 feet.

(G) *Building length.* No contiguous unit or series of attached units shall exceed a combined length of 260 feet, except as provided herein. Any building which exceeds 260 feet shall be designed and constructed with the appropriate firewall(s) and/or equipped with a sprinkler system in compliance with either the North Carolina State Building Code, General Construction, Volume 1, or the North Carolina Building Code, Volume 1-B, Residential, whichever is applicable, or both if both are applicable.

(H) *Setback exemption.* The minimum non-screening Bufferyard B setbacks set forth under section 9-4-119, and/or minimum street right-of-way building setbacks may be reduced by up to 10%, at the option of the owner, where the reduction is necessary to retain an existing ten-inch-plus caliper large tree, provided:

- (1) The tree is determined, by the Director of Planning and Development Services or his or her designated representative, to be either natural growth (seedling) vegetation or that the tree has been in existence for not less than 20 years at the current location, otherwise previously transplanted trees shall not qualify for purposes of this section;
- (2) That the reduction is indicated upon an approved site plan; including the location, type and caliper of the subject tree, and the building separation and future no-build zone as further described;
- (3) That a building to tree trunk separation of not less than ten feet is maintained at the time of initial construction;
- (4) No new future buildings, expansions or additions to existing buildings, or other impervious areas including parking areas and/or drives, shall be allowed to encroach into a designated future no-build zone, described as a ten-foot radius from the center of the trunk of the retained tree; and
- (5) A six-inch or greater caliper large tree shall be substituted in replacement of any dead or diseased tree qualified under this requirement, at the location of the removed tree, within 60 days of removal of the tree by the owner or within the period following notice by the city.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2438, §§ 1, 2, passed 3-12-1992, Ord. No. 05-123, § 5, passed 10-13-2005; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 15-058, § 1, passed 10-8-2015; Ord. No. 15-024, § 1, passed 5-14-2015; Ord. No. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-146 RECREATION AREA REQUIREMENT (PRIVATE).**

- (A) The recreation area requirement shall not apply to developments that:
  - (1) Contain less than two net acres; and/or
  - (2) Are located within a one-half-mile radius of a public recreation area.
- (B) Common recreation areas shall be provided at a ratio of 100 square feet per dwelling unit.
- (C) Any PUD zoning district development that has received a special use permit approval of a land use plan per the former Article J of this chapter prior to December 10, 2009 and such special use permit remains in effect, may continue under the approved special use permit and standards in effect at the time of the special use permit approval. The former Article J of this chapter is maintained on file in the office of the Director of Planning and Development Services and remains effective for the specified purpose as if set forth in this section.
- (D) Section (C) above shall only apply to PUD district developments that have received special use permit approval of a land use plan prior to December 10, 2009.
- (E) Planned unit development districts that have not received special use permit approval of a land use plan prior to December 10, 2009 shall be rezoned to a district other than PUD prior to development.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 09-99, § 1, 12-10-2009; Ord. No. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-147 BUFFERYARD SETBACKS AND VEGETATION REQUIREMENTS.**

- (A) Bufferyard setbacks shall be in accordance with Article G of this chapter.
- (B) Vegetation requirements shall be in accordance with Article P of this chapter.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 95-117, § 2, passed 11-9-1995)

**SEC. 9-4-148 PARKING REQUIREMENTS.**

(A) Number of spaces:

- (1) One-bedroom unit: One and one-half.
- (2) Two-bedroom unit: Two.
- (3) One visitor parking space for every ten dwelling units.

(B) All off-street parking areas designed for three or more spaces shall be in accordance with Article O.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2465, § 1, passed 6-8-1992)

**SEC. 9-4-149 GARBAGE/TRASH CONTAINER, RECYCLING CENTER AND COMPACTOR LOCATIONS.**

(A) No garbage/trash container or recycling center shall be located closer than 20 feet to any dwelling structure and no compactor shall be located closer than 50 feet to any dwelling structure.

(B) Each garbage/trash container required to service the development shall be located within 200 feet of the dwelling units such container is intended to serve.

(C) Garbage/trash containers and recycling centers shall be enclosed on three sides by a complete visual screen consisting of a fence, vegetation or combination thereof.

(D) Except as further provided, compactors shall be completely enclosed by a visual screen and safety barrier composed of an opaque masonry wall and opaque metal or wooden gate, said wall and gate shall be not less than two feet higher than the highest point of the compactor. The Director of Planning and Development Services or designee may approve substitute wall and gate material provided the wall and gate results in an opaque visual screen and safety barrier as required by this subsection; vegetation shall not be acceptable for this purpose.

(E) Garbage/trash containers, recycling centers and compactors shall be in accordance with Title 6, Chapter 3, Garbage and Refuse Collection and Disposal, of the Greenville City Code.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2466, § 4, passed 6-8-1992; Ord. No. 10-34, § 1, 4-8-2010; Ord. No. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-150 PRIVATE STREETS.**

No new private streets are allowed after August 14, 2014. Single-family and two-family dwellings shall only be located on public streets.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 14-049, § 4, passed 8-14-2014; Ord. No. 15-058, § 2, passed 10-8-2015)

**SEC. 9-4-151 COMPLIANCE WITH SUBDIVISION STANDARDS.**

All developments regulated in accordance with this section shall be subject to the requirements, conditions and restrictions of the subdivision regulations whether or not the subject tract is actually divided for the purpose of transferring title.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-152 APPLICABILITY.**

The standards established in sections 9-4-152 and 9-4-153 shall apply only in the CD Zoning District.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 94-156, § 7, passed 12-8-1994)

**SEC. 9-4-153 DEVELOPMENT STANDARDS CD ZONING DISTRICT.**

(A) *Minimum habitable (mechanically conditioned) floor area per unit:*

- (1) One bedroom unit: 400 square feet.
- (2) Two or more bedroom unit: 500 square feet.

(B) *Minimum lot area:* None.

(C) *Minimum lot width:* None.

(D) *Minimum street, side and rear yard setbacks:* None.

(E) *Minimum parking:* One-half space per bedroom.

(F) *Parking location requirements:*

(1) Each required parking space shall be located:

(a) On the lot containing the associated residential use;

(b) Within a remote parking facility located within 800 feet of the use it is intended to serve, as measured with and along an improved pedestrian path from the most distant parking space to the building entrance; or

(c) Within a remote parking facility located in a Downtown Commercial (CD) District.

(2) Such remote parking facility shall be in accordance with the applicable provisions of Article O.

(G) *Compliance:* All off-street parking areas designed for three or more spaces shall be in accordance with Article O.

(H) *Preservation design:* In order to protect the architectural integrity of existing buildings within the CD Zoning District, and in so doing to preserve the continuity of scale and design within those areas, the following requirements shall be met:

(1) All slip covers previously applied to the facade of existing buildings shall be removed.

(2) All canopies, except for those made of canvas, shall be removed from the facade.

(3) Where evidence exists of original windows and door openings subsequently enclosed, the windows and doors shall be reopened in an operable manner and in a style in keeping with the building. Where other unique architectural features remain, including cornices, mid-cornices and window surrounds, they shall be repaired and/or replaced with elements of like design.

(4) Nothing in this division shall supersede applicable North Carolina State Building Code requirements.

(I) *Signage:* All signs shall be erected in accordance with Article N of this chapter, but in no event shall be mounted over existing windows, doors or other architectural features described in subsection (H)(3) above.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 94-132, § 14, passed 10-13-1994; Ord. No. 94-156, §§ 8, 9, passed 12-8-1994; Ord. No. 09-59, § 3, passed 8-13-2009)

***Editor's note:***

*Sections 15 and 16 of Ord. No. 94-132, adopted Oct. 13, 1994, repealed §§ 9-4-154, 9-4-155, which pertained to residential density bonus provisions and schedules of residential bonus and derived from Ord. No. 2337, § 1, adopted June 13, 1991.*

**ARTICLE J. MASTER PLAN COMMUNITY****SEC. 9-4-161 PURPOSE AND INTENT; DEFINITION; PLANNED UNIT DEVELOPMENTS PREVIOUSLY APPROVED, CONSTRUCTED AND/OR VESTED UNDER THE REGULATIONS; PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICTS PREVIOUSLY ZONED UNDER THE REGULATIONS, FOR WHICH THERE IS NO VESTED PLAN OF DEVELOPMENT.**

(A) The purpose and intent of a master plan community is to provide an alternative to traditional development standards, which is intended to:

- (1) Reduce initial development costs by reducing standard minimum lot size and setback requirements while reserving areas for common use;
- (2) Preserve the character of surrounding neighborhoods and enhance the physical appearance of the area by preserving natural features, existing vegetation, while providing recreational and open areas;
- (3) Provide for desirable and usable open space, tree cover, and the preservation of environmentally sensitive areas;
- (4) Promote economical and efficient land use, which can result in smaller networks of public facilities, utilities and streets;
- (5) Provide for an appropriate and harmonious variety of housing and creative site design alternatives;
- (6) Promote energy conservation by optimizing the orientation, layout and design of structures to take maximum advantage of solar heating/cooling schemes and energy conserving landscaping;
- (7) Encourage innovations in residential development so that the growing demands of population may be met by greater variety in type, design and layout of buildings; and
- (8) Provide a procedure that can relate the type, design and layout of development to a particular site and the particular demand for housing and other facilities at the time of development in a manner consistent with the preservation of property values within established residential areas.

(B) For purposes of this article, a *master plan community* shall be defined as a unified development that meets all of the following:

- (1) Land under common ownership, to be planned and developed as an integral unit;
- (2) A single development or a programmed series of development, including all lands, uses and facilities;
- (3) Is constructed according to comprehensive and detailed plans that include streets, drives, utilities, lots and building sites. Plans for such building locations, uses and their relation to each other shall be included and detailed plans for other uses and improvements of land showing their relation to the buildings shall also be included; and
- (4) Provides for the provision, operation and maintenance of areas, facilities and improvements as shall be required for perpetual common use by the occupants of the master plan community.

(C) Any PUD zoning district development that has received special use permit approval of a land use plan per the former Article J of this chapter prior to December 10, 2009, and such special use permit remains in effect, may continue under the approved special use permit and standards in effect at the time of the special use permit approval. (See also section 9-4-196 of this chapter.)

(D) The owner of any PUD zoning district that has not received special use permit approval of a land use plan per the former Article J of this chapter prior to December 10, 2009, shall be required to file a rezoning request to a zoning district other than PUD within 180 days of December 10, 2009. Any rezoning filing fee due for rezoning from PUD to an alternative zoning district shall be waived provided the rezoning application is submitted within the 180-day period prescribed above. If the owner of the PUD district does not file a rezoning request as provided herein the PUD zoned area will automatically revert, at the expiration of the prescribed 180-day period, to the zoning district designation in effect prior to the PUD zoning designation.

(Ord. 09-99, 7, passed 12-10-2009)

**SEC. 9-4-162 AREA; REGULATION OF USES; DENSITY; OPEN SPACE; RECREATION; PARKING; LANDSCAPE; DENSITY BONUS REQUIREMENTS.**

(A) *Minimum area requirements.*

(1) A master plan community shall contain not less than 50 gross acres. Addition to any existing master plan community may be allowed provided such addition meets or exceeds all other applicable requirements. The master plan community shall be included under one land use plan application and each addition to or amendment of such development shall be consider as a revision to the previously approved special use permit. In the case of an addition to or amendment of a previously approved special use permit, the master plan community property owners' association may execute any and all special use permit amendment applications on behalf of the property owners of individual lots subject to such association located within the original master plan community section. No master plan community shall be reduced in area unless the special use permit for such development is amended in accordance with this article provided however, the dedication of public rights-of-way shall not be subject to this requirement.

For purposes of this chapter, the term gross acres shall be construed as the total acreage of the master plan community including all lands located within the boundary of the development and any future public street rights-of-way, private street easements, common open spaces, public dedicated and accepted land or land deeded to the city or county per a density bonus option, land acquired by the city for any public purpose, and future building sites located within the boundary of the master, plan community. With the exception of future street rights-of-way acquired pursuant to the Greenville Urban Area Thoroughfare Plan, and/or on-site public street improvements required and related to the master plan community, existing street rights-of-way that border the peripheral master plan community boundary at the time of original land use plan submission shall not be included in the gross acre calculation.

(2) Master plan communities comprising less than 75 gross acres and/or less than 250 dwelling units shall contain residential uses only as set forth in subsection (B)(5) of this section.

(3) Except as provided under subsection (C)(3) below, master plan communities comprising 75 gross acres or more and 250 or more dwelling units may contain all of the uses permitted by subsections (B)(5) and (B)(6) of this section provided that all designated nonresidential area(s) shall meet all of the following design requirements:

(a) Shall be designed and located with the primary intention of serving the immediate needs and convenience of the residents of the master plan community.

(b) Shall be located on thoroughfare streets included on the Greenville Urban Area Thoroughfare Plan and/or on minor streets as defined in section 9-4-168.

(c) Shall not be located within 100 feet of the peripheral boundary of the master plan community. If any portion of such nonresidential area is located within 300 feet of any single-family residential property zoned RA-20, R15S, R9S, R6S, or MRS and located outside the peripheral boundary of the master plan community, the nonresidential area and all nonresidential and residential use therein shall be screened

by a bufferyard E or equivalent screen per Article P of this chapter. The purpose of the bufferyard E or equivalent screen shall be to provide a complete visual barrier between said single-family

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residential zoning district and the nonresidential area at the time of development of the nonresidential area. Screening required pursuant to this subsection may be phased to coincide with development of the nonresidential area provided compliance with the purpose of this subsection. The ~~City Council~~ **Board of Adjustment** shall approve by condition the location and phasing of the required screen at the time of special use permit approval.

(d) Shall not be developed for any purpose other than as specified under subsection (F) below until (i) all of the residential lots and/or residential tracts located within the residential designated area(s) have been final platted and (ii) not less than 50% of the total number of dwelling units approved for said lots and/or tracts have been constructed and have been issued temporary and/or final occupancy permits. For purposes of this section units or beds in a congregate care facility shall not be included in or count toward the total number of dwelling units.

(e) Plans for nonresidential development and any associated residential uses located on any designated nonresidential area may be submitted and approved following special use permit approval of the land use plan, however no building or other permit shall be issued for any nonresidential area use, including residential use, until the minimum number of dwelling units have been constructed and permitted for occupancy in designated residential areas per subsection (d) above.

(f) Streets, greenways, sidewalk and bike paths, drainage and utility improvements, public recreation areas and improvements, and public service delivery improvements, buildings or structures shall be permitted within any nonresidential area at any time following special use permit approval of the land use plan, and compliance with applicable subdivision regulations or other required permits for such improvements.

(g) Residential uses located within a nonresidential area shall be subject to the requirements, conditions and restrictions applicable to nonresidential uses.

(B) *Regulation of uses.* Subject to subsection (a) of this section, a master plan community may contain the permitted uses as listed in subsections (5) and (6) below in accordance with the following:

(1) Such uses shall be subject only to the development standards included in this article unless otherwise noted.

(2) The listed uses contained in subsections (5) and (6) below are permitted uses within a master plan community, provided compliance with all provision in this article, and no further special use permit approval is required for such uses following approval of the land use plan special use permit for the planned unit development within which said uses are proposed to be located.

(3) Residential uses shall be permitted in any area designated as either residential and/or nonresidential area if such combined use is indicated upon the approved land use plan, however nonresidential uses shall only be permitted within designated nonresidential areas. Where such combined use is proposed, the number and type of dwelling unit shall be indicated on the land use plan at the time of special use permit application.

(4) All definitions shall be per Article B of this chapter unless otherwise defined in this article.

(5) Permitted residential uses:

(a) Single-family dwelling;

(b) Two-family attached dwelling (duplex);

(c) Multi-family development (apartment, condominium and/or townhouse);

(d) Family care home, subject to 9-4-103;

(e) Accessory building or use;

(f) Public recreation or park facility;

- (g) Private recreation facility;
  - (h) Church or place of worship;
  - (i) Golf course; regulation;
  - (j) City of Greenville municipal government building or use subject to 9-4-103;
  - (k) Retirement center or home including accessory nursing care facilities (each separate dwelling unit and/or each five beds in a congregant care facility shall constitute one dwelling unit for residential development density purposes regardless of location);
  - (l) Room renting.
- (6) Permitted nonresidential uses:
- (a) School; elementary subject to 9-4-103;
  - (b) School; kindergarten or nursery subject to 9-4-103;
  - (c) School; junior and senior high subject to 9-4-103;
  - (d) Child day care facilities;
  - (e) Adult day care facilities;
  - (f) Barber or beauty shop;
  - (g) Office; professional and business not otherwise listed in Article D;
  - (h) Medical, dental, ophthalmology or similar clinic not otherwise listed in Article D;
  - (i) Library;
  - (j) Art gallery;
  - (k) Grocery; food or beverage, off-premise consumption;
  - (l) Convenience store (not including principal or accessory auto fuel sales);
  - (m) Pharmacy;
  - (n) Restaurant; conventional;
  - (o) Restaurant; outdoor activities;
  - (p) Bank, savings and loan or other savings or investment institutions;
  - (q) City of Greenville municipal government building or use subject to 9-4-103;
  - (r) Accessory building or use.
- (C) *Maximum base density requirements.*
- (1) Residential base density shall not exceed four dwelling units per gross acre of the entire master plan community including both residential and nonresidential areas, except as further provided under the density

bonus options contained in section 9-4-162(J). Residential density may be allocated to a designated nonresidential area per subsection (K) of this section provided such designation is noted on the approved land use plan and the dwelling unit density of the residential area is reduced proportionally.

(2) Except as further provided under subsection (3) below, nonresidential use designated area(s) shall not exceed 5% of the gross master plan community acreage regardless of the actual amount of developed land area devoted to any nonresidential use or activity. Residential development within a designated nonresidential area shall not increase the land area designated as nonresidential.

(3) Nonresidential use designated areas that are located entirely within a Water Supply Watershed (WS) Overlay District shall not exceed 20% of the gross master plan community acreage regardless of the actual amount of developed land area devoted to any nonresidential use or activity, provided compliance with all of the following:

(a) The master plan community shall contain not less than 100 gross acres.

(b) The total number of approved single-family, two-family attached (duplex) and/or multi-family dwelling units located within the master planned community shall equal or exceed 300 total dwelling units. For purposes of this requirement, units or beds in a congregate care facility shall not be included in or count toward the total number of dwelling units.

(c) The nonresidential area and development therein shall be subject to the Water Supply Watershed (WS) Overlay District standards as set forth under section 9-4-197 of this chapter.

(d) If any portion of any nonresidential designated area is located outside the Water Supply Watershed (WS) Overlay District all nonresidential use designated area(s) shall not exceed 5% of the gross master plan community acreage regardless of the actual amount of developed land area devoted to any nonresidential use or activity.

(D) *Open space requirements.*

(1) A master plan community shall reserve not less than 25% of the gross acreage as common open space.

(2) Except as otherwise provided, such open space area shall not be used as a building site or be utilized for any public street right-of-way or private street easement, private driveway or parking area or other impervious improvement.

(3) A minimum of one-third of the required open space shall be contained in one continuous undivided part, except for the extension of streets. For purposes of this requirement, such open space areas shall not measure less than 30 feet in width at the narrowest point.

(4) Not more than 25% percent of the required open space shall lie within any floodway zone.

(5) If developed in sections, the open space requirements set forth herein shall be coordinated with the construction of dwelling units and other facilities to insure that each development section shall receive benefit of the total common open space. A final subdivision plat shall be recorded in the Pitt County Register of Deeds which clearly describes the open space(s) and conditions thereof, prior to the issuance of any building permit(s).

(6) Such open space area shall be legally and practically accessible to the residents of the development, or to the public if so dedicated.

(7) Such open space area shall be perpetually owned and maintained for the purposes of this article by a property owners' association or, if accepted by the city, dedicated or deeded to the public.

(8) Streets, private drives, off-street parking areas and structures or buildings shall not be utilized in calculating or counting towards the minimum common open space requirement; however, lands occupied by public and/or private recreational buildings or structures, bike paths and similar common facilities may be counted as required open space provided such impervious surfaces constitute no more than 5% of the total required common open space.

(9) In the designation and approval of common open space, consideration shall be given to the suitability of location, shape, character and accessibility of such space. The location and arrangement of any common open space(s) shall be subject to ~~City Council~~ **Board of Adjustment** approval.

(E) *Recreation space requirement.*

(1) A minimum of 25% percent of the required gross common open space in a master plan community shall be developed for active recreational purposes. For purposes of this section, active recreation shall include, but not be limited to, tennis courts, swimming pools, ball fields, fitness courses, and the like.

(2) The ~~City Council~~ **Board of Adjustment** may rely on the advice of the Director of Recreation and Parks concerning the suitability of proposed active recreation facilities.

(F) *Dedication of open space, park lands and greenways.*

(1) If any portion of the area proposed for a master plan community lies within an area designated in the officially adopted greenway master plan as a greenway corridor, the area so designated shall be included as part of the area set aside to satisfy the open space requirements of this section. The area within such greenway corridor shall be dedicated and/or reserved to the public at the option of the city.

(2) Where land is dedicated to and accepted by the city for open space, park and recreation purposes and/or greenways, such lands may be included as part of the gross acreage, open space and/or recreation space requirement of this article.

(3) Approved master plan community shall not be subject to any recreation and/or open space requirement of the subdivision and/or zoning regulations not otherwise included in this chapter.

(G) *Off-street parking requirement.*

(1) Parking requirements shall be in accordance with Article O of this chapter.

(H) *Bufferyard setbacks and vegetation requirements for site developments, parking lots and drives.*

(1) Bufferyard setbacks shall be in accordance with Article G of this chapter.

(2) Vegetation requirements shall be in accordance with Article P of this chapter.

(I) *Driveways.*

(1) Driveways shall be in accordance with Title 6, Chapter 2, Streets and Sidewalks of the Greenville City Code.

(J) *Residential density bonus provisions and standards.* A residential density bonus rounded to the nearest whole number and not to exceed a total of 200% - (eight units per gross acre) - over the allowable base density as set forth in section 9-4-162(C) may be approved by the ~~City Council~~ **Board of Adjustment** in accordance with the standards for allowing density bonuses listed below. The applicable requirements of section 9-4-167(C), preliminary plat-site plan requirements, shall be indicated on the land use plan in sufficient detail to enable the ~~City Council~~ **Board of Adjustment** to evaluate such density bonus proposals. Regardless of the density bonus provision satisfied or approved, the total residential density of any master plan community shall not exceed 12 dwelling units per gross acre.

(1) *Common open space.* Increasing the common open space area by 20 or more percent above the required common open space provisions (i.e., to 45% or more) shall allow a bonus of 50% - (two total units per gross acre) - above the base density of a master plan community.

(2) *Bike paths/greenway systems.* The provision of a constructed system of bike paths/pedestrian greenways that form a logical, safe and convenient system of access to all dwelling units, interior project facilities or principal off-site pedestrian destinations shall qualify for a density bonus. Such facilities shall be appropriately located, designed and constructed with existing topography, land form, and vegetation in accordance with the Greenway Master Plan requirements and other amenities associated with the master plan community. The density bonus allowed under this provision shall be 25% - (one total unit per gross acre) - above the base density of a master plan community.

(3) *Solar access.* Where the design of a master plan community provides 60% of dwelling units, proper solar access in order that those dwelling units maximize solar energy systems for heating and cooling purposes, a density bonus of 50% - (two total units per gross acre) - above the base density of a master plan community shall be allowed provided the design of the master plan community meets the following:

(a) The master plan community shall be designed so that the buildings shall receive sunlight sufficient for using solar energy systems for water heating and/or space heating and cooling. Building and vegetation shall be sited with respect to each other and the topography of the site so that maximum unobstructed sunlight reaches the south wall or rooftop of the designated units employing the solar heating/cooling systems including active and/or passive systems; and

(b) The following criteria in addition to other design elements shall be evaluated in determining proper site design for the active and/or passive solar system utilized:

1. Site selection;
2. Street pattern;
3. Lot orientation;
4. Building orientation;
5. Building design;
6. Existing and proposed vegetation; and
7. Shadow patterns.

(c) The ~~City Council~~ **Board of Adjustment** may rely on the advice of Greenville Utilities Commission, or designated agent, in the evaluation of this density bonus option.

(4) *One hundred acres or more development.* Where a master plan community land use plan consists of 100 gross acres or more a density bonus of 75% - (three total units per gross acre) - above the base density of a master plan community shall be allowed. To qualify for this density bonus, additions to an existing master plan community must be approved as an amendment to the land use plan of the master plan community to which attached.

(5) *Community facilities.* Voluntary dedication or fee simple gift of public facility property (minimum of one acre per facility lot) for unrestricted use by the city for public service delivery, including fire and rescue and police stations and the like, shall allow a density bonus of 25% - (one total unit per gross acre) - above the base density of a master plan community for each separate one-acre facility lot desired by and accepted by the city.

The City Manager shall be authorized to make determinations on this matter provided however the city shall not be obligated to construct any public facility upon said property and the density bonus allowed under this section shall be allowed whether or not the facility is constructed.

(6) *Public school site.* Voluntary dedication or fee simple gift of a public school property site (minimum of 20 acres per property site) for unrestricted use by the Pitt County School Board shall allow a density bonus of 75% - (three total units per gross acre) - above the base density of a master plan community for each separate 20-acre facility lot desired and accepted by the county. The County Manager shall be authorized to make determinations on this matter provided however Pitt County or Pitt County School Board shall not be obligated to construct any public facility upon said property and the density bonus allowed under this section shall be allowed whether or not the facility is constructed. Public school sites acquired under this section shall be utilized only for a public school or open space and shall not be utilized for any residential or nonresidential purpose or any remotely located school recreation, parking or other facility unless such site is removed from the master plan community land use plan by amendment and in accordance with the requirements of this article.

(7) *Public transit facilities.* The provision of fully functional public transit stops, including base pads, seating, foul weather enclosure and roofs, and vehicle turnouts at convenient locations for pedestrian and vehicle access shall qualify for a density bonus, except as otherwise provided. The number of transit stops, their location and design shall be subject to the approval of the City Engineer. If located outside the public right-of-way such transit stops and constructed facilities shall be located on land dedicated or deeded to the city or included within an easement dedicated for such purpose, if accepted by the city. The density bonus allowed under this provision shall be 12.5% - (one-half total unit per gross acre) - above the base density of a master plan community. If the City Engineer determines that the proposed number of transit stops, their location and design is not in the best interest of the city no density bonus shall be allowed under this section.

(8) *Affordable housing.* The provision of affordable rental and/or unit ownership housing including detached and attached dwellings shall qualify for a density bonus. Each density bonus qualified unit allowed under this section shall be devoted to an affordable housing options listed in subsection (a) and/or (b) below. The density bonus allowed under this provision shall be 75% - (three total units per gross acre) - above the base density of a master plan community.

(a) *Rental affordable housing.* Each bonus qualified rental affordable housing dwelling shall be constructed under and utilize the State of North Carolina's Low Income Rental Tax Credit Program administered by North Carolina Housing Finance Agency, or similar and equivalent program.

(b) *Unit ownership housing.* Each bonus qualified unit ownership affordable housing dwelling shall be constructed under and utilize a State of North Carolina Low Income Home Ownership Production Program administered by North Carolina Housing Finance Agency, or similar and equivalent program.

(K) *Combination of use.* Combination of use shall only be permitted in areas designated as nonresidential on the approved land use plan. Residential and nonresidential uses may be approved to be located on the same lot and in the same structure provided such combined uses individually comply with all standards applicable to each uses. Where residential and nonresidential uses are located in the same structure the more restrictive requirements and regulations shall apply to all common structures.

(Ord. 09-99, § 7, passed 12-10-2009)

**SEC. 9-4-163 MASTER PLAN COMMUNITY; RESIDENTIAL USES DIMENSIONAL STANDARDS.**  
(See also section 9-4-162(k) Combination of use)

(A) *Lot area.* The lot area for each detached single-family dwelling shall be no less than 4,000 square feet.

(B) *Lot width.* No minimum lot width for detached single-family dwelling, however, all lots shall contain a building site of like design and area to other lots within the common development. Lot width for each attached dwelling unit shall be not less than 16 feet. For purposes of this section, lot width shall include condominium unit width.

(C) *Lot frontage.* Forty feet, except on the radius of a cul-de-sac where such distance may be reduced to 20 feet.

(D) *Public or private street setback.* Except as further provided, no principal or accessory structure shall be closer than 20 feet to a public street right-of-way or private street easement. Detached single-family dwellings shall be setback not less than 15 feet from a public street right-of-way or private street easement or as further provided herein.

(E) *Minimum side yard.* The side yard area required for detached single-family and two-family attached dwellings may be subject to section 9-4-165 (zero lot line) or not less than 12 feet, provided however, that no detached single-family or two-family attached structure shall be located on more than one exterior side lot line.

Detached single-family and two-family attached dwellings which do not utilize the provisions of section 9-4-165 (zero lot line) and are not located adjacent to a structure or lot subject to section 9-4-165 (zero lot line) shall maintain a minimum side setback of not less than six feet.

The side yard area required for attached units shall be subject to the applicable provisions of section 9-4-165 (zero lot line) provided the end unit of an attached building group containing three or more units is not less than 16 feet from an adjacent property, line or building.

(F) *Minimum rear yard.* Except as further provided, the rear yard area required for detached or attached dwelling units shall be subject to section 9-4-165 (zero lot line) or not less than 20 feet. Detached single-family dwellings shall be subject to section 9-4-165 (zero lot line) or not less than 12 feet.

(G) *Building separation.* Building separation within group developments containing two or more principal structures on one lot of record shall be subject to the following:

(1) No portion of a principal structure front or rear building wall elevation shall be located less than 40 feet from an adjacent principal structure front or rear building wall elevation as measured at 90 degrees.

(2) No portion of a principal structure side building wall elevation shall be located less than 20 feet from an adjacent principal structure as measured at 90 degrees.

(3) No portion of any principal structure shall be located less than 16 feet from any other principal structure as measured to the closest point.

(4) Architectural extensions including, but not limited to, bay windows, chimneys, open porches and decks, roof overhangs and balconies shall not be considered in calculating building separation provided such encroachments are not more than three feet.

(H) *Maximum height.* No structures or buildings having a zero side and/or rear setback in accordance with section 9-4-165 shall exceed 35 feet in height above the property grade.

Structures or buildings not having a zero side and/or rear setback in accordance with section 9-4-165 shall not exceed 35 feet in height above the property grade unless the required setbacks and building separations are increased one foot for each one foot or fraction thereof of building height in excess of 35 feet.

(I) *Periphery boundary setback and vegetation requirement.* No portion of a master plan community including accessory structures, parking areas or required yards shall be located less than 60 feet from the peripheral boundaries of the master plan community. The peripheral boundary setback area shall be left in its natural vegetative state or shall be landscaped in accordance with the screening requirements for a bufferyard G classification as specified in Article P of this chapter. Where the natural vegetation does not meet the minimum bufferyard C requirements then additional vegetation shall be installed as a condition of development prior to occupancy of dwellings or units within the respective section or phase. Public dedicated and accepted recreation and park land may encroach into the peripheral boundary setback.

(J) *Additional attached dwelling transition setback.* The following scale shall be utilized in the calculation of the minimum building setback, in addition to the periphery boundary setback as specified above, between proposed attached dwelling units including their accessory structures and existing single-family zoning districts or other predominantly single-family development as defined herein that border the master plan community. For purposes of this subsection, other

predominantly single-family development shall be that area within 100 feet of the external boundary of the master plan community district in which 50% or more of the conforming land uses are single-family residential.

Number of Units per Building	Additional Setback (Feet)
2	20
3 - 5	40
6 - 10	60
11 or over	80

(K) *Recreation area setback.* No portion of an active private recreation area shall be located within 100 feet of the external boundary of the master plan community. Public recreation areas or park land dedicated or deeded to the city shall not be subject to any external boundary setback and may be located in the peripheral boundary setback area.

(L) *Transition area setback.* Where a master plan community adjoins or borders an existing single-family zoning district or other predominantly single-family development sharing common frontage on the same or opposite side of a public or private street, the minimum right-of-way and/or easement setback requirement of said single-family zone of development shall be utilized for the entire opposite frontage and 200 feet from such common border along such street. For purposes of this subsection, other predominantly single-family development shall be that area within one hundred feet number of the external boundary of the master plan community in which 50% or more of the conforming land uses are single-family residential. For purposes of this section, the minimum setback requirement along any common intersecting street may transition from the minimum right-of-way and/or easement setback requirement of the adjoining single-family zone or development to the minimum setback requirement specified under section 9-4-163(D).

(M) *Building length.* No continuous unit or series of attached units shall exceed a combined length of 260 feet. Where a continuous unit or series of units is separated by an attached and enclosed common area or enclosed community facility structure utilized for recreation, food delivery (cafeteria), assembly, and the like, the building length measurement shall not include the attached and enclosed common area or enclosed community facility. Portions of buildings separated by an enclosed common area or enclosed community facility shall be considered as separated for purposes of this section (M).

(N) *Storage area required.* Every dwelling unit shall provide private storage in the amount of 10% percent of the gross habitable flood area. The living area including closets and attics shall not count toward the required private storage area. Such storage area shall be provided in the form of attached utility rooms, detached accessory structures, and/or private yard area available for such future use or otherwise as approved by the ~~City Council~~ **Board of Adjustment**. This section shall not apply to congregate care facilities.

(O) *Accessory structure requirements.*

- (1) Shall not be located within any front yard.
- (2) Detached accessory structures which are constructed with a one-hour fire rated assembly as required by the North Carolina State Building Code, as amended, shall not be located less than five feet from any principal structure. It shall be the responsibility of the property owner to demonstrate compliance with this section. Detached accessory structures that are not constructed with a one-hour fire rated assembly shall not be located less than ten feet from any principal structure. No detached accessory structure shall be located less than five feet from any other detached accessory structure located on the same lot.
- (3) Shall not cover more than 20% percent of any side yard or rear yard.
- (4) The side or rear yard requirement for attached and detached accessory structures shall be subject to the provisions of section 9-4-165 (zero lot line) or not less than five feet.
- (5) Satellite dish antennae and swimming pools shall comply with the applicable provisions of Article F, Dimensional standards.

(6) For purposes of this section any accessory structure attached to a principal structure shall be subject to the setback requirements of the principal structure.

(P) *Residential garbage/trash container, recycling center and compactor locations.*

(1) No garbage/trash container or recycling center shall be located closer than 20 feet to any dwelling structure and no compactor shall be located closer than 50 feet to any dwelling structure.

(2) Each garbage/trash container required to service the development shall be located within 200 feet of the dwelling units such container is intended to serve.

(3) Garbage/trash containers and recycling centers shall be enclosed on three sides by a complete visual screen consisting of a fence, vegetation or combination thereof.

(4) Except as further provided, compactors shall be completely enclosed by a visual screen and safety barrier composed of an opaque masonry wall and opaque metal or wooden gate, said wall and gate shall be not less than two feet higher than the highest point of the compactor. The Director of Planning and Development Services or designee may approve substitute wall and gate material provided the wall and gate results in an opaque visual screen and safety barrier as required by this subsection; vegetation shall not be acceptable for this purpose.

(5) Garbage/trash containers, recycling centers and compactors shall be in accordance with Title 6, Chapter 3, Garbage and Refuse Collection and Disposal, of the Greenville City Code.

(Q) *Setback exemption.* Except as further provided, minimum non-screening bufferyard B setbacks set forth under section 9-4-119, and/or minimum street right-of-way building setbacks may be reduced by up to 10%, at the option of the owner, where such reduction is necessary to retain an existing ten-inch plus caliper large tree, provided: (i) such tree is determined, by the director of Planning and Development Services or his designated representative, to be either natural growth (seedling) vegetation or that such tree has been in existence for not less than 20 years at the current location, otherwise previously transplanted trees shall not qualify for purposes of this section, (ii) that such reduction is indicated upon an approved site plan; including the location, type and caliper of the subject tree, and the building separation and future no-build zone as further described, (iii) that a building to tree trunk separation of not less than ten feet is maintained at the time of initial construction, (iv) no new future buildings, expansions or additions to existing buildings, or other impervious areas including parking areas and/or drives, shall be allowed to encroach into a designated future no-build zone, described as a ten-foot radius from the center of the trunk of the retained tree, and (v) a six-inch or greater caliper large tree shall be substituted in replacement of any dead or diseased tree qualified under this requirement, at the location of the removed tree, within 60 days of removal of the tree by the owner or within said period following notice by the city. The setback reduction allowance shall not apply to single-family and two-family attached (duplex) development or associated accessory structures.

(R) When both residential and nonresidential uses are included in one common structure the more restrictive requirements shall apply to the entire structure.

(Ord. No. 09-99, 7, passed 12-10-2009; Ord. No. 10-34, 2, 4-8-2010; Ord. 19-045, 1, passed 9-12-2019)

#### **SEC. 9-4-164 MASTER PLAN COMMUNITY; NONRESIDENTIAL USE DIMENSIONAL STANDARDS.**

**(See also section 9-4-162(k) Combination of use)**

(A) *Lot area.* No minimum.

(B) *Lot width.* No minimum.

(C) *Public or private street setback.* No principal or accessory structure shall be closer than 20 feet to a public street right-of-way or private street easement.

(D) *Minimum side yard.* Fifteen feet.

(E) *Minimum rear yard.* Twenty feet.

- (F) *Height.* No structure or building shall exceed 35 feet in height above the property grade.
- (G) *Building separation.* No structure or building shall be located within 20 feet of any other structure or building.
- (H) *Nonresidential condominium or townhouse type development.* Shall be subject to the applicable provisions of section 9-4-165 (zero lot line), provided the overall structure meets the side, rear and public or private street setbacks as provided by this subsection.
- (I) *Accessory structure requirement.* Shall be in accordance with principal building setbacks.
- (J) *Nonresidential garbage/trash container, recycling center and compactor locations.*
- (1) Garbage/trash containers and recycling centers shall be enclosed on three sides by a complete visual screen consisting of a fence, vegetation or combination thereof.
- (2) Except as further provided, compactors shall be completely enclosed by a visual screen and safety barrier composed of an opaque masonry wall and opaque metal or wooden gate, said wall and gate shall be not less than two feet higher than the highest point of the compactor. The Director of Planning and Development Services or designee may approve substitute wall and gate material provided the wall and gate results in an opaque visual screen and safety barrier as required by this subsection; vegetation shall not be acceptable for this purpose.
- (3) Garbage/trash containers, recycling centers and compactors shall be in accordance with Title 6, Chapter 3, Garbage and Refuse Collection and Disposal, of the Greenville City Code.
- (K) *Setback exemption.* The minimum non-screening bufferyard B setbacks set forth under section 9-4-119, and/or minimum street right-of-way building setback may be reduced by up to 10%, at the option of the owner, where such reduction is necessary to retain an existing ten-inch plus caliper large tree, provided: (i) such tree is determined, by the Director of Planning and Development Services or his designated representative, to be either natural growth (seedling) vegetation or that such tree has been in existence for not less than 20 years at the current location, otherwise previously transplanted trees shall not qualify for purposes of this section, (ii) that such reduction is indicated upon an approved site plan; including the location, type and caliper of the subject tree, and the building separation and future no-build zone as further described, (iii) that a building to tree trunk separation of not less than ten feet is maintained at the time of initial construction, (iv) no new future buildings, expansions or additions to existing buildings, or other impervious areas including parking areas and/or drives, shall be allowed to encroach into a designated future no-build zone, described as a ten-foot radius from the center of the trunk of the retained tree, and (v) a six-inch or greater caliper large tree shall be substituted in replacement of any dead or diseased tree qualified under this requirement, at the location of the removed tree, within 60 days of removal of the tree by the owner or within said period following notice by the city.
- (L) When both residential and nonresidential uses are included in one common structure the more restrictive requirements shall apply to the entire structure.  
(Ord. No. 09-99, § 7, 12-10-2009; Ord. No. 10-34, § 3, 4-8-2010; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-4-165 ZERO SIDE OR REAR YARD SETBACKS FOR DETACHED AND ATTACHED BUILDINGS OR STRUCTURES.**

- (A) A zero side or rear yard setback where the side or rear building line is on the side or rear lot line as permitted herein, may be permitted, subject to the following provisions:
- (1) Any wall, constructed on the side or rear lot line shall be a solid door less and windowless wall. Such wall shall contain no electrical, mechanical, heating, air conditioning or other fixtures that project beyond such wall. If there is an offset of the wall from the lot line, such offset shall be subject to the provisions of section 9-4-163 and/or section 9-4-164. Roof eaves may encroach two feet into the adjoining lot; **provided, this provision shall not be construed or applied to affect private property rights of adjoining owners.**

- (2) A five-foot maintenance and access easement with a maximum eave encroachment easement of two feet within the maintenance easement shall be established on the adjoining lot and shall assure ready access to the lot line wall at reasonable periods of the day for normal maintenance;
- (3) No two units or structures shall be considered attached unless such units or structures share a five-foot common party wall; and
- (4) Common party walls of attached units shall be constructed in accordance with the North Carolina State Building Code, G.S. Chapter 47C (North Carolina Condominium Act) and other applicable requirements.  
(Ord. 09-99, § 7, passed 12-10-2009)

**SEC. 9-4-166 SPECIAL USE PERMIT; APPLICATION, LAND USE PLAN, PRELIMINARY PLAT-SITE PLAN AND FINAL PLAT REQUIREMENTS.**

(A) *Application.* An application for a special use permit to develop a specific master plan community shall only be considered when the development property is zoned to a district that permits such special use option. See Article D, section 9-4-78(F)(2) of this chapter for applicable districts.

(1) *Criteria.* In addition to other considerations, the following may be utilized by the ~~City Council~~ **Board of Adjustment** in evaluation of a special use permit pursuant to ~~G.S. 160A-388(a)~~: **G.S. 160D-705(c)**:

- (a) That the proposed population densities, land use and other special characteristics of development can exist in harmony with adjacent areas;
- (b) That the adjacent areas can be developed in compatibility with the proposed master plan community; and
- (c) That the proposed master plan community will not adversely affect traffic patterns and flow in adjacent areas.

(B) *Land use plan.* All applications for approval of a master plan community special use permit shall be accompanied by a land use plan prepared by a registered engineer or surveyor, submitted in accordance with section 9-5-44 of the subdivision regulations for preliminary plats and which shall include but not be limited to the following:

- (1) The numbers and types of residential dwelling units including density and density bonus options proposed within each section and the delineation of nonresidential areas;
- (2) Planned primary and secondary traffic circulation patterns showing proposed and existing public street rights-of-way;
- (3) Common open space and recreation areas to be developed or preserved in accordance with this article;
- (4) Minimum peripheral boundary, transition area, and site development setback lines;
- (5) Proposed water, sanitary sewer, storm sewer, natural gas and underground electric utilities and facilities to be installed per Greenville Utilities Commission and city standards;
- (6) The delineation of areas to be constructed in sections, showing acreage;
- (7) Water supply watershed overlay district delineation;
- (8) Regulated wetlands delineation;
- (9) Boundary survey of the tract showing courses and distances and total acreage, including zoning, land use and lot lines of all contiguous property;

- (10) Existing vegetation, indicating all trees having a diameter of 24 inches or more that are located within future disturbance areas of building sites;
- (11) Flood hazard areas including base flood elevations;
- (12) Topographic contours at a maximum of two-foot intervals showing existing grades;
- (13) Site data including vicinity sketch, north arrow, engineering scale ratio, title of development, date of plan, name and address of owner/developer and person or firm preparing the plan;
- (14) Traffic impact analysis prepared by a qualified traffic engineer;

- (15) Any other information as may be required by the **Board of Adjustment** ~~City Council~~; and
- (16) Copies of or statements addressing the following:
- (a) Statements addressing any declarations of covenants, conditions or restrictions which create a property owners' association for the perpetual ownership and maintenance of all common open space and other areas including, but not limited to, recreation areas, parking areas, landscaping and the like. A private facilities maintenance analysis to determine actual costs of maintenance of such common facilities may be required by the City Council in order to assess the feasibility of such private maintenance;
  - (b) Statements addressing any proposed declarations to be recorded pursuant to the North Carolina Condominium Act (G.S. Chapter 47C);
  - (c) Statements addressing proposed encroachment and maintenance easements concerning zero lot line building walls;
  - (d) Names, indicated upon the map, of all property owners who own property within 100 feet of the proposed development including tax parcel numbers as listed upon the tax records of Pitt County at the time of submission of the special use permit application;
  - (e) The deed book and page number(s) showing fee simple title of all property within the master plan community as listed in the Pitt County Register of Deeds; and
  - (f) Statements addressing the required findings as set forth in section 9-4-166(F)(1)(e).
- (C) *Preliminary plat-site plan requirements.* After approval of the land use plan special use permit as set forth herein, the developer shall submit the following according to the approved schedule of development:
- (1) All information required by and in accordance with Title 9, Chapter 5, Subdivisions, of the Greenville City Code for submission of preliminary plats;
  - (2) Where zero lot line options as provided under section 9-4-165 are proposed, the building area for such lots shall be indicated on the plat.
- (D) *Final plat requirements.* After approval of the preliminary plat as set forth herein, the developer shall submit the following according to the approved schedule of development:
- (1) All information required and in accordance with Title 9, Chapter 5, Subdivisions of the Greenville City Code for submission of final plats;
  - (2) Where zero lot line setbacks are proposed, the building area for such lots shall be indicated.
  - (3) A final plat shall be recorded for the purpose of creating a boundary lot or tract for the entire master plan community prior to the approval of any separate final plat for any section and prior to the issuance of any permit for development in any section or phase located within the common project. The purpose of this requirement is to establish a permanent boundary for the master plan community project and to obtain any dedications of land, easements, opens spaces and/or right-of-ways necessary to insure compliance with this article. As individual section or phases within the boundary lot or tract are final platted the area outside the section or phase shall be labeled and referenced as future development area for the approved master plan community.
- (E) *Site plans for specific developments.* Site plans for specific developments shall be reviewed in accordance with Article R of this chapter.

(F) *Procedure; required review and special use permit approval.*

(1) *Land use plan; special use permit.* The applicant for a special use permit to develop a specific master plan community shall submit all information as required herein to the Director of Planning and Development Services 40 working days prior to the scheduled ~~City Council~~ public **Board of Adjustment evidentiary** hearing.

(a) *Contents.* All information as required by Section 9-4-166(B), Land use plan.

(b) *Supplemental information.* The land use plan may include, at the option of the applicant, other additional information and details in support of the petition and/or voluntary conditions of approval including additional landscaping, setbacks, buffers, screening, specific building design and arrangement, or other site improvements or proposed facilities. Supplemental information offered by the applicant shall constitute a condition of approval of the special use permit if approved.

(c) The ~~City Council~~ **Board of Adjustment** shall hold a ~~public hearing~~ **an evidentiary hearing** to review the special use permit application. The ~~City Council~~ **Board of Adjustment** may in its discretion attach reasonable conditions to the plan to insure that the purposes of the master plan community can be met.

(d) The ~~City Council~~ **Board of Adjustment** may in its discretion attach conditions to the plan that exceed the minimum standards as set forth herein when it is found that such conditions are necessary to insure that the proposed master plan community will be compatible with adjacent areas.

(e) *Required findings.* Prior to approval of a special use permit, the ~~City Council~~ **Board of Adjustment** shall make appropriate findings to insure that the following requirements are met:

1. That the property described was, at the time of special use permit application, zoned to a district that allows master plan community subject to special use permit approval as provided by Title 9, Chapter 4, Article J, of the Greenville City Code.
2. That the applicant for a special use permit to develop the master plan community is the legal owner, and/or representative in the case of a property owners' association, of the subject property.
3. That those persons owning property within 100 feet of the proposed master plan community as listed on the current county tax records were served notice of the ~~public~~ **evidentiary** hearing by first class mail in accordance with applicable requirements.
4. That notice of an ~~public~~ **evidentiary** hearing to consider the master plan community special use permit was published in a newspaper having general circulation in the area, as required by law.
5. That master plan community meets all required conditions and specifications of the zoning ordinance for submission of a master plan community special use permit.
6. That master plan community has existing or proposed utility services which are adequate for the population densities as proposed.
7. That the master plan community is properly located in relation to arterial and collector streets and is designed so as to provide direct access without creating traffic which exceeds acceptable capacity as determined by the City Engineer on streets in adjacent areas outside the master plan community.
8. That the master plan community is in general conformity with Horizons: Greenville's Community Plan.
9. That the total development, as well as each individual section of the master plan community can exist as an independent unit capable of creating an environment of sustained desirability and stability.

10. That the master plan community will not adversely affect the health and safety of persons residing or working in the neighborhood of the proposed development and will not be detrimental to the public welfare if located and developed according to the plan as submitted and approved.

11. That the master plan community will not injure, by value or otherwise, adjoining or abutting property or public improvements in the neighborhood or in the alternative, that the use is a public necessity.

12. That the location and character of the master plan community, if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located.

(f) *Notice; publication.* ~~Notice of the City Council public hearing shall be given in the same manner as for amendments to the zoning ordinance.~~ **A notice of the evidentiary hearing shall be given once a week for two successive weeks in a newspaper having general circulation in the local government's planning and development jurisdiction area, the notice shall be published the first time not less than 10 days nor more than 25 days preceding the hearing.**

(g) *Notice; adjoining property owners.* Notice of the ~~City Council public~~ **evidentiary** hearing shall be delivered by first class mail to all owners of property within 100 feet of the external property boundaries of the proposed master plan community. Such notice shall be postmarked not less than 20 calendar days prior to the date of the ~~public~~ **evidentiary** hearing. Failure to notify all owners shall not affect the validity of the action provided due diligence has been exercised in the attempts to provide notice.

(h) *Action by ~~City Council~~ **Board of Adjustment**.* The ~~City Council~~ **Board of Adjustment** shall act on the special use permit application by one of the following:

1. Approve the application as submitted;
2. Approve the application, subject to reasonable conditions or requirements;
3. Table or continue the application; or
4. Deny the application.

(i) *Binding effect.* If approved, the special use permit shall be binding upon the applicant, successor and/or assigns **and runs with the land.**

(j) *Voting.* A majority vote of members of the ~~City Council~~ **Board of Adjustment** in favor of any special use permit application shall be required for approval. For purposes of this subsection, vacant positions in the ~~City Council~~ **Board of Adjustment** and ~~Council~~ **Board** members who are disqualified from voting on a quasi-judicial matter shall not be considered as members of the ~~City Council~~ **Board of Adjustment** for calculation of the requisite majority.

(k) *Appeals from ~~City Council~~ action.* Decisions of the ~~City Council~~ **Board of Adjustment** on action taken concerning any special use permit to establish a master plan community shall be subject to review as provided by law.

(l) *Records and files of special use permit applications, actions and approvals.* Records and files of special use permit applications, actions and approvals for each master plan community land use plan shall be maintained in the City of Greenville Planning and Development Services Department. Such records and files shall be available for public inspection during regular working hours in accordance with applicable law. ~~The original order granting the special use permit and minutes of the public hearing shall be maintained by the City Clerk.~~

(2) *Preliminary plat-site plan.* After approval of the land use plan special use permit as provided herein or in conjunction therewith, the developer shall submit all information as required below to the Director of Planning and Development Services, or authorized agent, not less than 20 working days prior to the scheduled Planning and Zoning Commission meeting:

(a) The preliminary plat-site plan shall be reviewed and administered pursuant to the provisions of this article and Title 9, Chapter 5, Subdivisions of the Greenville City Code for preliminary plats;

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(b) *Contents.* All information as required by section 9-4-166(C) preliminary plat-site plan requirements;

- (c) The Planning and Zoning Commission shall review and approve the submitted preliminary plat-site plan provided such is in conformance with the approved land use plan and the provisions of this article; and
- (d) No building permit shall be issued for any construction within any master plan community until a preliminary plat-site plan has been approved in accordance with the provisions of this article. Building permits may be issued in accordance with the applicable provisions of this article and Title 9, Chapter 5, Subdivisions of the Greenville City Code,
- (3) *Final plat.* After approval of the preliminary plat-site plan as provided herein, the developer shall submit all information as required below to the Director of Planning and Development Services, or authorized agent, not less than ten working days prior to the scheduled subdivision review board meeting:
- (a) The final plat shall be reviewed and administered pursuant to the provisions of this article and Title 9, Chapter 5, Subdivisions of the Greenville City Code for final plats;
- (b) The final plat shall contain all information as required by section 9-4-166(D), final plat requirements;
- (c) The subdivision review board shall review and approve the final plat provided such plat conforms to the approved preliminary plat-site plan; and
- (d) No building permit shall be issued within any master plan community until a final plat and all covenants, restrictions, easements, agreements or otherwise for such development or section thereof has been recorded in the Pitt County Register of Deeds.  
(Ord. 09-99, § 7, passed 12-10-2009; Ord. No. 14-049, § 5 & 6, passed 8-14-2014; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-4-167 SITE DESIGN CRITERIA; GENERAL.**

- (A) *Site planning; external relationship.* Site planning in the proposed development shall provide protection of the development from potentially adverse surrounding influences and protection of surrounding areas from potentially adverse influences of the development. Consideration will be given to the location of uses, type of uses, open space, recreation areas, street design and arrangement in the evaluation of the development and its relationship with the surrounding areas.
- (B) *Site planning; internal relationship.*
- (1) *Service and emergency access.* Access and circulation shall be adequately provided for firefighting apparatus and equipment, public and private service delivery vehicles, and garbage and refuse collection.
- (2) *Utilities.* Proposed utilities shall be adequate to serve the proposed development and such utilities shall be extended to adjacent property if it is determined to be in the interest of the city.
- (3) *Pedestrian circulation.* A pedestrian circulation system is encouraged in such development. Walkways for pedestrian use shall form a logical, safe and convenient system of access to all dwelling units, project facilities and principal off-site pedestrian destinations. Walkways to be used by substantial numbers of children as routes to schools, play areas or other destinations shall be so located and safeguarded as to minimize contact with normal automobile traffic. Street crossings shall be held to a minimum. Such walkways, where appropriately located, designed and constructed, may be combined with other easements and used by emergency or public service vehicles, but not be used by other automobile traffic. In addition, bike paths may be incorporated into the pedestrian circulation system and are to be encouraged in such developments.
- (4) *Open spaces.* Common open space shall be proportionally distributed throughout the master plan community and shall be accessible to all the residents via a coordinated system of streets, sidewalks, improved greenways and pedestrian and bicycle paths.

(5) *Natural areas.* Natural vegetated areas and environmentally sensitive areas shall be preserved to the greatest extent possible. Such areas shall be incorporated into common open spaces and shall not be included as part of future building sites.

(6) *Thoroughfares.* Where an existing or proposed public thoroughfare included on the approved Greenville Urban Area Thoroughfare Plan is adjacent to or within the proposed master plan community, plans for the master plan community project will reflect said thoroughfares in a manner conducive to good transportation planning.

Existing and future thoroughfares shall be provided for in accordance with current policies for the protection of rights-of-way and construction of thoroughfares within the City of Greenville.

(Ord. No. 09-99, § 7, passed 12-10-2009)

#### **SEC. 9-4-168 STREET DESIGN CRITERIA.**

(A) For the purposes of a master plan community, three types of streets shall be utilized to provide internal access to the development. The three types of streets are defined as:

(1) *Minor street.* Distributors within the master plan community that provide linkage with major streets outside the master plan community;

(2) *Marginal access street.* Those streets which connect with minor streets to provide access to individual buildings within the master plan community; and

(B) The street design of all master plan communities shall be in conformance with Title 9, Chapter 5, Subdivisions of the Greenville City Code, the Manual of Standards, Designs and Details, and Horizons: Greenville's Community Plan.

(C) Upon approval of the planning and zoning commission, interior roads may be allowed to be constructed as private streets, subject to the requirements of Title 9, Chapter 5, Subdivisions, of the Greenville City Code. Where such private streets are allowed, a property owners' association shall perpetually maintain such private streets in suitable conditions and state of repair for the city to provide normal delivery of services, including but not limited to, garbage pickup, police and fire protection. If at any time such private streets are not maintained by the property owners' association and travel upon them becomes or will be hazardous or inaccessible to city service or emergency vehicles, the city may cause such repairs after a reasonable period of notification to the property owners' association. In order to remove safety hazards and ensure the safety and protection for the development, the city may assess the cost of such repairs to the property owners' association. The city shall have no obligation or responsibility for maintenance or repair of such private streets as a result of the normal delivery of services or otherwise by the city or others using such streets. No private street(s) shall be allowed unless a property owners' association is established for the purpose of providing for and perpetually maintaining such streets. All private streets shall be dedicated to the city as utility easements. Where a private street serves only one lot under separate ownership the property owner of such lot shall assume all responsibilities, duties and liabilities of a property owners' association under this section. (Ord. No. 09-99, § 7, passed 12-10-2009; Ord. No. 14-049, § 7, passed 8-14-2014)

#### **SEC. 9-4-169 UTILITY SERVICES; MAINTENANCE OF PRIVATE FACILITIES.**

(A) Where utility facilities are provided on private property, the following shall apply:

(1) Where utility lines, valves, fire hydrants or other utility apparatus are installed by the property owner and/or developer, and such improvements are required to be maintained by the property owners' association or property owner, the city and/or Greenville Utilities Commission may cause such apparatus to be repaired or replaced upon its continued disrepair and after a reasonable period of notification to the property owner. In order to remove safety hazards and ensure the safety and protection for the development, the city may assess the cost of such repairs or replacement to the property owner or the property owners' association.

(Ord. No. 09-99, § 7, passed 12-10-2009)

**SEC. 9-4-170 AMENDMENT TO LAND USE PLAN SPECIAL USE PERMIT.**

(A) *Minor changes.* Amendments to the approved land use plan special use permit that in the opinion of the Director of Planning and Development Services do not substantially change the concept of the master plan community as approved may be allowed by administrative action of the Director of or authorized agent. Such minor changes may include, but are not be limited to, small site alterations such as realignment of streets and relocation of utility lines due to engineering necessity. The owners shall request such amendment in writing, clearly setting forth the reasons for such changes. If approved, the land use plan shall be so amended by administrative action of the Director of or authorized agent prior to submission of any preliminary plat-site plan application involving or affecting such amendment. Appeal from the decision of the Director of ~~Planning and Development Services shall~~ **may** be taken to the ~~City Council~~ **Board of Adjustment** within 30 days of the administrative action.

(B) *Major changes.* Amendments to the approved land use plan that in the opinion of the Director of Planning and Development Services do in fact involve substantial changes and deviations from the concept of the master plan community as approved shall require review and approval pursuant to section 9-4-166(F). Such major changes shall include but not be limited to increased density, change in street pattern, change in hand use, location of land uses, open space or recreation space location or area, and condition(s) of ~~City Council~~ **Board of Adjustment** approval. Appeal from the decision of the Director of Planning and Development Services may be taken to the ~~City Council~~ **Board of Adjustment** within 30 days of the administrative action.

(C) *Authority.* Minor changes may be approved administratively by the Director of Planning and Development Services or authorized agent. Major changes shall require ~~City Council~~ **Board of Adjustment** approval of an amended special use permit. Appeal from the decision of the Director of Planning and Development Services concerning a minor or major change to the land use plan shall require review and approval pursuant to section 9-4-166(F).

(D) *Variances.* The City of Greenville Board of Adjustment shall not be authorized to grant or approve any variance from the minimum requirements as set forth in this ~~article~~ **section** ~~or condition as approved by the City Council.~~ (Ord. No. 09-99, § 7, passed 12-10-2009; Ord. 19-045, § 1, passed 9-12-2019)

**ARTICLE K. LAND USE INTENSITY (LUI) DEVELOPMENT****SEC. 9-4-179 PURPOSE AND INTENT; TERMS AND DEFINITIONS.**

(A) *Generally.* The land use intensity (LUI) system is a development option allowed pursuant to special use permit approval of the ~~Planning and Zoning Commission~~ **Board of Adjustment** and designed with the intent to:

- (1) Provide an organized and comprehensive system for determining and controlling the intensity with which land is developed;
- (2) Replace conventional fixed yard, height, spacing and density standards with floor area, open space, recreation space and livability space ratios which widen development options while maintaining public benefits;
- (3) Allow and encourage a variety of horizontal and vertical building configurations;
- (4) Encourage innovations in residential development so that the growing demands of population may be met while insuring the livability of the developments; and
- (5) Provide a procedure which can evaluate a specific development on a particular site to the particular demand for housing at the time of development in a manner consistent with the preservation of property values within established or future residential areas.

(B) *Terms and definitions.*

*Floor area (FA) and floor area ratio (FAR).* FA is the total floor area including mezzanines, interior balconies and upper floors, of all floors measured from the outside faces of exterior walls. The floor area of all buildings on a lot divided by the lot area is the FAR.  $FAR \times GLA =$  maximum floor area acceptable at a given LUI number.

*Gross land area (GLA).* The sum of site land for residential use plus one-half of the area of any abutting walk, alley or street right-of-way or permanent open space (maximum width in feet of countable abutting open space is equal to the LUI number of the parcel).

*Livability space (LS) and livability space ratio (LSR).* LS is non-vehicular open space and is part of total open space. LS is open space that is designed for pedestrian use such as walkways, landscaped areas, and recreation areas which are barred to automotive use.  $LSR \times GLA =$  minimum livability space acceptable for a given LUI number.

*Open space (OS) and open space ratio (OSR).* OS is the sum of uncovered open space and one-half of covered open space including off-site space used in computing GLA. "Open space" need not be at ground level, if appropriately improved.  $OSR \times GLA =$  minimum open space acceptable for a given LUI number.

*Primary wall.* Contains the principal windows in a habitable room, except bedrooms and kitchens (thus including living rooms, dining rooms, family rooms and the like).

*Recreation space (RS) and recreation space ratio (RSR).* RS is the outdoor area that is improved for the recreational use of all residents. RS is part of both livability and open space.  $RSR \times GLA =$  minimum recreation space acceptable for a given LUI number.

*Secondary wall.* Contains the windows of rooms other than those described above for primary walls.

*Windowless wall.* Contains no windows or only windows which do not involve loss of privacy.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-180 LAND USE INTENSITY (LUI) RATINGS AND REQUIREMENTS.**

(A) LUI rating: 50 (Subject to special use permit approval within the R-6, R-6A, MR, OR and CDF Districts).

(1) Minimum lot area required: 15,000 square feet.

(2) Gross land area (GLA) multiplied by the following ratios equal the maximum floor area and minimum space requirements.

(a)  $(GLA) \times .400 =$  Floor area (FA).

(b)  $(GLA) \times .72 =$  Open space (OS).

(c)  $(GLA) \times .44 =$  Livability space (LS).

(d)  $(GLA) \times .052 =$  Recreation space (RS).



- (3) Minimum parking requirement.
- (a) One-bedroom unit: One and two-tenths spaces.
- (b) Two- or more bedroom unit: two spaces.  
(Ord. No. 01-35, § 1, passed 3-08-2001)
- (B) LUI rating: 67 (subject to special use permit approval within the R-6, R-6A, MS, OR and CDF Districts).
- (1) Minimum lot area required:
- (a) R-6 Zoning District: 20 acres (871,200 square feet).
- (b) All other districts: 55,000 square feet.
- (2) Gross land area (GLA) multiplied by the following ratios equal the maximum floor area and minimum space requirements.
- (a) (GLA) x 1.30 = floor area (FA).
- (b) (GLA) x .67 = open space (OS).
- (c) (GLA) x .42 = livability space (LS).
- (d) (GLA) x .104 = recreation space (RS).
- (3) Minimum parking requirement. Per bed: Seventy-five hundredths of a space.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 94-78, § 2, passed 6-9-1994; Ord. No. 01-35, § 2, passed 3-08-2001)

#### **SEC. 9-4-181 DEVELOPMENT STANDARDS.**

- (A) No principal or accessory structure shall be closer than 25 feet to a public street right-of-way or private street easement.
- (B) Side and rear setbacks and/or separation between buildings or opposing wings of a building vary according to the type of wall involved.
- (1) *Primary wall.* Six feet plus two feet for each story plus one foot for each ten feet of wall length.
- Formula:  $D = 6 + 2S + L/10$
- where D is the minimum setback distance, S is the number of stories, and L is the length of wall.
- (2) *Secondary wall.* Two feet plus one foot for each story plus one foot for each ten feet of wall length.
- Formula:  $D = 2 + S + L/10$ .
- (3) *Windowless wall.* Ten feet.
- (C) No structure or building may exceed 90 feet in height above the property grade unless the depth of the public or private street setback is increased five feet for each ten feet, or fraction thereof, of building height in excess of 90 feet.
- (D) All off-street parking areas designed for three or more spaces shall be in accordance with Article O.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-182 GARBAGE/TRASH CONTAINER, RECYCLING CENTER AND COMPACTOR LOCATIONS.**

(A) No garbage/trash container or recycling center shall be located closer than 20 feet to any dwelling structure and no compactor shall be located closer than 50 feet to any dwelling structure.

(B) Each garbage/trash container required to service the development shall be located within 200 feet of the dwelling units such container is intended to serve.

(C) Garbage/trash containers and recycling centers shall be enclosed on three sides by a complete visual screen consisting of a fence, vegetation or combination thereof.

(D) Except as further provided, compactors shall be completely enclosed by a visual screen and safety barrier composed of an opaque masonry wall and opaque metal or wooden gate, said wall and gate shall be not less than two feet higher than the highest point of the compactor. The Director of Planning and Development Services or designee may approve substitute wall and gate material provided the wall and gate results in an opaque visual screen and safety barrier as required by this subsection; vegetation shall not be acceptable for this purpose.

(E) Garbage/trash containers, recycling centers and compactors shall be in accordance with Title 6, Chapter 3, Garbage and Refuse Collection and Disposal, of the Greenville City Code.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2466, § 5, passed 6-8-1992; Ord. No. 10-34, § 4, 4-8-2010; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-183 PRIVATE STREETS.**

No new private streets are allowed after August 14, 2014.

(Ord. No. 14-049, § 8, passed 8-14-2014)

**SEC. 9-4-184 COMPLIANCE WITH SUBDIVISION STANDARDS.**

All development regulated in accordance with this article shall be subject to the requirements, conditions and restrictions of the subdivision regulations whether or not the subject tract is actually divided for the purpose of transferring title.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-185 BUFFERYARD SETBACKS AND VEGETATION REQUIREMENTS.**

(A) Bufferyard setbacks shall be in accordance with Article G of this chapter.

(B) Vegetation requirements shall be in accordance with Article P of this chapter.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 95-117, § 4, passed 11-9-1995)

**SEC. 9-4-186 SPECIAL USE PERMIT; APPLICATION, CONTENT, ~~PUBLIC~~ EVIDENTIARY HEARING, CONDITIONS OF APPROVAL, REQUIRED FINDINGS, NOTICE, ACTION, APPEAL, AMENDMENT.**

(A) *Application.* The applicant for a special use permit to develop a specific land use intensity project shall submit all information as required herein to the Director of Planning and Development Services not less than ~~20~~ **40** working days prior to the scheduled ~~Planning and Zoning Commission~~ **Board of Adjustment** meeting. Application shall only be made in accordance with Appendix A, Permitted and Special Use, and at the LUI rating specified for the particular use.

(B) *Content; required review.* The special use permit application shall include (i) a site plan illustrating all buildings, structures, streets, drives, parking, screening, berms, landscaping, open spaces, active recreation areas and facilities, storm water structures, wetlands, flood hazard areas, environmental limitations, utilities and other improvements per the Land Development Administrative Manual, (ii) typical building and unit façade illustrations including balconies, porches, patios,

decorative and/or functional walls and fences, and (iii) all additional information necessary for ~~the Planning and Zoning Commission to insure~~ compliance with this article, **Title 9, Chapter 5, Subdivisions of the Greenville City Code for preliminary subdivision plats** or other ordinances or regulations of the City and Utilities Commission. ~~All applications shall be reviewed and administered in accordance with Title 9, Chapter 5, Subdivisions of the Greenville City Code for preliminary subdivision plats.~~

(C) *Public **Evidentiary** hearing.* ~~The Planning and Zoning Commission~~ **Board of Adjustment** shall hold a public hearing **an evidentiary hearing** to review the special use permit application. ~~The Planning and Zoning Commission~~ **Board of Adjustment** may in its discretion attach reasonable conditions to the plan to insure that the ~~purposes~~ **standards** of the land use intensity development as stated in section 9-4-179 can be met.

(D) *Conditions of approval.* ~~The Planning and Zoning Commission~~ **Board of Adjustment** may in its discretion attach conditions to the plan that exceed the minimum standards as set forth herein when it is found that such conditions are necessary to insure that the proposed development will be compatible with adjacent areas. Such conditions may include, but not be limited to right-of-way setback, drives and parking, screening, landscaping, bufferyard setback, building façade, building configuration, density or other requirements.

(E) *Required findings.* Prior to approval of a special use permit, the ~~Planning and Zoning Commission~~ **Board of Adjustment** shall make appropriate findings to insure that the following requirements are met:

(1) ~~The Planning and Zoning Commission must find that the~~ use has existing or proposed utility services which are adequate for the population densities as proposed.

(2) ~~The Planning and Zoning Commission must find that the~~ use is properly located in relation to arterial and collector streets and is designed so as to provide direct access without creating traffic which exceeds acceptable capacity as determined by the City Engineer on streets in adjacent areas outside the development.

(3) ~~The Planning and Zoning Commission must find that the~~ use (i) will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, (ii) will not be detrimental to the public welfare, and (iii) will not constitute a nuisance or hazard, if located and developed according to the plan as submitted and approved. Such health and safety, public welfare and nuisance or hazard considerations include but are not limited to the following:

(a) The number of persons who can reasonably be expected to live within or frequent the development at any one time.

(b) The intensity of the proposed development in relation to the intensity of adjoining and area uses.

(c) The visual impact of the proposed development as viewed from adjacent properties and public street rights-of-way.

(d) The location and extent of exterior physical activities of the proposed use including common recreation areas and facilities, and common and/or private patios, porches, balconies and open spaces.

(e) The reasonably anticipated noise or other objectionable characteristics that will result from the proposed use, or as a result of any element of project design.

(f) The safe and convenient location of all on-site parking and drives.

(g) The existing vehicular traffic on area streets.

(h) The reasonably anticipated increase in vehicular traffic generated by the proposed development.

(i) The condition and capacity of area street(s) which will provide access to the proposed development.

(j) The visibility afforded to both pedestrians and operators of motor vehicles both on-site and off-site.

(k) The anticipated, existing and designed vehicular and pedestrian movements both on-site and off-site.

- (4) ~~The Planning and Zoning Commission must find that the~~ use meets all required conditions and specifications.
- (5) ~~The Planning and Zoning Commission must find that the~~ use will not injure, by value or otherwise, adjoining or abutting property or public improvements in the neighborhood or in the alternative, that the use is a public necessity.
- (6) ~~The Planning and Zoning Commission must find that the~~ location and character of the use if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Land Use Plan of the City of Greenville and its extraterritorial jurisdiction.
- (F) *Notice.*
- (1) ~~Public hearing.~~ **Notice publication.** ~~Shall be given in the same manner as for amendments to the zoning ordinance. A notice of the evidentiary hearing shall be given once a week for two successive weeks in a newspaper having general circulation in the local government's planning and development jurisdiction area. The notice shall be published the first time not less than 10 days nor more than 25 days preceding the hearing.~~
- (2) ~~Adjoining property owners.~~ **Notice of Hearing.** ~~Notice of the public hearing shall be delivered by first class mail to all owners of property within 100 feet of the external property boundaries of the proposed development. Such notice shall be postmarked not less than 14 days prior to the date of the public hearing. Failure to notify all the owners shall not affect the validity of the action provided due diligence has been exercised in the attempts to provide notice. Notice of evidentiary hearings shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the City may rely on the County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the City shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The Board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the Board is not then present, the hearing shall be continued until the next regular Board meeting without further advertisement.~~
- (G) ~~Action by Planning and Zoning Commission~~ **Board of Adjustment.**
- (1) Approve the application as submitted.
- (2) Approve the application, subject to reasonable conditions or requirements.
- (3) Table or continue the application.
- (4) Deny the application.
- (5) If approved, the special use permit shall be binding upon the applicant, successor and/or assigns **and runs with the land.**
- (H) *Appeal.* **Appeal from final action can be taken by filing a petition for certiorari with the Pitt County Superior Court, in accordance with applicable laws.**
- (I) *Amendment to special use permit.*
- (1) *Minor changes.* Amendments to the approved plan that in the opinion of the Director of Planning and Development Services do not substantially change the concept of the land use intensity (LUI) development as approved may be allowed. Such minor changes may include but are not limited to small site alterations such as relocation of interior utility service lines, internal drainage systems and the like due to engineering necessity and alteration in the internal configuration of the buildings as approved, provided the total number of bedrooms is not increased. If approved, the development plan shall be so amended prior to the issuance of any permit. Any such amendment shall also require approval of the applicable administrative authority in the individual case.
- (2) *Major changes.* Amendments to the approved plan that in the opinion of the Director of Planning and Development Services do in fact involve substantial changes and deviations to the concept of the land use intensity (LUI) development as approved shall require revision and approval in the nature of an original ~~petition~~ **application.**

(3) *Authority.* Minor changes may be approved administratively by the Director of Planning and Development Services. Major changes shall require ~~Planning and Zoning Commission~~ **Board of Adjustment** approval.

(4) *Appeal.* Decisions of the Director of Planning and Development Services may be taken to the ~~Subdivision Review Board~~ **Board of Adjustment**.

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(5) *Variations.* The City Board of Adjustment shall not be authorized to grant or approve any variance from the minimum requirements as set forth in this article. ~~or condition as approved by the Planning and Zoning Commission.~~  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 10-33, §§ 1, 2, 4-8-2010; Ord. 19-045, § 1, passed 9-12-2019)

**ARTICLE L. SPECIAL DISTRICTS**

**SEC. 9-4-193 PLANNED UNOFFENSIVE INDUSTRY (PIU) AND PLANNED INDUSTRY (PI) DISTRICT STANDARDS.**

- (A) No PIU or PI District shall contain less than 100 gross acres.
- (B) The PIU and PI Districts may be combined to meet the minimum requirement of this section, provided the districts are contiguous.
- (C) Addition to any existing PIU and PI District or combination thereof may be allowed provided the addition meets or exceeds all other applicable requirements.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-194 RESIDENTIAL NEIGHBORHOOD REVITALIZATION (R-6N) DISTRICT STANDARDS.**

- (A) The R-6N District shall be established in existing neighborhoods.
- (B) No R-6N District shall contain less than 50 gross acres.
- (C) Addition to any existing R-6N District may be allowed, provided the addition meets the district standards of this section.
- (D) The maximum number of lots used for two-family and multi-family development within the R-6N District shall not exceed 14% of the total number of lots in the district. For purposes of this section, each single-family dwelling, two-family attached and multi-family structure sharing common area shall be considered as one lot.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2423, § 2, passed 2-13-1992)



**SEC. 9-4-195 MEDICAL-GENERAL COMMERCIAL (MCG) DISTRICT STANDARDS.**

- (A) No development tract which is zoned entirely or in part MCG shall be less than four net acres. This tract shall be referred to as the ☐original development tract.☐
- (B) Lots containing less than four acres may be created by lawful subdivision, provided any outparcels created by the division shall not have direct driveway access to any public street. It is the intent of this provision to require that outparcels of the original development tract be served by internal traffic circulation in conjunction with the original development tract.
- (C) The minimum primary width of any original development tract regulated under this section shall not be less than 150 feet as measured along the public street setback line (MBL).
- (D) The minimum primary width of any outparcel regulated under this section shall not be less than 120 feet as measured along the public street setback line (MBL).
- (E) The secondary lot width of any townhouse type division, of any tract, lot or outparcel shall not be less than 16 feet at the closest point of the side lot lines. The division shall be subject to subsection (B) above.
- (F) The standards of Article G shall apply, provided, however, that the side and rear yard requirements shall not be less than Bufferyard C. This provision shall apply only to the original development tract and to the side and/or rear yard of any outparcel or townhouse type lot located on the peripheral boundary of the original development tract.
- (G) The cross-district parking standards set out under Article O, section 9-4-249(A) shall apply.  
(Ord. No. 2337, ☐ 1, passed 6-13-1991; Ord. No. 94-77, ☐ 1, passed 5-12-1994; Ord. No. 97-85, ☐☐ 1, 2, passed 8-14-1997)

**SEC. 9-4-196 PLANNED UNIT DEVELOPMENT (PUD) DISTRICT STANDARDS.**

- (A) No PUD District shall contain less than ten gross acres.
- (B) Addition to any existing PUD District may be allowed, provided the addition meets or exceeds all other applicable requirements.  
(Ord. No. 2337, ☐ 1, passed 6-13-1991)

**SEC. 9-4-197 WATER SUPPLY WATERSHED (WS) OVERLAY DISTRICT STANDARDS.**

- (A) *Purpose and intent; definition.*
- (1) The purpose of the Water Supply Watershed (WS) Overlay District and the standards set forth under this section are to protect and manage surface water supply watersheds pursuant to the Water Supply Watershed Act of 1989 and G.S. 143-214.5, as amended.
  - (2) The standards contained herein shall be in addition to the standards of the underlying zoning district(s).
  - (3) For purposes of this section a Water Supply Watershed (WS) District is defined as an overlay zoning district which controls development density and intensity through minimum lot area and maximum impervious surface coverage (built-upon area) standards within the regulated water supply watersheds.
- (B) *Regulated area.*
- (1) The provisions of this section shall apply within the areas designated as a surface water supply watershed by the North Carolina Environmental Management Commission and as illustrated on the map entitled, ☐Watershed Protection Map of Pitt County, North Carolina,☐ which is incorporated herein by reference.

(2) The regulated area(s) are hereby adopted by reference as overlay zoning district(s) entitled "Water Supply Watershed (WS) District" and included on the official zoning map of the city. Where any discrepancy is found to exist as to the boundaries of the regulated area(s) as illustrated and described by and between the official zoning map of the City of Greenville and the "Watershed Protection Map of Pitt County, North Carolina," the more restrictive shall apply.

(3) The regulated area is hereby further divided into two districts entitled "Water Supply Watershed - Critical (WS-C)" and "Water Supply Watershed - Protected (WS-P)." The boundaries of these districts are illustrated and described on the map entitled "Watershed Protection Map of Pitt County, North Carolina," and the official zoning map of the City of Greenville.

(4) The provisions of this section shall apply to regulated area(s) both within the city limits and within the extraterritorial zoning jurisdiction of the city as amended.

(C) *Watershed classification.*

(1) The Environmental Management Commission of North Carolina has classified all surface water supply watersheds within the city's zoning jurisdiction as WS-IV. The Commission has further divided the regulated area as described herein into critical and protected areas.

(2) Critical areas (WS-C) are defined as the area adjacent to a water supply intake where the risk associated with pollution is greater than from remaining portions of the watershed. The critical area, as illustrated on the Watershed Protection Map, extends one-half mile upstream from the intake located directly in the river, or to the ridge line of the watershed, whichever comes first.

(3) Protected areas (WS-P) are defined as those areas adjoining and upstream of the critical area in which protection measures are required. The boundaries of the protected area extend ten miles upstream and draining to the intake located directly from the river, or to the ridge line of the watershed, whichever comes first.

(D) *Applicability.* All new development activities, commenced after the effective date (July 1, 1993) of this section, requiring a sedimentation and erosion control plan shall comply with the provisions of this section.

(E) *Exemptions.*

(1) Single-family dwelling or addition(s) thereto located on an individual lot of record established prior to the effective date (July 1, 1993) of this section.

(2) Existing development as defined and regulated in accordance with Article C of this chapter.

(3) Completion of nonconforming projects allowed in accordance with Article C of this chapter.

(4) Additional exclusions as defined in 15A NCAC 02B.0624(3).

(F) *Certificates of watershed protection compliance.*

(1) The City Engineer or his or her designated representative is hereby authorized to issue certificates of watershed protection compliance for activities subject to this section.

(2) A certificate of watershed protection compliance shall be required for all activities within the regulated area in addition to other zoning compliance permits or other approvals as may be required. No land disturbing activity within the regulated area shall begin until a certificate of watershed protection compliance has been issued in accordance with this section.



(2) *Protected area (WS-P)*. Low density option:

(a) Single-family residential development shall not exceed two dwelling units per gross acre on a project-by-project basis. No single-family residential lot shall be less than one-half acre or 20,000 square feet in area, excluding street rights-of-way, or 15,000 square feet in area, excluding street rights-of-way, for projects without curb and gutter street construction and an underground piped storm drainage system, except as provided under section 9-4-197(H)(3) for cluster development and section 9-4-197(H)(4) for high density development.

(b) Except as otherwise provided, all other residential and nonresidential development shall not exceed 24% built-upon area on a project-by-project basis. For projects without curb and gutter street construction and an underground piped storm drainage system, development shall not exceed 36% built-upon area on a project-by-project basis. For purposes of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(3) *Clustering*. Clustering of development shall be allowed on a project-by-project basis subject to all of the following requirements:

(a) Overall density of the project shall meet the associated density or stormwater runoff requirements of the controlling water supply watershed district classification, WS-C or WS-P;

(b) Single-family detached residential developments shall be subject to the provisions of Article F and Article M of this chapter;

(c) Two-family attached (duplex) residential developments shall be subject to the provisions of Article F of this chapter;

(d) Multi-family residential developments shall be subject to the provisions of Article I of this chapter;

(e) Mobile home development shall be subject to the provisions of Article F and Article H of this chapter;

(f) Nonresidential developments shall be subject to the provisions of Article F of this chapter;

(g) Built-upon areas shall be designed and cited to minimize stormwater runoff impact to the receiving waters and to minimize concentrated stormwater flow in accordance with best management practices in the opinion of the City Engineer; and

(h) The area by which each lot is reduced below the minimum lot area requirement of this section shall be reserved as perpetual open space. Such open space shall be set forth by description and notation upon a final subdivision map and any development or other land disturbing activity shall be prohibited within the area. Specifically, the open space area shall be perpetually maintained in its vegetated or natural state.

(4) *Protected area (WS-P)*. High density option: Where new development exceeds the low density limits provided in section 9-4-197(H)(2), engineered stormwater controls shall be used to control stormwater runoff from the development site and development shall not exceed 70% built-upon area. High density development shall meet the requirements of section 9-4-197(O) and 15A NCAC 02B.0624(7).

(I) *Buffer area required*.

(1) A vegetative buffer, as measured from top of bank, shall be required for new development activities along each side of all perennial waters indicated on the most recent versions of the U.S.G.S. 1:24,000 (7.5 minute) scale topographical maps, or as determined by local government studies, in accordance with the following:

Low density option - Minimum 50 feet.

High density option - Minimum 100 feet.

(2) No new development is allowed in the buffer area except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increase in impervious area and public projects such as road crossings and greenways where no practicable alternative exists. These activities should minimize built-upon area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices.

(3) Desirable artificial streambank or shoreline stabilization may be permitted.

(J) *Prohibited uses.* Regardless of the underlying zoning district, the following uses are prohibited in the Water Supply Watershed - Critical (WS-C) District.

(1) Landfills; and

(2) Sites for land application of residual or petroleum contaminated soils.

(K) *Variances.*

(1) Prior to final consideration by the Board of Adjustment as authorized by Article S of this chapter, all major variance requests shall be reviewed by the N.C. Environmental Management Commission. For purposes of this section a "major variance" is defined as:

(a) Any variance that constitutes greater than a 10% deviation from any numerical standard specified by this section; or

(b) Any variance to any standard set forth under the high density development option.

(2) The Board of Adjustment shall not be authorized to grant or approve any major variance which has not first been reviewed by and received approval of the N.C. Environmental Management Commission.

(3) Prior to Board of Adjustment consideration of any variance the Director of Planning and Development Services or his or her designated representative shall notify in writing each local government having jurisdiction within the subject watershed and each local government or other entity using the watershed for water consumption, including private water corporations and the like. The notice shall contain a copy of the complete application as submitted, including a description of the variance and any required map. The local government(s) and/or other entities may submit written comments for consideration by the Board of Adjustment.

(4) The findings and recommendation of the N.C. Environmental Management Commission and any written comments of the local government(s) having jurisdiction within the subject watershed shall be made a part of the findings of fact and record of the Board of Adjustment. Such findings, recommendations and written comments and other competent evidence as may be presented shall be considered by the Board of Adjustment in accordance with law.

(5) If an application calls for the granting of a major variance, and if the Board of Adjustment decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing. The preliminary record of the hearing shall include: the variance application; the hearing notices; the evidence presented; motions, offers of proof, objections to evidence, and rulings on them; proposed findings and exceptions; and the proposed decision, including all conditions proposed to be added to the permit. The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

(a) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that both the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted; and the variance, if granted, will not result in a serious threat to the water supply; then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a commission decision and send it to the Board of Adjustment. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

(b) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that either: the property owner can secure a reasonable return from or make a practical use of the property without the variance, or the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.

(L) *Amendment.* Amendment to the Water Supply Watershed Overlay District regulations as contained herein shall be filed with the N.C. Division of Environmental Management and the N.C. Division of Community Assistance. No amendment shall become effective until the city has received approval from the state as provided by law and the applicable water supply watershed protection rules.

(M) *Record of amendments and variances.*

(1) *Amendments.* The Director of Planning and Development Services or his or her designated representative shall keep a record of amendments to this section and provide copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management, the N.C. Division of Environmental Health, and the N.C. Division of Community Assistance.

(2) *Variances.* The Director of Planning and Development Services or his or her designated representative shall keep a record of all variances from this section. This record shall be submitted to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management on or before January 1 of each year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(N) *Compliance with subdivision standards.* All development regulated in accordance with this section shall be subject to the requirements, conditions and restrictions of the subdivision regulations whether or not the subject tract is actually divided for the purpose of transferring title.

(O) *Stormwater management requirements.*

(1) All stormwater management techniques and improvements shall be in accordance with best management practices (BMPs). For purposes of this section, best management practices (BMPs) are defined as structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

(2) Stormwater controls shall be reviewed, regulated and improved pursuant to Title 9, Chapter 9, Stormwater Management and Control, of the Greenville City Code.

(Ord. No. 2640, § 1, 6-10-93; Ord. No. 94-41, §§ 1-3, passed 3-10-1994; Ord. No. 97-15, §§ 1-7, passed 2-13-1997; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 18-055 §§ 1-7, passed 10-11-2018; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-198 HISTORIC DISTRICT (HD) OVERLAY DISTRICT STANDARDS.**

The requirements, conditions and restrictions of Title 9, Chapter 7, of the City Code entitled "Historic Preservation Commission" shall apply.

(Ord. No. 94-22, § 2, passed 2-10-1994)

**SEC. 9-4-199 CONSERVATION AREA (CA) OVERLAY DISTRICT STANDARDS.**

(A) *Purpose and intent; definition.*

(1) The purposes of the Conservation Area (CA) Overlay District and requirements set forth under this section are: to provide for permanent open space and desirable buffers between proposed uses and incompatible adjacent land uses, environmentally sensitive areas or hazardous areas in excess of minimum standards; and to provide a method and means by which the open space and increased buffer areas may be utilized to fulfill zoning requirements applicable to individual lot development.

(2) A Conservation Area (CA) Overlay District is defined as an overlay zoning district adopted in conjunction with an underlying common general purpose district, as listed under Article D, Part 2, sections 9-4-46 through 9-4-73, wherein the zoning rights, standards, restrictions and requirements as set forth herein for the common general purpose district shall extend to the CA District zoned area of a lot of record while prohibiting the encroachment of buildings, structures, parking, drives and other impervious areas or other residential and/or nonresidential uses or activities including storage, stock-in-trade display and delivery of service, inconsistent with this section, within the CA District zoned portion of the lot.



(B) *Standards.*

(1) Initiation of a petition for a Conservation Area (CA) Overlay District zoning map amendment shall be restricted to the legal owner of record, both at the time of initial application and City Council final action, or the authorized agent of the owner at such times. No CA Overlay District shall be established or amended without first being submitted to the Planning and Zoning Commission for review and recommendation in accordance with original submission requirements.

(2) All Conservation Area (CA) Overlay Districts shall be delineated upon the official zoning map as both the underlying common general purpose district and CA Overlay District. The general purpose district title shall be followed by "CA" in all areas zoned Conservation Area (CA) Overlay.

(3) At the time of zoning consideration of any CA Overlay District, the area within the proposed CA Overlay District shall be undeveloped and vacant and shall not contain any principal and/or accessory buildings, structures or parking or be subject to any vested right to continue any activity or site development inconsistent with this section.

(4) No CA Overlay District zoned area of any lot, either at the time of initial zoning or as a result of future zoning action or subdivision, shall be less than 100 feet at its narrowest dimension.

(5) Except as otherwise provided, no portion of any CA Overlay District shall be used as a building site. No buildings, structures, parking or other impervious areas shall be allowed to encroach into any CA Overlay District, and no portion of any CA Overlay District shall be used for any temporary and/or permanent residential or nonresidential purpose including storage and delivery of service.

(6) Public streets and sidewalks, public utility and other public infrastructure improvements and/or structures may be constructed within a CA Overlay District.

(7) Stormwater detention ponds and drainage improvements may be constructed within a CA Overlay District.

(8) Private streets and sidewalks, driveways and general (public/customer) pedestrian access walkways may encroach into any CA Overlay District subject to compliance with all the following requirements:

(a) Shall be designed to provide direct access to and from adjacent public streets, designated common property, public access easements and lot lines; and

(b) No temporary or permanent parking area or space(s) shall be allowed within any CA Overlay District.

(9) Required bufferyard (peripheral and street yard) setbacks in accordance with Article G, street right-of-way (front yard) setbacks and minimum yard areas in accordance with Article F, may be located in any CA Overlay District.

(10) Required or optional vegetation materials may be qualified and/or planted and berms, fences and other landscape features approved by the Director of Planning and Development Services, or the Director's authorized representative, may be allowed within any CA Overlay District.

(11) All portions of a lot located within a CA Overlay District shall be utilized to count toward total lot area, lot width and lot frontage for purposes of determining allowable density, minimum lot area, minimum open space, maximum lot coverage, minimum vegetation, minimum recreation area and other requirements or restrictions related to lot area or dimension as may apply in accordance with the underlying general purposes district or other applicable standards.

(12) Public greenway and public recreational improvements shall be allowed in any CA Overlay District.

(13) Except as further provided, no property shall be subdivided or zoned CA Overlay which would result in a lot that does not contain an adequate building site. No lot or parcel shall be located completely within a CA Overlay District unless the lot or parcel is dedicated or deeded to the public or unless the lot or parcel is dedicated as common area open space as part of a contiguous townhouse, condominium or other common property development as shown upon a final plat recorded pursuant to the subdivision regulations.

(14) When property that contains any area zoned CA Overlay District is proposed to be subdivided, the preliminary subdivision plat and final subdivision plat shall delineate the CA Overlay District area as "conservation area" and shall note restrictions applicable to such area as provided herein. Areas that are indicated on a final plat as "conservation area" pursuant to this section shall not constitute a public dedication of lands except as specifically noted by description, and such areas may be reconfigured pursuant to zoning amendment of the CA Overlay District boundary affecting the lot as may be approved by City Council.

(15) Prior to the issuance of a building permit for development on a lot that contains any area zoned CA Overlay District, or prior to the issuance of any zoning compliance permits or approvals to conduct any use of property in cases where a building permit is not required, a final subdivision plat of the lot shall be recorded pursuant to the subdivision regulations. The plat shall delineate the CA Overlay District area as "conservation area" and shall note restrictions applicable to that area as provided herein. Areas that are indicated on a final plat as "conservation area" pursuant to this section shall not constitute a public dedication of lands except as specifically noted by description, and the areas may be reconfigured pursuant to zoning amendment of the CA Overlay District boundary affecting the lot as may be approved by City Council.

(Ord. No. 03-50, § 2, passed 6-12-2003; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-4-200 R-6A RESTRICTED RESIDENTIAL USE (RU) OVERLAY DISTRICT STANDARDS.**

(A) *Purpose and intent; definition.*

(1) The purpose of the R-6A Restricted Residential Use (RU) Overlay District and requirements set forth under this section are:

- (a) To provide a residential development option designed to encourage single-family and/or two-family attached (duplex) development; and
- (b) To prohibit multi-family development within the underlying R-6A District included within the overlay.

(2) An R-6A Restricted Residential use (RU) Overlay District is defined as an overlay zoning district adopted in conjunction with an underlying R-6A (residential) general purpose district as listed under Article D, Part 2, section 9-4-51.1 wherein the zoning rights, standards, restrictions and requirements as set forth for the common general purpose district shall extend to the RU Overlay District zoned area in accordance with subsection (B) below.

(B) *Standards.*

(1) Initiation of a petition for a R-6A Restricted Residential use (RU) Overlay District zoning map amendment shall be restricted to the legal owner of record, both at the time of initial application and City Council final action, or the authorized agent of the owner at such times.

(2) All R-6A Restricted Residential use (RU) Overlay Districts shall be delineated upon the official zoning map as both the underlying R-6A (residential) general purpose district and RU Overlay District. The R-6A general purpose district title shall be followed by "RU" in all areas zoned Restricted Residential use (RU) Overlay.

(3) The zoning rights, standards, restrictions and requirements of the R-6A underlying general purpose district shall extend to the R-6A-RU Overlay District, except as provided herein.

(4) No portion of a multi-family development shall be permitted within any R-6A-RU Overlay District and no portion of any area zoned R-6A-RU Overlay District shall count toward net lot area for purposes of multi-family density allowance or calculation on any lot located partially or totally outside a R-6A-RU Overlay District.

(5) Except as further provided, no R-6A-RU Overlay District shall contain less than five acres of net land area at the time of initial zoning or as a result of future zoning actions. Addition to any existing R-6A-RU Overlay District may be allowed provided the addition meets the district standards of this section. The dedication of public street rights-of-way, private street easements, public park lands and the like after the time of initial zoning, which results in the overlay district area being reduced below the initial five acre net area minimum, shall be allowed.

(Ord. No. 04-67, § 1, passed 6-1-2004)

#### **SEC. 9-4-200.1 URBAN CORE (UC) OVERLAY DISTRICT STANDARDS.**

(A) *Purpose and intent; definition; designated area.*

(1) *Purpose and intent.* The purpose and intent of the Urban Core (UC) Overlay District and requirements set forth under this section is to allow modification of specific site development standards of the underlying zoning district(s) which are designed to facilitate development and redevelopment of in-fill sites in the designated area specified under subsection (3) below.

(2) *Definition.* An Urban Core (UC) Overlay District is defined as an overlay zoning district adopted in conjunction with an OR, and/or CDF underlying general purpose district as listed under Article D, Part 2, sections 9-4-62 and 9-4-66 wherein the zoning rights, standards, restrictions and requirements as set forth for the common general purpose district shall extend to the Urban Core (UC) Overlay District zoned area in accordance with subsection (B) below.

(3) *Designated area.* All Urban Core (UC) Overlay District(s) shall be restricted to the land area located within the following boundary: south of Tenth Street, east of the CSXT Railroad, north of Fourteenth Street, west of Green Mill Run and ECU Easement (tax parcel 73545, DB 2215 - PG 597 (as existing on March 4, 2010. No Urban Core (UC) Overlay District shall be located outside of the designated area described by this subsection. An Urban Core (UC) Overlay District shall be established within the designated area upon City Council adoption of an individual zoning ordinance which defines the boundary of the specific Urban Core (UC) Overlay District located within the designated area boundary.

(B) *Standards.*

(1) Initiation of a petition for an Urban Core (UC) Overlay District zoning map amendment shall be made in accordance with section 9-4-331.

(2) If any portion of a lot, parcel or tract is zoned as Urban Core (UC) Overlay the entire lot, parcel or tract shall be included in the Urban Core (UC) Overlay.

(3) All Urban Core (UC) Overlay Districts shall be delineated upon the official zoning map as both the underlying general purpose district and UC Overlay District. The general purpose district title shall be followed by "UC" in all areas zoned Urban Core (UC) Overlay District.

(4) The zoning rights, standards, restrictions and requirements of the underlying general purpose district shall extend to the Urban Core (UC) Overlay District, except as provided herein.

(5) Within any Urban Core (UC) Overlay District multi-family development, land use intensity multi-family (LUI) development rating 50, land use intensity dormitory (LUI) development rating 67, and dormitory development, as listed under Article D and Appendix A table of permitted uses, shall be subject to modified standards as listed under subsection (6) below, unless otherwise provided. All other standards, requirements and conditions of the underlying general purpose district not included under and modified by subsection (6) shall continue to apply.

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(6) *Modified standards.* The following standards specified in this subsection are hereby adopted as substitute minimum requirements within the Urban Core (UC) Overlay District for the uses listed under subsection (5) above.

(a) Principal and accessory structure public street right-of-way setback per section 9-4-145(B)(1): The minimum setback may be reduced at the option of the owner to not less than five feet.

(b) Principal and accessory structure private street easement setback per section 9-4-145(B)(2): The minimum setback may be reduced at the option of the owner to not less than five feet.

(c) Principal and accessory structure public street right-of-way and private street easement setback per section 9-4-181(A): The minimum setback may be reduced at the option of the owner to not less than five feet.

(d) Bufferyard A per section 9-4-119(A): The applicable six-foot and/or ten-foot bufferyard width may be reduced at the option of the owner to not less than five feet regardless of lot size. Bufferyard with modification shall not exempt or reduce any vegetation requirement applicable to any Bufferyard A, as required prior to the application of this subsection.

(e) Parking space to dwelling structure separation per section 9-4-251(B)(9): The minimum separation requirement may be reduced at the option of the owner to not less than five feet.

(Ord. No. 10-19, ¶ 2, 3-4-2010; Ord. 16-010, ¶ 4, passed 2-11-2016)

#### **SEC. 9-4-200.2 UNIVERSITY NEIGHBORHOOD REVITALIZATION INITIATIVE (UNRI) OVERLAY DISTRICT STANDARDS.**

(A) *Purpose and intent; definition; designated area.*

(1) *Purpose and intent.* The purpose and intent of the University Neighborhood Revitalization Initiative (UNRI) Overlay District and requirements set forth under this section are:

(a) To recognize that the university neighborhood is an established city neighborhood with a unique location between East Carolina University, the Tar River, and the Downtown Commercial District;

(b) To recognize that the university neighborhood has traditionally provided off-campus housing opportunities to students of East Carolina University and that a significant percentage of the dwellings located within the university neighborhood are renter occupied;

(c) To establish appropriate standards and safeguards that provide for compatibility among university neighborhood properties; and

(d) To facilitate the sustainability, preservation, restoration, and revitalization of the university neighborhood in order to promote the safety and the general welfare of the community.

(2) *Definition.* A University Neighborhood Revitalization Initiative (UNRI) Overlay District is defined as an overlay zoning district adopted in conjunction with an underlying general purpose zoning district, as listed in sections 9-4-46 through 9-4-72, wherein the zoning rights, standards, restrictions and requirements as set forth for the underlying general purpose zoning district shall extend to the University Neighborhood Revitalization Initiative (UNRI) Overlay District zoned area in accordance with subsection (B) below.

(3) *Designated area.* All University Neighborhood Revitalization Initiative (UNRI) Overlay District(s) shall be restricted to the land area located within the following boundary: bounded on the north by the Tar River, on the east by Elm Street, extended to the Tar River, on the south by E. 5th Street, and on the west by Reade Street, extended to the Tar River. No University Neighborhood Revitalization Initiative (UNRI) Overlay District shall be located outside of the designated area described by this subsection. A University Neighborhood Revitalization Initiative (UNRI) Overlay District shall be established within the designated area upon City Council adoption of a zoning ordinance which defines the boundary of the specific University Neighborhood Revitalization Initiative (UNRI) Overlay District located within the designated area boundary.

(B) *Standards.*

(1) A petition for a University Neighborhood Revitalization Initiative (UNRI) Overlay District zoning map amendment may be initiated in accordance with section 9-4-331.

(2) All University Neighborhood Revitalization Initiative (UNRI) Overlay Districts shall be delineated upon the official zoning map as both the underlying general purpose zoning district and the University Neighborhood Revitalization Initiative (UNRI) Overlay District. The general purpose zoning district title shall be followed by University Neighborhood Revitalization Initiative [UNRI] in all areas zoned University Neighborhood Revitalization Initiative (UNRI) Overlay District.

(3) The zoning rights, standards, restrictions and requirements of the underlying general purpose zoning district shall extend to the University Neighborhood Revitalization Initiative (UNRI) Overlay District, except as modified by a provision of this chapter specifically made applicable to the University Neighborhood Revitalization Initiative (UNRI) Overlay District. (Ord. No. 12-045, § 2, passed 10-11-2012; Ord. No. 14-020, passed 4-10-2014)

#### **ARTICLE M. RESIDENTIAL CLUSTER DEVELOPMENT**

##### **SEC. 9-4-201 PURPOSE AND INTENT; DEFINITION.**

(A) The purpose of residential cluster development is to provide an alternative development option that will:

- (1) Promote more efficient use of land resources than is otherwise possible under conventional subdivision regulations;
- (2) Reduce the per unit site development costs of dwellings by concentrating residential units on a portion of the site without increasing the overall net density above that which would normally be allowed pursuant to Article F;
- (3) Preserve the natural character of the site;
- (4) Preserve farm land and scenic views;
- (5) Provide for desirable and usable open space, tree cover, and the preservation of environmentally sensitive areas; and
- (6) Provide variety in residential buildings and properties and provide design flexibility that can relate the location of units to unique site conditions.

(B) For purposes of this section, a "residential cluster development" is defined as:

(1) A development design wherein conventional zoning standards are relaxed to permit modifications in lot area, lot width, lot frontage, lot coverage, required yards and public street access, and to save infrastructure development cost, environmental damage, energy use and land resources by concentrating dwellings in specific areas of the site without increasing the net density above that which would normally be allowed pursuant to Article F;

(2) Such development shall contain detached single-family dwellings only; and

(3) Such development shall provide a program for the provision, operation and maintenance of such areas, facilities and improvements as shall be required for the perpetual common use by the occupants of the development.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2409, § 1, passed 1-9-1992)

**SEC. 9-4-202 AREA; PERMITTED DISTRICTS, EXEMPTION; STREET ACCESS; OPEN SPACE(S); RELATIONSHIP TO GREENWAY PLAN; DENSITY; DIMENSIONAL STANDARDS.**

- (A) Residential cluster developments shall contain not less than ten net acres. For purposes of this section, "net acres" shall be the total area of all lots and common area(s) exclusive of public street rights-of-way or private street easements. Addition to any existing residential cluster development may be allowed provided the addition meets or exceeds all other applicable requirements.
- (B) Subject to subsection (A) above, a residential cluster development may as an option be allowed within any RA-20, R-9S, R-9, R-6S, R-6, R-6A, MRS or MR Zoning District. The development shall be exempt from the conventional zoning standards relative to lot area, lot width, lot frontage, lot coverage, required yards and public street access normally applicable to such districts, provided the development complies with the minimum standards set forth under this section.
- (C) Dwelling units within a residential cluster development may be constructed on lots fronting private streets.
- (D) A residential cluster development shall provide open space(s) subject to all of the following requirements:
- (1) Such open space shall be greater or equal in area to the total amount of area by which each lot was reduced below the minimum lot size requirement of the prevailing zoning district, or as provided under subsection (D)(2) below, whichever is greater;
  - (2) Residential cluster developments shall reserve not less than 15% of the gross acreage as common open space;
  - (3) The area shall not be used as a building site. For purposes of this section, picnic areas or shelters, ball fields, walking or jogging trails, boat ramps and docks or other similar recreational facilities may be allowed;
  - (4) The area shall not be devoted to any public street right-of-way or private street easement, private driveway or parking area;
  - (5) The area shall be left in its natural or undisturbed state if wooded at the time of development, except for the cutting of trails for walking or jogging or, if not wooded at the time of development, is improved for the uses listed under subsection (D)(3) above, or is properly vegetated and landscaped with the objectives of creating a wooded area or other area that is consistent with the objective set forth in subsection (D)(6) below;
  - (6) The area shall be capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation or for horticulture if not devoted to other allowable uses in this subsection;
  - (7) The area shall be legally and practically accessible to the residents of the development, or to the public if so dedicated;
  - (8) A minimum of one-half of the required open space shall be contained in one continuous undivided part;
  - (9) Not more than 25% of the required open space shall lie within any floodway zone;
  - (10) Not more than 25% of the required open space may be devoted to allowable improvements as set forth in subsection (D)(3) above;
  - (11) The area shall be perpetually owned and maintained for the purposes of this article by a homeowners' association or, at the option of the city, dedicated or deeded to the public;
  - (12) The location and arrangement of any open space(s) shall be subject to Planning and Zoning Commission approval; and

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(13) The owner shall, pursuant to the subdivision regulations, cause a final subdivision plat to be recorded in the Pitt County Register of Deeds which clearly describes the open space(s) and conditions thereof, prior to the issuance of any building permit(s).

(E) If any portion of the area proposed for a residential cluster development lies within an area designated in the officially adopted Greenway Master Plan as a greenway corridor, the area so designated shall be included as part of the area set aside to satisfy the open space requirements of this section. The area within the greenway corridor shall be dedicated and/or reserved to the public at the option of the city.

(F) Maximum density requirements.

(1) Residential density shall not exceed that which would normally be permitted under single-family standards within the prevailing zoning district on a net area basis.

(2) Public street rights-of-way and private street easements shall not be included or count towards the total net area for purposes of calculating allowable density.

(3) Area dedicated or deeded to the city pursuant to subsection (E) above shall count towards net area for purposes of density calculation.

(G) Minimum dimensional standards.

(1) Lot area: Not less than 60% of the minimum lot area which would normally be required under the single-family standards of the prevailing zoning district.

(2) Lot width: No minimum width requirement at the street setback line (MBL); however, all lots shall contain a building site of like design and area to other lots within the cluster subdivision.

(3) Lot frontage: 40 feet, except on the radius of a cul-de-sac where the distance may be reduced to 20 feet.

(4) Public or private street setback: No principal or accessory structure shall be closer than 15 feet to a public street right-of-way or private street easement or as further provided herein.

(5) Side yard setback: Shall be subject to section 9-4-203 (zero lot line) or not less than 12 feet, provided however, that no structure shall be located on more than one side lot line. Dwellings which do not utilize the provisions of section 9-4-203 (zero lot line) and are not located adjacent to a lot line section subject to section 9-4-203 shall maintain a minimum side setback of not less than six feet.

(6) Rear yard setback: Shall be subject to section 9-4-203 (zero lot line) or not less than 12 feet.

(7) Building separations: No portion of any principal structure shall be located less than 12 feet from any other principal structure or less than ten feet from any accessory structure as measured to the closest point.

(8) Periphery boundary setback: Except as further provided no principal or accessory structure shall be located less than 25 feet from the peripheral boundaries of the residential cluster development.

(9) Transition area setback:

(a) Where a residential cluster development adjoins or borders an existing single-family zoning district or other predominantly single-family development sharing common frontage on the same or opposite side of a public or private street, the minimum right-of-way and/or easement setback requirement of the single-family zone or development shall be utilized for the entire opposite frontage and 300 feet from the common border.

(b) For purposes of this subsection, "other predominantly single-family development" shall be that area within 100 feet of the external boundary of the residential cluster development in which 50% or more of the conforming land uses are detached single-family residential.

(10)Maximum height: 35 feet.

(11)Detached accessory structure requirements:

- (a) Shall not be located within any front yard setback;
- (b) Shall not be located within ten feet of any other principal structure or within five feet of any other accessory structure;
- (c) Shall not cover more than 20% of any side or rear yard; and
- (d) The side or rear yard requirement for detached accessory structures shall be subject to the provisions of section 9-4-203 (zero lot line) or not less than five feet.

(12)Satellite dish antennae and swimming pools shall comply with the applicable provisions of Article F. (Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2409, § 1, passed 1-9-1992; Ord. No. 2467, § 1, passed 6-8-1992; Ord. No. 94-59, § 1, passed 4-14-1994; Ord. No. 95-29, § 8, passed 3-9-1995; Ord. No. 95-78, § 1, passed 8-10-1995; Ord. No. 96-122, § 1, passed 12-2-1996; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997)

#### **SEC. 9-4-203 ZERO SIDE AND/OR REAR YARD SETBACKS.**

A zero side and/or rear yard setback as permitted herein, may be permitted, subject to the following provisions:

- (A) Any wall, constructed on the side or rear lot line shall be a solid doorless and windowless wall. The wall shall contain no electrical, mechanical, heating, air conditioning or other fixtures that project beyond the wall. If there is an offset of the wall from the lot line, the offset shall be subject to the applicable provisions of § 9-4-202(G)(5) and (6). Roof eaves may encroach two feet into the adjoining lot;
- (B) A five-foot maintenance and access easement with a maximum eave encroachment easement of two feet within the maintenance easement shall be established on the adjoining lot and shall assure ready access to the lot line wall at reasonable periods of the day for normal maintenance; and
- (C) Where zero side or rear yard setbacks are proposed, the buildable area for each lot shall be indicated on the preliminary and final subdivision plat.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2409, § 1, passed 1-9-1992)

#### **SEC. 9-4-204 PRIVATE STREETS.**

No new private streets are allowed after August 14, 2014.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2409, § 1, passed 1-9-1992; Ord. No. 14-049, § 9, passed 8-14-2014)

#### **SEC. 9-4-205 COMPLIANCE WITH SUBDIVISION STANDARDS.**

All development regulated in accordance with this article shall be subject to the requirements, conditions and restrictions of the subdivision regulations.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2409, § 1, passed 1-9-1992)

**ARTICLE N. SIGNS****SEC. 9-4-221 PURPOSE.**

It is the purpose of this article to allow certain signs of a residential and commercial nature in areas designated for those uses which will best provide and ensure:

- (A) The health, safety and general welfare of the people;
- (B) The adequate supply of light and air to adjacent properties;
- (C) Adequate and proportionate advertisement displays which promote and protect the economic vitality of the community;
- (D) That signage displayed adjacent to and visible from a public right-of-way will not distract or confuse the motoring public, thereby causing a public hazard; and
- (E) That the aesthetic quality of the city is maintained for the benefit of all the citizens of the City of Greenville, Pitt County, and the State of North Carolina as a whole.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-222 DEFINITIONS.**

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Banner.* A temporary sign display that is constructed of non-self-supporting or rigid material that is supported on two or more sides or corners by a rope, wire or other attachment that allows the display to move when struck by wind, and which is not a permanent sign or flag as a defined in this section. (See also definition of flag.)

*Building frontage.* The distance expressed in linear feet of the horizontal dimension of a building wall that is parallel and adjacent to one or more of the qualifying areas listed below:

- (a) A public or private street;
- (b) A common parking area in the case of a planned center;
- (c) A public parking area; or
- (d) A public access walkway.

*Flag.* A non-self-supporting fabric or film display that is supported on one side by a pole or mast, and is allowed to hang limp without vertical or horizontal structure and/or to move freely when struck by wind. A non-self-supporting fabric or film display that is supported on two or more sides or corners, or that is supported only along the top (highest) side shall constitute a banner. (See also definition of banner.)

*Freestanding sign.* A sign that is not directly and permanently attached to, supported by or erected on a building or other structure having a principal function other than support of the sign. To qualify as a permanent freestanding sign, displays made from non-self-supporting materials, including flex-face type signs, shall be permanently affixed to the sign support structure by a method approved by the Building Inspector, and the display (sign face) shall be enclosed and/or attached either by a two-inch or wider raised frame that supports the sign face, or within a two-inch or wider raised sign cabinet specifically designed for support of the sign.

*Lot frontage.* The distance expressed in linear feet of the common property boundary lines of a lot of record and a public or private street.

*Off-premises sign.* An outdoor advertising sign used for the purpose of displaying non-point-of-sale advertisement which directs attention to a business, establishment, profession, service, event, entertainment, condition or commodity that is located, manufactured, conducted, sold or otherwise offered or provided at an off-premises or off-site location other than the lot of record where the sign is constructed or displayed, except as further provided under section 9-4-236(B). Off-premises signs are hereby divided into two separate categories for purposes of regulation under section 9-4-236(B) as follows: temporary poster panel off-premises sign, and permanent panel off-premises sign. Any off-premises sign may be converted from either category to the other; provided, however, the use of any such sign shall be regulated in accordance with the category assignment of the sign at time of use.

*Permanent panel off-premises sign.* As used herein, a sign having a permanent frame and either a permanent or interchangeable solid display mounting surface upon which the sign's message or advertising content is permanently affixed to or painted directly on the display mounting surface. Specifically, any off-premises sign not meeting the definition of temporary poster panel off-premises sign below shall be construed as a permanent panel off-premises sign.

*Temporary poster panel off-premises sign.* As used herein shall be defined as a sign having a permanent frame and solid display mounting surface upon which interchangeable messages, in the form of a temporary advertising poster composed of paper, film or other similar temporary non-self-supporting material, are mounted utilizing an adhesive or other similar temporary contact attachment method and which can be removed without disassembly of the display mounting surface. The term "temporary advertising poster" as used herein shall include only those displays which are printed, painted, drawn or otherwise created in complete content and form at a remote location and which are then adhered to the display mounting surface in single or multiple sheets. Mounting of poster displays to the display mounting surface by the use of nails, staples, screws, bolts, clips, hooks, cords, ropes, straps and similar methods shall be regarded as a permanent attachment as opposed to a temporary attachment and the poster displays shall not constitute a temporary advertising poster. All temporary advertising posters shall be open to the natural elements and shall not be enclosed or covered by plastic, glass or other permanent transparent material, enclosure or case.

*On-premises sign.* An advertising sign used for purposes of displaying point-of-sale advertisement which attracts attention to a business, establishment, profession, service, event, entertainment, condition or commodity that is manufactured, conducted, sold or otherwise offered or provided on the lot of record where the sign is constructed or displayed. "On-premises signs" are all signs not otherwise defined or regulated as off-premises signs.

*Owner occupant.* Any person, firm, corporation, lessee, receiver, trustee, guardian or personal representative holding legal title or legal right to occupy or carry on business in a structure or any facility, or any manager, operator or other person authorized to conduct business on behalf of an owner, and shall include each and every person who shall have title to or benefit of a sign, or for whose benefit any type sign is erected or maintained. Where there is more than one owner, as defined, their duties and obligations under this chapter are joint and several and shall include the responsibility for the sign.

*Planned center.* See Article B of this chapter.

*Roof sign.* A sign that is directly and permanently attached to and supported by the roof of a building or structure having a principal function other than support of the sign.

*Sign.* Any display device that is sufficiently visible and is located and designed to attract the attention of persons or to communicate any information to them.

*Subdivision directory sign.* A sign containing locational information relative to property owners, tenants, establishments or addresses within a platted subdivision. The sign shall contain no commercial advertisement.

*Temporary sign.* Any portable advertisement display that directs or attracts public attention to a specific event, product sold or service offered by the beneficiary of the display. Such signs include but are not limited to the following:

- (1) Signs made of paper, cloth, polyethylene film or other similar material;
- (2) Signs that are not permanently affixed to the ground or building surface in a manner approved by the Building Inspector;
- (3) Trailer signs;
- (4) Portable signs; and
- (5) Banners, flags or other similar devices.

*Wall sign.* A sign that is directly and permanently attached to and supported by a building or other structure having a principal function other than support of the sign. For purposes of this definition, poles, fences, storage tanks, bracing or other similar structures shall not be considered as a building or structure having a principal function other than support of the sign, and canopies and their support structures shall be considered as a building or structure having a principal function other than support of the sign.

- (1) To qualify as a permanent "wall sign," displays made from non-self-supporting materials, including flex-face type signs, shall be permanently affixed to the building or other structure by a method approved by the Building Inspector, and the display (sign face) shall be enclosed and/or attached:
  - (a) By a two-inch or wider raised frame that supports the sign face; or
  - (b) Within a two-inch or wider raised sign cabinet specifically designed for support of the sign.
- (2) The intent of subsections (1)(a) and (b) is to prohibit direct contact attachment of non-self-supporting material signs on a supporting wall or qualified structure and to require that the display (sign face) is separated from the supporting wall or qualified structure by not less than two inches.

*Wind blade.* A non-self supporting fabric or film display that is supported on one side by a pole or mast that is curved at the top so that the message is visible regardless of wind conditions. Wind blades shall be freestanding and shall not be attached to any permanent structure.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 96-45, § 2, passed 6-13-1996; Ord. No. 02-63, §§ 1, 2, passed 6-13-2002; Ord. No. 06-76, § 1, passed 8-10-2006; Ord. 12-017, § 1, passed 4-12-2012)

#### **SEC. 9-4-223 PERMITS REQUIRED.**

(A) No sign shall be erected upon any lot or attached to, suspended from or supported on a building or structure, nor shall any existing sign be enlarged, removed, relocated or materially repaired unless a zoning compliance and building permit for the same has been issued by the city. The permit shall be on forms supplied by the city and shall contain such information as necessary to ensure that the requirements and conditions of this article can be met.

(B) There shall be no sign permit issued unless the plans, specifications and intended use of the sign or part thereof conform in all respects to all applicable provisions of the Zoning Ordinance and the North Carolina State Building Code.

(Ord. No. 2337, § 1, passed 6-13-1991)

#### **SEC. 9-4-224 GENERAL REQUIREMENTS FOR SIGNS.**

(A) All signs shall be constructed and maintained in accordance with this article and the North Carolina State Building Codes, as amended. In the event of conflicting provisions of this article and the North Carolina State Building Codes, the more restrictive shall apply.

(B) No sign shall be erected or allowed to remain erected that is structurally unsafe, hazardous and in the opinion of the Building Inspector, constitutes a danger to the public safety. If, in the opinion of the Building Inspector, any sign should become insecure or in danger of falling or otherwise unsafe, the owner thereof or the person or firm maintaining the same shall, upon written notice from the Building Inspector, immediately secure the sign in a manner to be approved by the Building Inspector in conformity with the provisions of this article or remove the sign at the expense of the owner. Any freestanding sign that is not permanently attached to the ground in a manner approved by the Building Inspector shall be considered a danger to public safety.

(C) To ensure that signs are maintained in a safe and aesthetic manner, the following maintenance requirements must be observed for all signs visible from any public street.

(1) No sign shall have more than 20% of its display surface area covered with disfigured, chipped, peeling, cracked, ripped or frayed material of any description for a period of more than 30 successive days.

(2) No sign shall be allowed to remain with bent or broken display area(s), broken supports, loose appendages or struts, or allowed to stand more than 15 degrees away from the perpendicular for a period of more than 30 successive days.

(3) No sign shall be allowed to have weeds, trees, vines or other vegetation growing upon it for a period of more than 30 successive days.

(4) No indirect or internally illuminated sign shall be allowed with only partial illumination for a period of more than 30 successive days.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 99-4, § 1, passed 1-14-1999; Ord. No. 02-94, § 1, passed 9-12-2002)

(D) Signs and sign support structures that are abandoned for a period of 12 months shall be removed regardless of compliance with subsections (A), (B) and (C) above. For purposes of this section, when an establishment, building or use that is the beneficiary of any on-premises sign has been vacated and is otherwise no longer in operation, all signs and sign support structures associated with the vacated establishment, building or use shall be deemed to be abandoned.

(Ord. No. 06-35, § 1, passed 4-13-2006)

#### **SEC. 9-4-225 NONCONFORMING SIGNS.**

(A) Any sign existing on the effective date (November 13, 1986) of this article that does not meet the requirements of this article or any amendment hereto shall be considered nonconforming. The sign shall be allowed to remain unless otherwise provided herein.

(B) No such nonconforming sign shall be altered, expanded or enlarged except as provided under subsection (C) below. Change in permanent copy shall be considered an alteration. For purposes of this section, permanent copy shall not include off-premises signs with changeable panels and reader board type signs with removable letters.

(C) Exemptions.

(1) Any existing on-premises freestanding sign which is nonconforming with respect to a public street setback may be altered, provided all on-site freestanding sign(s) comply with all of the following conditions:

(a) Except as otherwise provided, the provisions of Article C of this chapter shall apply.

(b) The total number of all freestanding signs shall comply with applicable requirements.

(c) The sign surface area of all freestanding signs shall comply with applicable requirements.

(d) The altered freestanding sign height shall not be increased.

- (e) The altered freestanding sign shall not exceed the maximum height for the district for a sign which is set back ten or more feet from the public street right-of-way.
- (f) There shall be no increase in any existing nonconforming situation or the creation of any new nonconforming situation.
- (2) Any existing off-premises sign which is nonconforming with respect to spacing, setback and/or construction may be altered, including replacement, provided the altered or replacement sign complies with all of the following conditions.
  - (a) Except as otherwise provided, the provisions of Article C shall apply.
  - (b) No such sign shall be altered or replaced unless the sign is located within a zoning district that allows off-premises signs as a permitted use.
  - (c) There shall be no increase in any existing nonconforming situation or the creation of any new nonconforming situation.
  - (d) Except as further provided, a sign altered or replaced pursuant to this section shall comply with all applicable requirements including sign area, horizontal and vertical dimension, height, construction and landscaping as provided herein.
  - (e) There shall be no increase in sign size, including sign display area vertical or horizontal dimension, or in sign height.
  - (f) Prior to alteration or replacement of any such sign, the owner shall provide information, including photographic picture(s), scaled graphic depiction, site plan and any additional documentation as maybe required, to the Director of Planning and Development Services or his or her designee which illustrates and details the existing and proposed sign. No sign shall be altered or replaced prior to issuance of a zoning compliance and building permit.
  - (g) A building permit to replace the sign shall be obtained prior to the removal of the original sign. Construction of the replacement sign shall be initiated within the valid period of the original building permit. Failure to initiate construction of the sign within the valid permit period shall void any right to replace the sign under this section. Replacement of any sign initiated after the valid permit period shall be subject to all requirements in effect for location and construction of a new sign.
- (D) Except as otherwise provided, no nonconforming sign shall be repaired when the repairs exceed 50% of the actual replacement value, as determined by the Building Inspector, except in conformance with this article.
- (E) All temporary signs existing on the effective date (November 13, 1986) of this article which do not conform to the requirements set forth herein shall be removed within six months from the effective date of this article.
- (F) Any sign erected after the effective date (November 13, 1986) of this article that does not conform to the requirements set forth herein shall be considered in violation of this article and must be removed at the owner's expense.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 95-137, § 1, passed 12-14-1995; Ord. No. 03-78, §§ 1-4, passed 8-14-2003; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-226 NONCONFORMING SIGN; ORDER TO REMEDY OR REMOVE.**

If any sign as defined by this article is erected or maintained in violation of this article, the owner of the sign shall be subject to the enforcement provisions of this article.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-227 SIGNS NOT REQUIRING PERMITS.**

The following signs shall not require a zoning compliance permit under this article; provided, however, any such signs shall comply with all other requirements of this article and chapter except that the signs shall not be included in or count towards the total allowable sign surface area or total number of allowable freestanding signs.

(A) Signs not exceeding three square feet in total sign surface area that are associated with residential use and that are not of a commercial nature. The sign surface area shall contain only property identification names or numbers or names of occupants or warnings to the public;

(B) Memorial plaques, cornerstones, historical tablets and similar devices;

(C) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and information signs and traffic directional or regulatory signs;

(D) On-premises flags, balloons, insignia of nonprofit or governmental organizations shall be allowed subject to all of the following requirements:

(1) Flags and wind blades are permitted as follows:

(a) Temporary freestanding flags and wind blades are not permitted.

(b) Flags with or without commercial messages that are located on functioning light poles internal to the business lot shall be no more than 50 square feet in area. There is no limitation on the number permitted per lot.

(c) Flags attached to permanent flag poles shall be permitted as follows:

1. Flags without commercial messages are limited to 100 square feet in area;

2. Flags with commercial messages are limited to 50 square feet in area;

3. Only one permanent flagpole is permitted per lot.

(2) Balloons, except as qualified and regulated under section 9-4-233(K) of this article, shall comply with all of the following requirements:

(a) Balloons shall be removed each day for the period extending between the hours of 10:00 p.m. and 8:00 a.m. unless otherwise provided herein;

(b) Balloons shall be maintained in accordance with section 9-4-224 of this article;

(c) No balloon shall exceed a maximum height of 125 feet above grade, as measured from the point of ground attachment to the highest balloon surface;

(d) Any balloon that exceeds 25 feet in height shall be set back from all street right-of-way lines and overhead public utility transmission and/or distribution lines a ground distance equal to the display height of the balloon plus 25 feet, as measured from the ground attachment point to the right-of-way line or to all ground points determined by a 90-degree vertical line extending from the closest overhead public utility transmission and/or distribution line as projected upon the ground, whichever is closer. The purpose of this requirement is to provide a 25-foot clear fall zone in the event of the balloons descent due to deflation or weather conditions;

(e) All balloons shall comply with the maximum height limitations set forth under Title 9, Chapter 3, Airport Zoning, of the Greenville City Code; and

- (f) No individual balloon regulated under this section shall exceed a dimension of 20 feet as measured by diameter in the case of spherical balloons, or as measured by the greatest length in the case of oblong or tubular balloons, including blimps and the like.
- (3) Insignia of nonprofit or governmental organizations shall not be displayed in connection with a commercial promotion or as an advertising device.
- (E) Integral decorative or architectural features of buildings or works of art, provided the features or works of art do not contain advertisements, trademarks, moving parts or lights;
- (F) Signs erected for the purpose of directing traffic on private property, identifying restrooms and parking area entrances or exits, provided the signs shall not exceed three square feet. The signs shall not contain any advertising, business name or logo;
- (G) Signs painted on or otherwise permanently attached to current licensed motor vehicles that are not primarily used as signs; and
- (H) Certain temporary signs:
- (1) Temporary signs erected in connection with elections or political campaigns. Such signs shall be subject to section 12-1-5 of the Greenville City Code.
  - (2) Displays, including lighting, erected in connection with the observance of holidays. Such displays shall be removed within ten days following the holiday.
  - (3) Construction site identification signs shall be removed within ten days after the issuance of the occupancy permit.
  - (4) Signs attached temporarily to the interior of a building's window or glass door. Such signs may not cover more than 25% of the transparent surface area of the window or door to which they are attached. Signs painted on a window or glass door shall not be considered as temporary.
  - (5) Temporary unilluminated real estate signs shall be subject to the following.
    - (a) Within any residential zoning district, the total sign display area of any real estate sign(s) erected on any lot shall not exceed 12 square feet, unless otherwise provided herein.
    - (b) Within any nonresidential zoning district, the total sign display area of any real estate sign(s) erected on any lot shall not exceed 50 square feet, unless otherwise provided herein.
    - (c) The total sign display area of all temporary real estate sign(s) located on any multi-family lot that contains not less than 20 attached dwelling units, in one or several structures, shall not exceed 50 square feet.
    - (d) For purposes of this section, the term "real estate sign" shall include both "for sale" and "lease occupancy advertising" signs.
    - (e) Real estate "for sale" signs erected under this section shall be removed within 14 days following the transfer of title of the lot, tract or unit associated with the signs.
    - (f) Real estate "lease occupancy advertising" signs erected under this section shall be removed within 14 days following the occupancy of all leasehold units associated with the signs.
    - (g) Temporary real estate signs that are attached to a building, fence, wall or other structure shall meet the requirements for a permanent wall sign included under section 9-4-234(B).

(h) Temporary real estate signs that are freestanding shall meet the requirements for a permanent freestanding sign included under section 9-4-234(C); provided, however, no freestanding real estate sign located in a residential district shall exceed four feet in height and no real estate sign located in a nonresidential district shall exceed eight feet in height.

(6) Temporary signs not covered in the foregoing categories, so long as the signs meet the following restrictions.

(a) Not more than one sign may be located on any lot.

(b) No such sign shall exceed six square feet in area.

(c) The sign shall be restricted to nonresidential uses only.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 95-61, § 2, passed 6-8-1995; Ord. No. 99-4, § 2, passed 1-14-1999; Ord. No. 05-15, § 1-2, passed 3-10-2005; Ord. No. 06-76, § 2, passed 8-10-2006; Ord. 12-017, § 2, passed 4-12-2012)

#### **SEC. 9-4-228 DETERMINING THE NUMBER OF SIGNS.**

(A) For purposes of this article, a sign shall be considered a single display device or surface containing organized or related elements, and which form a unit. Randomly displayed elements without organized or related relationship shall be considered individually in determining the total number of signs.

(B) A double-face or a multi-side sign shall be regarded as one sign.

(Ord. No. 2337, § 1, passed 6-13-1991)

#### **SEC. 9-4-229 COMPUTATION OF SIGN SURFACE AREA.**

(A) The surface of a sign shall be computed by including the entire unit within a single, continuous, rectilinear perimeter forming 90-degree angles, enclosing the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself, except as defined in subsection (B) of this section.

(B) With respect to three-dimensional or multi-sided signs (excluding double-face signs), the total sign surface area of all sides shall not exceed twice the maximum sign surface area as provided herein.

(C) With respect to decorative base or pylon mounted sign displays, the base or pylon shall not be utilized in the calculation of sign display area, provided the total area of the base or pylon does not exceed 50% of the total sign display surface area. In cases where the base or pylon area exceeds 50% of the total sign display area, the base or pylon shall be deemed to constitute a sign as defined herein and shall be utilized in the calculation of total sign area.

(Ord. No. 2337, § 1, passed 6-13-1991)

#### **SEC. 9-4-230 TOTAL ALLOWABLE SIGN SURFACE AREA.**

(A) Unless otherwise provided in this article, the total surface area devoted to all signs on any building shall not exceed the maximum limitations set forth in this section.

(B) Temporary signs shall not be included in this calculation.

(C) Unless otherwise provided in this article, the maximum sign surface area permitted for any residential use shall be three square feet.

(D) Unless otherwise provided in this article, the maximum wall sign surface area permitted for any nonresidential use shall be determined as follows.

(1) All wall signs for any one use shall not exceed one and one-half square feet of sign surface area per linear foot of building frontage occupied by such use.

(2) If a building has frontage on more than one qualifying area, then the total sign surface area permitted on the building shall be the sum of the sign surface area allotments related to each frontage.

(3) Signage may be allowed on any building wall, provided that the sign surface area of all signs located on a wall of a structure may not exceed 25% of the total surface area of the wall on which the signs are located. Wall



signage may be placed on a canopy, provided that the sides of a canopy shall be considered as a wall, and the signage on a canopy shall be subject to the 25% limitations of this section.

(E) The display area of wall signs painted on, affixed to or otherwise displayed on or through a facade window shall not exceed 25% of the window area.

(F) In cases where the provisions of this section will not allow signage of at least 50 square feet, then the requirements of this section shall be waived to the extent that a total wall sign allowance of 50 square feet or less, at the option of the owner, shall be permitted.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 94-156, §§ 10, 11, passed 12-8-1994; Ord. No. 95-29, § 9, passed 3-9-1995; Ord. No. 95-61, § 5, passed 6-8-1995)

#### **SEC. 9-4-231 NUMBER OF FREESTANDING SIGNS.**

(A) Except as authorized by this section, no lot or planned center may have more than one freestanding sign; provided, however, that if a lot or planned center is located on a corner and has at least 150 feet of frontage on each of the two intersecting public streets, then the lot or planned center may have not more than one freestanding sign along each side of the lot or planned center bordered by such streets.

(B) Additional frontage:

(1) If a lot or planned center has 300 or more feet of frontage on a public street, then the lot or planned center may have not more than two freestanding signs along the street, provided the signs are spaced not less than 100 feet apart as measured from the center of the sign; or

(2) If a lot or planned center has 500 or more feet of frontage on a single public street then the lot or planned center may have not more than three freestanding signs along the street, provided the signs are spaced not less than 100 feet apart as measured from the center of the sign.

(C) If a lot or planned center is bordered by two public streets that do not intersect (double frontage lot), then the lot or planned center may have not more than one freestanding sign on each public street, except as provided herein.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 94-156, § 12, passed 12-8-1994; Ord. No. 95-61, §§ 6, 7, passed 6-8-1995)

#### **SEC. 9-4-232 FREESTANDING SIGN SURFACE AREA.**

(A) For purposes of this section, a side of a freestanding sign is any plane or flat surface area included in the calculation of the total sign surface area as provided herein.

(B) Unless otherwise provided, a single side of a freestanding sign may not exceed one-half square foot in surface area for every linear foot of frontage along the street toward which the sign is primarily oriented. However, in no case may a single side of a freestanding sign exceed 125 square feet in surface area.

(C) With respect to freestanding signs that have no discernible sides, such as spheres or other shapes not composed of flat planes, no such freestanding signs may exceed one square foot in total surface area for every linear foot of lot frontage along the street toward which the sign is primarily oriented. However, in no case may the sign exceed 200 square feet in surface area.

(D) For purposes of this section, a single side of a double-face freestanding sign shall be considered as the total display surface for the calculation of sign area, provided the sides are separated no more than 30 inches at any point.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-233 SPECIAL PROVISIONS FOR CERTAIN SIGNS.***(A) Subdivision entrance and multi-family development signs.*

(1) *Freestanding signs.* Except as further provided under subsection (A)(2) below for the CD District, at any entrance to a subdivision or multi-family development there may be not more than two freestanding signs identifying the subdivision or development, and a single side of any such sign shall not exceed 50 square feet in total sign surface area. Freestanding identification signs shall be subject to section 9-4-234; provided, however, no such sign shall exceed a height of ten feet above the property grade. In cases where such signs are mounted on a decorative functional or nonfunctional wall, the wall area shall not be utilized to calculate total sign surface area. Such signage shall not be included in the calculation of or count towards the total sign surface area for the lot on which it is located.

*(2) CD District wall and freestanding signs.*

(a) Each multi-family development located within a CD (Downtown Commercial) District may have either:

1. Not more than two wall signs identifying the development;
2. Not more than two freestanding signs identifying the development; or
3. Not more than one freestanding sign and one wall sign identifying the development.

(b) No single side of a wall or freestanding sign allowed under this section shall exceed 50 square feet in total sign surface area. Freestanding and wall identification signs shall be subject to section 9-4-234; provided, however, no freestanding sign shall exceed a height of ten feet above the property grade. In cases where the signs are mounted on a decorative functional or nonfunctional wall, the wall area shall not be utilized to calculate total sign surface area. Such signage shall not be included in the calculation of or count towards the total sign surface area for the lot on which it is located.

(Ord. No. 09-17, passed 3-5-2009)

*(B) Grand opening signs.* Grand opening signs shall be subject to the following requirements and/or exemptions.

(1) For purposes of this section, the term "grand opening" shall be construed as a singular event of limited (ten-day maximum) duration designed and intended to attract public attention to a recently established office, commercial, industrial or multi-family land use. Expansion of an existing principal use shall not be construed as a grand opening event. Addition of an accessory use shall not be construed as a grand opening event. No temporary use shall be construed as a grand opening event.

(2) Such event shall commence not later than 60 days following any occupancy for use to qualify for a grand opening sign.

(3) No grand opening sign(s) shall be displayed for more than ten total and continuous days.

(4) No maximum sign surface area requirement shall be established for the sign(s).

(5) Within a planned center each lot or unit occupied by a separate establishment may qualify for individual grand opening signs in accordance with this section.

(6) Such sign(s) shall be exempt from the provisions of section 9-4-237 herein.

*(C) Planned center directory signs.* Such signs may be allowed, provided they do not exceed 20 square feet in display area, six feet in height and are located no closer than ten feet from the property line. There shall be no more than two directory signs within any planned center. The signs shall contain no commercial advertisement. The signage shall be allowed in addition to the maximum wall or freestanding sign allowance for the lot on which the signage is located.

(D) *Nonresidential subdivision directory signs.* Shall be subject to all of the following standards and requirements.

- (1) There shall be no more than two directory signs within a subdivision.
- (2) Such signs shall contain no commercial advertisement. For purposes of this section establishment names and trademarks shall not be construed as commercial advertisement.
- (3) Such signs shall be located on private property and no portion of the sign shall extend beyond any property boundary line or street right-of-way line.
- (4) No sign shall exceed a height of five feet unless the sign is set back not less than ten feet from the street right-of-way.
- (5) Such signage may contain subdivision identification in addition to individual establishment identification panels.
- (6) Where the sign contains any subdivision identification, that portion of the sign devoted to subdivision identification shall be subject to the maximum area and number of signs criteria set forth under subsection (A) of this section.
- (7) Additional specific standards for commercial and/or office subdivisions are as follows:
  - (a) Maximum display area including subdivision identification shall not exceed 50 square feet.
  - (b) Maximum height shall be ten feet.
  - (c) Individual establishment identification panels shall not exceed four square feet in display area.
- (8) Additional specific standards for industrial subdivisions are as follows:
  - (a) Maximum display area including subdivision identification shall not exceed 125 square feet.
  - (b) Maximum height shall be 25 feet.
  - (c) Individual establishment identification panels shall not exceed 16 square feet in display area.
- (9) Such signage shall be allowed in addition to the maximum wall or freestanding sign allowance for the lot on which the signage is located.

(10) This section shall not apply to subdivisions which constitute a planned center. Planned center directory signage shall be in accordance with subsection (C) of this section.

(E) *Restaurant menu reader boards.* No restaurant menu reader board shall exceed 42 square feet in surface area or eight feet in height. Menu reader boards shall be set back not less than 20 feet from any property line. One menu reader board shall be allowed per each drive-through facility, and the display shall contain no commercial advertisement that can be viewed from any adjacent street right-of-way or property line. The signage shall not be included in the calculation of or count towards the total allowable sign surface area.

(Ord. No. 99-38, § 1, passed 4-8-1999)

(F) *Church signs.*

(1) *Off-premises directional signs.* Church off-premises directional signs shall not exceed three square feet in area or six feet in height. Such signs shall be located on private property and shall be allowed in addition to the maximum wall or freestanding sign allowance for the lot on which the signage is located.

(2) *On-premises signs.*(a) *Wall signs.* Shall be in accordance with section 9-4-230 of this article.(b) *Freestanding signs.*

1. Shall not exceed 36 square feet in surface area except as further provided. The number, height and location of the sign(s) shall be in accordance with sections 9-4-231 and 9-4-234 of this article except as further provided.

2. When a lot qualifies for two or more freestanding signs along any one street, the owner may option to erect one 72-square foot sign in lieu of two 36-square foot signs. Within any residential zoning district, no freestanding sign which exceeds 36 square feet in surface area shall exceed ten feet in height.

(G) *Permitted nonresidential uses.* Except as otherwise provided, signs for permitted nonresidential uses, excluding home occupations, located in a residential zoning district may be allowed, provided the signs meet the following restrictions.

(1) Signs shall not exceed 12 square feet in display surface area.

(2) Signs shall not exceed five feet in height above the property grade in the case of a freestanding sign.

(3) Signs shall not exceed one sign per lot.

(H) *Home occupations.*

(1) Freestanding signs shall be prohibited.

(2) Except as otherwise provided, wall signs shall be limited to two square feet of total sign display area.

(3) Bed and breakfast inn signage shall be subject to the following standards: wall signs shall be limited to four square feet of total sign display area.

(I) *Open door and/or open window signs.* Any sign which can be viewed through an open doorway and/or open window from any point outside the building may be allowed subject to all of the following.

(1) Such signage shall be included in the calculations of and count toward the total allowance of wall sign surface area.

(2) Such signs shall be permanently attached to the building by manner of an approved rigid frame structure, by a solid metal chain or cable, or a combination thereof.

(3) Such sign surface area shall be constructed of an approved rigid material or shall be bound on not less than two sides by a rigid frame which prohibits the signage from swaying loosely when struck by moving air.

(4) All portions of the signs shall be set back inside the interior finished wall of the building.

(5) All such signs shall not cover or obstruct more than 25% of the door or window opening.

(6) The lowest part of the signs displayed through an open doorway shall be not less than eight feet above the doorway threshold if the signs are located within ten feet of the subject doorway.

(7) Such signs shall be exempt from the wall sign projection standard set forth under section 9-4-234(B) of this article; provided, however, no vertical dimension of any the sign including supports shall exceed four feet.

(8) Signs located on and/or beneath a canopy shall not be construed as open door and/or open window signs.

(9) Signs which are not designed to attract the attention of or convey a message to persons located outside the building and which are designed only to provide information or warnings to persons located inside the establishment are exempt from regulation under this section.

(J) *Temporary non-profit and governmental organization signs.* Temporary sign(s), including banners, erected in conjunction with a special event sponsored and conducted by a nonprofit or governmental organization shall be allowed subject to all of the following conditions.

(1) It is the intention of this section that no such sign shall be displayed in conjunction with a commercial promotion or as an advertising device for a commercial establishment, product or service.

(2) Not more than one on-premises and three off-premises signs shall be allowed in conjunction with any event. No sign shall be erected on any lot without the consent of the property owner.

(3) No such sign shall exceed 30 square feet of sign surface area.

(4) There shall be not more than one special event sign allowed on any lot.

(5) The maximum frequency of any special event display shall not exceed one occurrence within any 12-month period and the maximum duration of the display shall not exceed seven days. For purposes of this section, the duration of each separate event display shall be measured in continuous days.

(6) Each display shall contain the name and current phone number of the event sponsor and the sign permit number indelibly printed on the communication side/surface in one-inch or larger letters.

(7) The sign shall be located completely on private property. No portion of the sign or its support structure shall be located on or across any public street right-of-way or private street easement.

(8) The sign shall not be located within any sight distance triangle as defined in Title 6, Chapter 2 of the Greenville City Code or as provided by notation or description upon any map recorded pursuant to the subdivision regulations.

(9) No such sign shall be suspended from or attached to any public utility pole, apparatus, structure or support/guy wire, any public or private traffic-control or directional sign, structure or device, or any tree or shrub located on public or private property.

(10) No such sign shall be erected or maintained which obstructs any traffic-control sign or device or warning sign located on public or private property.

(11) No such sign shall be erected on or across any recognized or improved pedestrian area, path, walkway or sidewalk, driveway, interior drive or parking lot drive aisle.

(12) Any sign erected or maintained in conflict with this section shall be considered a nuisance and/or hazard to the public and shall be subject to immediate removal by the city at the expense of the sponsoring nonprofit organization and/or property owner in addition to other available remedies as provided by law.

(13) Such sign(s) shall be exempt from section 9-4-237(G) herein.

(K) *Temporary on-premises special event spotlights and roof mounted inflatable balloons.* Except as otherwise provided herein, temporary special event spotlights and roof mounted inflatable balloons shall be allowed, subject to all of the following requirements.

(1) *Spotlights.*

(a) Not more than one spotlight shall be displayed on any lot at any one time.

- (b) No spotlight shall be displayed for more than two consecutive days.
- (c) No lot shall display any spotlight(s) for more than 20 total days per calendar year.
- (2) *Roof mounted inflatable balloons.*
  - (a) Not more than one roof mounted inflatable balloon shall be displayed on any lot at any one time.
  - (b) No roof mounted inflatable balloon shall be displayed for more than two consecutive days.
  - (c) No lot shall display any roof mounted inflatable balloon(s) for more than 20 total days per calendar year.
- (3) *Terms.*
  - (a) For purposes of this section, the term "lot" shall be construed to include all contiguous parcels occupied by an establishment.
  - (b) For purposes of this section, the term "roof mounted inflatable balloon" shall be construed to include only those balloons which meet all of the following requirements: are mounted onto the roof of a structure having a principal purpose other than the support of the balloon; are mounted on the roof of a qualified structure by means of a gravity dependent and/or direct contact attachment method; and are not tethered to the roof of a structure in a manner which allows the balloon to free-float above the surface of the roof.
- (L) *Golf course signs.* Golf courses located within a residential district shall be subject to the following requirements:
  - (1) Wall signage, including accessory use identification signage, shall not exceed 20 square feet in total sign surface area.
  - (2) Golf course (principal use) freestanding signage shall be limited to one sign. The sign shall not exceed 20 square feet in total sign surface area and shall not exceed five feet in height.
  - (3) No freestanding signage shall be permitted in conjunction with an accessory use, including but not limited to any dining facility and/or restaurant, snack bar, pro-shop, social club, tennis court or swimming facility.
  - (4) Freestanding and wall signage shall be illuminated by indirect lighting only  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 95-53, § 1, passed 5-11-1998; Ord. No. 95-61, § 8, passed 6-8-1995; Ord. No. 96-29, § 1, passed 3-14-1996; Ord. No. 96-35, § 1, passed 5-9-1996; Ord. No. 96-73, § 1, passed 8-8-1996; Ord. No. 96-79, § 1, passed 8-8-1996; Ord. No. 96-91, § 1, passed 9-12-1996; Ord. No. 97-64, § 1, passed 6-12-1997; Ord. No. 99-4, §§ 3 and 4, passed 1-14-1999; Ord. No. 99-152, § 1, passed 12-9-1999; Ord. No. 05-15, § 3, passed 3-10-2005; Ord. No. 05-89, § 8, passed 8-11-2005; Ord. No. 07-11, § 5, passed 1-11-2007)

#### **SEC. 9-4-234 LOCATION AND HEIGHT REQUIREMENTS.**

- (A) Except as further provided, no portion of any sign shall extend beyond any property boundary line of street right-of-way line.
- (B) Additional wall sign standards.
  - (1) No wall sign shall extend above the top of any exterior wall line of the building to which it is attached, except as provided under subsection (B)(2) below.
  - (2) Wall signage may be permitted on the front (outside) edge of a decorative roof structure (i.e., canopies, awnings and the like), provided the top of the signage does not extend above the decorative roof structure and does not extend more than five feet above the exterior wall to which the decorative roof structure is attached.

Also, wall signage may be permitted on top of a decorative roof structure (i.e., canopies, awnings and the like), provided the top of the signage does not extend above the exterior wall to which the structure is attached and provided the signage does not extend past the front (outside) edge of the decorative roof structure.

(3) No wall sign shall project more than 12 inches from the building, except as provided under subsection (B)(4) and (5) below.

(4) Except as further provided, wall signage may be located on a sign support frame provided the sign and support frame shall not project more than three total feet from the building and provided the depth of the sign, as measured perpendicular from the outside surface of the front face to the outside surface or plane of the rear (building side) of the sign, is not more than 12 inches.

(a) No wall sign, including any sign support frame, erected on a decorative roof structure (i.e., canopies, awning and the like) shall project more than 12 inches from the front (outside) edge of the decorative roof structure.

(b) When a wall sign is erected on a sign support frame and when the sign and support frame projects more than 12 total inches from the building, the message portion of the sign, including any letters and/or graphics, shall be parallel in orientation to the building wall.

(c) When a sign and/or support frame projects more than 12 inches from a building the lowest part of the sign, display shall be not less than eight feet above the adjacent finished ground surface elevation.

(5) Wall projection signs.

(a) For purposes of this section, wall projection signs shall be any wall sign that projects more than 12 inches from the building and does not qualify under subsection (4).

(b) Wall projection signs shall be allowed only in the CD (downtown commercial) district and such signs shall be subject to compliance with all of the following requirements:

1. Shall be permanently attached to an exterior wall of a building in a manner approved by the Building Inspector.
2. Shall not be attached to the outside edge of a canopy or extend beyond any outside edge of a canopy.
3. May project horizontally from the building wall not more than four feet.
4. There shall not be more than 12 inches between the sign display areas (faces) of a double-sided sign. Three-dimensional projection wall signs not composed of flat sign display surfaces shall not be permitted.
5. Projection wall signs shall be located on private property, provided however, a projection wall sign may encroach into the street right-of-way in accordance with an encroachment agreement approved by the city, and where applicable, the State Department of Transportation.
6. One projection wall sign is allowed for each side of a building that fronts a public street or public alley.
7. Projection wall signs for individual principal use establishments located in a common building shall not be located closer than eight feet from any other projection wall sign located on the same building.
8. All projection wall signs for individual principal use establishments located on a common building facade shall be of equal dimension, including but not limited to, individual sign display area, width, height, horizontal projection. Sign height above grade may vary provided compliance with subsection (m) below.

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9. Projection wall signs shall be considered part of the total wall sign allowance.
10. Properties with frontage having 100 feet or less may have a maximum projection wall sign area of 15 square feet and properties with frontage having more than 100 feet may have a maximum projection wall sign area of 30 square feet.
11. Properties with frontage having more than 100 feet and with at least a three-story building located on the property with a height of at least 40 feet and the building lot coverage area of at least 80% of the property may have a maximum projection wall sign area of 50 square feet.
12. Minimum height of a projection wall sign, as measured from the finished grade directly below the sign to the lowest point of the sign, shall be not less than eight feet, except as further provided. Projection wall signs subject to street right-of-way encroachment agreement approval shall have a minimum height of not less than ten feet, or per encroachment agreement condition, whichever is greater.
13. If required, all right-of-way encroachment agreement(s) must be granted by the approval authority prior to sign permit application. A copy of any encroachment agreement and any conditions shall be attached to the sign permit application.
  - (6) (a) To qualify as a permanent wall sign, displays made from non-self-supporting materials, including flex-face type signs, shall be permanently affixed to the building or other structure by a method approved by the Building Inspector, and the display (sign face) shall be enclosed and/or attached:
    1. By a two-inch or wider raised frame that supports the sign face; or
    2. Within a two-inch or wider raised sign cabinet specifically designed for support of the sign.
  - (b) The intent of subsections (B)(6)(a)1. and 2. is to prohibit direct contact attachment of non-self-supporting material signs on a supporting wall or qualified structure and to require that the display (sign face) is separated from the supporting wall or qualified structure by not less than two inches.
  - (C) No freestanding sign may exceed five feet in height above the average centerline grade of the public street toward which the sign is oriented, except as provided below:
    - (1) Within any MI, MS, MO, MCG, MCH and/or CD Zoning District, no freestanding sign may exceed 15 feet in height above the average centerline grade of the public street toward which the sign is oriented, provided the sign is set back not less than ten feet from the right-of-way of the public street; or
    - (2) Within any CDF, CG, CN, CH, IU, PIU, I, PI, OR and/or O Zoning District, no freestanding sign may exceed 25 feet in height above the average centerline grade of the public street toward which the sign is oriented, provided the sign is set back not less than ten feet from the right-of-way of the public street.
  - (D) No sign shall be erected, maintained, painted or drawn on any tree, rock, natural feature or utility pole. ☒Utility pole☒ shall include but not be limited to any traffic-control, lighting, power, telephone or other similar utility pole.

(E) No sign shall be erected or maintained so as to obstruct any fire escape or any window or door or opening used as a required means of egress or so as to prevent free passage from one part of a roof to any other part thereof. No sign shall be attached in any form, shape or manner to a fire escape or be placed in such a manner as to interfere with any opening required for ventilation.

(F) No sign shall be erected or maintained which simulates or closely resembles an official traffic-control or warning sign in such a manner as to, or could in any way, confuse or mislead the traffic.

(G) No freestanding sign shall be permitted in sight distance areas as defined in Title 6, Chapter 2 of the Greenville City Code.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997; Ord. No. 98-34, § 1, passed 3-12-1998; Ord. No. 06-76, § 2, passed 8-10-2006; Ord. No. 10-44, §§ 1-4, 5-13-2010; Ord. No. 11-022, § 1, passed 5-12-2011; Ord. 15-010, § 1, passed 2-12-2015)

**SEC. 9-4-235 SIGN ILLUMINATION AND SIGNS CONTAINING LIGHTS; ELECTRONIC AND MECHANICAL INTERCHANGEABLE SIGN FACE COPY.**

(A) Unless otherwise prohibited by this article, signs may only be illuminated in accordance with this section.

(1) Illumination, either internal or indirect, shall not be added to nonconforming signs.

(2) No sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity or color, except signs indicating only time and/or date and/or temperature and except signs containing electronic and/or mechanical interchangeable sign face copy in accordance with subsection (B) below.

(3) Indirect illuminated sign light shall be shielded so that only the face of the sign is illuminated and the light shall not shine directly into a public or private street travel way, drive or parking area or into a residential dwelling or premises.

(4) No indirectly illuminated sign shall be constructed or maintained within 50 feet of any residential zone or dwelling unit in any zone.

(5) No illuminated sign shall imitate any traffic-control sign or device or be located or utilized in any manner which may confuse or distract the motoring public.

(B) Unless otherwise provided by this article, signs may only contain electronic and/or mechanical interchangeable sign face copy in accordance with this section.

(1) Electronic and/or mechanical interchangeable sign face copy shall not be added to nonconforming signs.

(2) No electronic and/or mechanical interchangeable sign face copy shall be changed to include any new or different copy, color, intensity or graphic representation, more than one time in any 60-minute period. For purposes of this section, all wall and/or freestanding signage associated with any use or establishment shall be considered as a whole, and a change to any electronic and/or mechanical sign face copy shall prohibit any change to any other associated sign face copy until the expiration of the minimum 60-minute period required between changes as specified. The provisions of this subsection shall not apply to time and/or date and/or temperature displays.

(3) Each allowed change of sign face copy shall be completed by one continuous action or movement and the total duration of such action or movement shall not exceed five total and continuous seconds.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 02-94, § 2, passed 9-12-2002)

**SEC. 9-4-236 OFF-PREMISES ADVERTISING SIGN REQUIREMENTS.**

(A) The following additional standards and regulations shall apply to all off-premises advertising signs.

(1) *Off-premises advertising signs.* Off-premises advertising signs shall be permitted only within the CH, IU and I Zoning Districts or as provided herein.

(2) *Compliance.* No such signs shall be altered, expanded, enlarged or replaced except in conformance with this section and section 9-4-225(C)(2).

(3) *Removal of sign.* Where the premises or property upon which the sign is erected is changed to another zone other than CH, IU or I, the sign shall be removed within 90 days from the effective date of the change.

(4) *Spacing.* The minimum spacing requirement between each off-premises advertising sign shall be 1,000 feet from the center of the sign.

(5) *Size and height.*

(a) Such signs shall not measure more than 400 square feet of total sign area or display surface, and the display surface shall not be more than 12 feet in the vertical dimension nor greater than 40 feet in the horizontal. Copy extensions of 120 or less shall not be included in the calculation of total sign display surface area.

(b) A single side of a double face or V-type signs shall be regarded as the total display surface for purposes of calculating total sign surface area, provided the sides are separated by not more than 20 feet at any point.

(c) The top of the sign shall not exceed 35 feet in height (exclusive of copy extensions) as measured from the surface elevation of the ground or main roadway surface elevation nearest the sign, whichever is highest.

(d) The minimum vertical clear distance between the property grade and the bottom of the trim or other frame support shall be not less than 12 feet.

(e) All support structure(s) shall be painted in a neutral color to blend with the surrounding area.

(6) *Setback.*

(a) The setback requirements shall be the same as set forth in the CH, IU or I Districts for the front yard, side yard and rear yard setbacks; provided, however, no sign shall be closer than ten feet to a side or rear property line.

(b) All off-premises advertising signs shall be set back at least 300 feet from the nearest edge of a zoning boundary which describes property zoned for residential purposes, including the R-6, R-6A, R-6S, R-6N, R-6MH, R-9, R-9S, R-15S, RA-20, OR, CDF, MR and MRS Zoning Districts.

(c) No off-premises signs shall be located closer than 100 feet to the intersection of two public streets.

(d) All setback requirements as set forth above shall be measured from the extreme outermost edge of the sign as projected upon the ground and measured from this ground point to the nearest property line or nearest zoning district.

(7) *Construction.*

(a) All off-premises advertising signs shall be self-supporting single-pole structures erected on or set into and permanently attached to concrete foundations. The sign's structure, electrical system and other construction elements shall be designed and built according to the North Carolina State Building Code as evidenced by engineering drawings drawn to scale by a licensed engineer or architect. The signs shall be engineered to withstand a wind loading of 36 pounds per square feet.

(b) Off-premises advertising signs shall be located and constructed in such a way as to maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the North Carolina State Building Code and the National Electronic Code as incorporated therein; provided, that in no case shall an outdoor advertising sign be erected with any part closer than ten feet horizontally or vertically from any conductor or public utility guy wire.

(8) *Additional requirements.* The immediate premises shall be kept free from debris or undergrowth. A landscaping plan shall be approved by the Director of Planning and Development Services and shall be maintained on the immediate premises by the sign owner. The landscaping shall consist of ground cover, shrubs, trees or other permanent vegetation that will effectively screen the sign's base. For purposes of this article, the "immediate premises" shall be defined as an area surrounding the sign's structural support not less than ten feet in all directions from the base.

(9) *Off-premises signs.* Off-premises signs shall not be included in or count toward the total number of on-premises signs or the total sign surface area allocation calculation for on-premises signs.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 95-29, § 10, passed 3-9-1995; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997; Ord. No. 02-63, § 3, passed 6-13-2002; Ord. No. 06-75, § 1, passed 8-10-2006)

(B) *Exemptions.* Any temporary poster panel off-premises sign may be utilized to advertise a business, establishment, profession, service, event, entertainment, condition or commodity that is located, manufactured, conducted, sold or otherwise offered or provided on the lot of record where the sign is constructed or displayed, provided all of the following:

(1) Such temporary poster panel off-premises sign(s) are rental signs owned by a third party and leased to others for advertising as part of the third party's bona fide sign rental business;

(2) Such temporary poster panel off-premises sign(s) are either conforming or legal (existing) nonconforming off-premises signs as regulated by this article; and

(3) A zoning compliance permit for such use has been reviewed and approved for each separate location. The purpose of this section is to ensure that the subject sign structure and method of display is in compliance with applicable requirements. There is otherwise no limitation on the frequency or duration of any such display provided compliance with all the provisions of this article.

(Ord. No. 02-63, § 4, passed 6-13-2002; Ord. No. 03-78, § 5, passed 8-14-2003; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-4-237 SIGNS THAT ARE NOT PERMITTED UNDER THE PROVISIONS OF THIS ARTICLE.**

Except as otherwise provided, the following signs are not permitted under the provisions of this article:

(A) Kites or other similar devices;

(B) Balloons, except as otherwise provided under section 9-4-227(D)(2) of this article;

(C) Spotlights, except as otherwise provided under section 9-4-233(K)(1) of this article;

(D) Flags that exceed 100 square feet in surface area which are displayed upon property that contain commercial use;

(E) Temporary signs other than as specified under section 9-4-227 of this article;

(F) Signs attached to radio or television towers or poles, including satellite dish transmission or reception devices;

(G) Signs suspended between two structures or poles and supports by a wire, rope or similar device including banners, except as otherwise provided under section 9-4-233 of this article;

(H) Roof signs, except as otherwise provided under section 9-4-233(K)(3) of this article;

(I) Revolving signs;

(J) Flashing signs, except as otherwise provided under section 9-4-235 of this article;

(K) Strings or ribbons, tinsel, small flags and other similar devices; and

(L) Pinwheels, windmills or other similar devices.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 96-73, § 2, passed 8-8-1996; Ord. No. 99-4, § 5, passed 1-14-1999; Ord. No. 99-152, § 2, passed 12-9-1999)

## **ARTICLE O. PARKING**

### **SEC. 9-4-241 PURPOSE.**

(A) (1) The purpose of these regulations is to ensure proper and uniform development of public and private parking and loading areas in the city and its extraterritorial areas; to relieve traffic congestion in the streets; and to minimize any detrimental effects of off-street parking areas on adjacent properties.

(2) The purpose of these regulations is also to improve the visual quality of parking areas by making them more pleasant, attractive, and compatible with the surrounding environment; to ensure safe and efficient operation of parking areas by clearly defining and delineating potential circulation movements of motorists and pedestrians; and to improve air quality and encourage energy conservation by moderating the microclimate of parking lots.

(B) The requirements contained in these regulations shall be considered as minimum standards.

(C) The owner, developer or operator of any existing or proposed use shall evaluate anticipated needs to determine if they are greater than the minimum requirements herein specified.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2539, § 1, passed 11-12-1992)

### **SEC. 9-4-242 OFF-STREET PARKING AND LOADING REQUIRED.**

No permit for new construction, expansion, development, occupancy or related activity shall be issued for any use unless the use is in accordance with the provisions of this article.

### **SEC. 9-4-243 EXEMPTIONS.**

The provisions of this article shall not apply to the following uses:

(A) Nonresidential land uses within the CD District; or

(B) Any proposed or existing principal use regardless of district which meets all of the following conditions:

(1) Existing structure(s) cover 75 or more of the lot on which the existing or proposed use is located;

(2) No expansion of any structure is proposed; and

(3) The maximum number of off-street parking spaces permitted by conforming site layout are provided on the same lot as the principal use.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 94-156, § 13, passed 12-8-1994)

### **SEC. 9-4-244 PARKING PLAN REQUIRED.**

(A) A parking plan which conforms to the provisions of this article shall be submitted to the Director of Planning and Development Services [or designee](#) for site plan review in accordance with the specific submission standards of the *Land Development Administration Manual* which is incorporated herein by reference.

(B) Parking plan approval shall be required prior to the approval of any site plan, building permit, use permit, privilege license, change of use permit, zoning compliance permit, temporary use permit or occupancy permit.

(C) The Director of Engineering shall have final approval authority concerning the site design and construction standards of all off-street parking lots.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-245 BUFFERYARD SETBACKS AND VEGETATION REQUIREMENTS.**

(A) Bufferyard setbacks shall be in accordance with Article G of this chapter.

(B) Vegetation requirements shall be in accordance with Article P of this chapter.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 96-22, § 1, passed 2-8-1996)

**SEC. 9-4-246 COMBINATION OF REQUIRED PARKING SPACE.**

(A) The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use, except that one-half of the parking space required for churches, theaters, stadiums, assembly halls or any other use whose peak attendance will be at night or on Sundays may be combined with a use which will be closed or which will generate significantly less parking demands at night and on Sundays than during normal business hours with prior approval by the Director of Planning and Development Services.

(B) A use which is deficient in required parking spaces shall not designate existing parking to any other use.

(C) When more than one use is included within any one lot or building, the minimum number of required spaces shall be the sum total of all the individual uses.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-247 NONCONFORMING PARKING; EXPANSION OF FLOOR AREA, OTHER UNITS OF MEASUREMENT.**

When a building or use deficient in off-street parking spaces by virtue of these regulations is increased in floor area, number of dwelling units, seating capacity, number of participants or employees, addition of secondary principal or accessory use or any other unit of measurement used to calculate required parking, one of the following shall apply:

(A) Where the increase is 50% or less of the original measurement, additional parking spaces shall be provided to meet the requirements of this article as if the increase or addition were a new and separate use;

(B) Where the increase is more than 50% of the original measurement, additional parking spaces shall be provided to make all combined existing and proposed uses conform to the requirements of this article.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-248 SURFACE MATERIAL REQUIREMENT; FRONT YARD AREA COVERAGE.**

(A) All parking areas, except as provided herein, shall be constructed with a hard surfaced all-weather material such as asphalt, concrete, brick, CABC or any other approved materials. The parking area shall be maintained in a safe, sanitary and neat condition. All spaces shall be marked clearly to be recognizable to the general public. For purposes of these requirements, the following surfaces and areas shall not qualify as an approved parking surface or parking area:

(1) Grass and bare earth areas; or

(2) Porches, stoops, stairs and landings, roofs, access ramps, fire escapes, decks, balconies, building ledges, improved walkways, sidewalks, greenway easements and exterior mechanical equipment.

(B) Parking areas serving individual single-family dwellings shall meet the surface material requirement of subsection (A) above; provided, however, the City Engineer shall be authorized to exempt the parking area(s) for specific dwellings from the surface material and front yard coverage requirement of this section when in his or her opinion all of the following conditions are found to exist:

- (1) The parking area(s) are clearly defined and/or marked;
- (2) The parking area(s) are maintained in a safe, sanitary and neat condition;
- (3) The parking area(s) do not contribute to or increase soil erosion; and
- (4) The location and dimension of the parking area(s) are traditionally and customarily associated with the subject dwelling.

(C) Temporary uses shall be exempt from the surface material requirement.

(D) Except as further provided, parking areas for single-family dwellings shall not cover more than 30% of any front yard area. Residential cluster development approved pursuant to Article M of this chapter, shall be exempt from the maximum parking area coverage requirement of this subsection.

(E) Parking areas for two-family attached development or conversion shall not cover more than 40% of any front yard area. When a two-family attached dwelling structure is subdivided into two separate parcels the original development lot total front yard area shall be utilized to calculate parking area coverage.

(F) Parking, storage and/or maneuvering of vehicles, boats, trailers, campers and the like shall not be permitted within any front and/or side yard area except as provided by this section.

(G) Notwithstanding the provisions related to nonconforming situations contained in Article C of this chapter, the requirements contained herein shall be applicable to all existing and future required or proposed parking areas. (Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2423, § 3, passed 2-13-1992; Ord. No. 2539, § 2, passed 11-12-1992; Ord. No. 99-6, § 1, passed 1-14-1999; Ord. No. 10-67, § 1, passed 8-12-2010)

#### **SEC. 9-4-249 CROSS-DISTRICT PARKING.**

Pursuant to section 9-4-250(A), any parking area(s) and/or driveway(s) utilized in conjunction with any use, whether required or otherwise, which is located wholly or partly within a zoning district which is different than the zoning district in which the principal use is located, may be permitted in accordance with the following.

(A) Parking and driveways for residential uses and nonresidential uses permitted in residential zoning districts shall be permitted in residential zoning districts which allow the specific use and in all nonresidential zoning districts.

(B) Parking and driveways for nonresidential uses shall be permitted in all nonresidential zoning districts and prohibited in all residential zoning districts, except as provided in subsection (A) above.

(C) Parking within the MCG District shall be subject to the additional requirements set out under section 9-4-254. (Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 94-77, § 2, passed 5-12-1994; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997)

**SEC. 9-4-250 PARKING AREA LOCATION CRITERIA.**

(A) All uses, except as provided in subsections (B) and (C) below, shall provide off-street parking on the same parcel of land as the use it is intended to serve. For purposes of this section, "common areas" within townhouse, condominium or planned center projects shall be construed as meaning the same parcel of land. Parking permitted within the right-of-way of a public street shall not be considered to fulfill or partially fulfill the minimum parking requirements.

(B) Remote parking may be allowed for any use which cannot provide parking on the same parcel of land as the principal use, provided the use complies with all of the following requirements:

- (1) The use does not comply with the current on-site parking requirement;
- (2) No new construction, expansion or enlargement of the existing or proposed use is requested which would intensify or create an on-site nonconforming parking situation;
- (3) The existing on-site parking facility cannot be improved to conform with current requirements; and
- (4) The remote parking facility shall comply with subsection (D) below.

(C) Exemptions.

- (1) Churches are exempt from subsection (B)(2) above, provided that 50% of the required parking spaces shall be located on the same parcel of land as the principal use.
- (2) City municipal government building or use and county government building or use are exempt from subsection (B)(2) above.

(D) Remote parking facilities shall conform to the following standards.

- (1) Except as further provided, no portion of the remote parking facility shall be located more than 400 feet from the associated principal use site. Dormitory development in the CD District and multi-family development in the CD District shall be subject to section 9-4-86(MM)(6) of this chapter.
- (2) The remote parking facility shall not be utilized or occupied by any other use or for any purpose other than as parking for the associated principal use.
- (3) The remote parking facility shall be located within a district which permits the associated principal use or within a district which allows principal use parking lots.
- (4) Where the associated principal use is listed as being subject to special use permit approval of the Board of Adjustment, Planning and Zoning Commission or City Council, the proposed remote parking facility for the principal use shall be considered an expansion of the principal use and the expansion shall be subject to such approval.
- (5) The person, firm or corporation which controls, owns or operates the principal use shall have recorded in the Pitt County Register of Deeds an estate in real property sufficient to guarantee exclusive use of the remote parking site for the life of the principal use. The instrument shall be prepared prior to approval of any permit and no occupancy shall be allowed until the instrument has been duly recorded.
- (6) If the parcel which contains the remote parking facility is disposed of, or committed to some other use which displaces the parking required by this article, then the certificate of occupancy for the principal use shall be revoked.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-26, § 1, passed 3-13-1997; Ord. No. 09-59, § 2, passed 8-13-2009)

**SEC. 9-4-251 IMPROVEMENT STANDARDS.**

(A) All off-street parking areas designed for two or less spaces shall meet the following requirements:

(1) Shall be surfaced in accordance with section 9-4-248;

(2) Shall conform to the minimum standards in accordance with the *Manual of Standards, Designs and Details*;

(3) Shall have adequate ingress and egress. All uses, excluding single-family detached, two-family attached (duplex) and multi-family unit ownership lots where the lots obtain individual driveway access from an approved private street, shall be subject to subsection (B) below. For purposes of this section, the term "multi-



family unit ownership lots shall include only residential townhouse divisions approved and recorded pursuant to the subdivision regulations;

- (4) All entrances and exits shall conform to the driveway regulations of the city or the state, whichever is more restrictive;
  - (5) Shall be in accordance with the provisions of Article G and Article L;
  - (6) Driveways shall be considered as providing off-street parking for residential development in accordance with subsection (A)(3) above and subject to the following standards.
    - (a) The area to which the driveway approach provides access shall be designed to store any vehicles using the driveway completely off the right-of-way and must be of sufficient dimension to allow the necessary functions to be carried out completely on private property within the designated parking area. Parking and/or maneuvering of vehicles shall not be permitted within any greenway, pedestrian access or bikeway easement, sidewalk and the like.
    - (b) Minimum length of any two-family attached (duplex) or multi-family unit ownership lot driveway shall not be less than 36 feet, as measured on center, from the street right-of-way or easement line to the end of pavement or curb stop of the longest section. The depth of an associated and qualified garage parking surface or approved carport shall count toward this requirement. Minimum length of any driveway located within a residential cluster development, approved pursuant to Article M of this chapter, shall not be less than 18-1/2 feet in the case of a driveway arranged to provide side-by-side or off-set (separated) parking, or 36 feet in the case of a driveway designed for stacked parking only.
    - (c) Single vehicle garages shall be considered as one parking space for purposes of this article, provided the garage has an inside parking surface dimension of not less than 12 feet wide by 18 feet deep.
    - (d) Double or greater vehicle garages shall be considered as one and one-half parking space for purposes of this article, provided the garage has an inside parking surface dimension of not less than 22 feet wide by 18 feet deep.
    - (e) Spaces for two-family attached (duplex) or multi-family unit ownership lots shall be arranged to accommodate side-by-side or off-set (separated) parking, and stacked parking shall not be considered as fulfilling the minimum parking space requirements. Nothing shall prohibit stacked parking in excess of the minimum, provided there is compliance with all other requirements.
  - (7) All off-street parking areas shall be separated from walkways, sidewalks, bikeways, streets or any dedicated right-of-way. To prevent vehicles from driving across these areas, except at an approved driveway approach, and to prevent parking or maneuvering vehicles from overhanging upon such areas, there shall be a six-inch raised curb or stop bar constructed between such areas and the parking area; and
  - (8) All off-street parking areas located upon property developed for residential uses and providing access to residents or the general public located in the area of special flood hazard as defined in section 9-6-2 shall be required to be elevated such that the lowest point in the parking area is no less than one foot below the 100-year flood elevation or no lower than the highest accessible point on the adjacent public street providing access to the site which shall be the point of entry between the development and the public street unless access is required to be provided internally. If access is provided internally through an adjacent site no point in the parking lot shall be below the lowest point along the access route to the public street.
- (B) All off-street parking areas designed from three or more spaces shall meet the following requirements:
- (1) Shall be surfaced in accordance with section 9-4-248;
  - (2) Shall conform to the minimum standards in accordance with the *Manual of Standards, Design and Details*;

- (3) Shall be in accordance with the provisions of Article G and Article L;
- (4) Sight distance requirements as set forth in Title 6, Chapter 2 of the Greenville City Code shall be observed;
- (5) All entrances and exits shall conform to the driveway regulations of the city or the state, whichever is more restrictive;
- (6) All parking areas will be adequately drained in accordance with the storm drainage regulations set forth by the city;
- (7) All parking areas shall be so arranged that ingress and egress is by forward motion of the vehicle only. Parking bays shall be exempt from this provision;
- (8) Each off-street parking space for each use shall be within 150 feet of the use it is intended to serve, except as provided by the remote parking facility standards listed under section 9-4-250(D), above;
- (9) No parking space shall be located closer than 15 feet to a dwelling structure;

(10) Parking areas shall be designed with careful regard to orderly arrangement and topography, and shall, to the greatest extent possible, be integrated naturally into its physical setting;

(11) All uses shall provide off-street parking on the same parcel of land as the use it is intended to serve, provided however, parking may be allowed within parking bays located on private streets;

(12) One-third of the required spaces may be in parking bays within the easements of private streets, except on the turnaround portion of a cul-de-sac, provided that:

- (a) Any bay shall contain no more than ten spaces;
- (b) Each bay shall be separated from any other bay by a distance of at least ten feet;
- (c) No more than one-fourth of the total frontage on any private street shall be devoted to parking bays; and

(d) Parking bays directly adjoining private streets will be permitted one side of the street at a time only. The parking areas may be alternated from one side of the street to the other.

(13) No parking space shall be utilized for dead storage, repair work or other similar activity;

(14) All off-street parking areas shall be separated from walkways, sidewalks, bikeways, streets or any dedicated right-of-way, to prevent vehicles from driving across these areas, except at an approved driveway approach, and to prevent parked or maneuvering vehicles from overhanging upon such areas. There shall be a six-inch raised curb or stop bar constructed between such areas and the parking area;

(15) Parking areas so designed to serve ten or more vehicles may designate a maximum of 25% of the spaces for use by compact cars only. These spaces shall conform to the requirements as set forth in the *Manual of Standards, Designs and Details* under "Minimum Parking Standards (Compacts Only)". These spaces shall be identified in a manner which will prohibit its occupancy by any larger vehicle;

(16) Parking areas so designed to serve ten or more vehicles, may reduce the required number of spaces by 10%, to a maximum reduction of three spaces, where off-street parking or storage of nonmotorized vehicles is provided at a rate of ten nonmotorized spaces per motorized space reduced. Nonmotorized spaces shall be conveniently located in relation to the assigned use;

(17) Where two rows or more of parking spaces are designated within the interior of any parking area, curb or elevated wheel stops shall be provided at every second bay or every fourth row of stalls extending the length or depth of the bay or stall. The wheel stop shall be at least four inches in height, six inches in depth (average)

and six feet in length. The wheel stops shall be anchored in place by a method approved by the City Engineer. Each curb or elevated wheel stop separating one row of parking stalls from another shall be separated by an open space area at least five feet in width. The open spaces shall not contain asphalt, concrete or any other impervious surface except as further provided. General (public/customer) pedestrian cross walkways shall be allowed to cross the open space areas within a six-foot strip as measured perpendicular to the parking surface. Any two walkways shall be separated by not less than 50 feet as measured from center of walkway to center of walkway. General (public/customer) pedestrian sidewalks and the like shall be allowed within the open space area provided the total width of the required open space is increased in direct proportion to the width of any impervious encroachment(s);

(18) All internal and external traffic signs, markings and devices shall conform to the *Manual of Uniform Traffic Control Devices* or to North Carolina Department of Transportation standards;

(19) All off-street parking areas for buildings that are subject to the North Carolina State Building Code, Volume I, General Construction, shall comply with all of the requirements set forth therein including those for parking spaces for the physically handicapped; and

(20) All off-street parking areas located upon property developed for residential uses and providing access to residents or the general public located in the area of special flood hazard as defined in section 9-6-2 shall be required to be elevated such that the lowest point in the parking area is no less than one foot below the 100-year flood elevation or no lower than the highest accessible point on the adjacent public street providing access to the site which shall be the point of entry between the development and the public street, unless access is required to be provided internally. If access is provided internally through an adjacent site, no point in the parking lot shall be below the lowest point along the access route to the public street.

(C) Off-street loading areas shall be provided as follows:

(1) Every commercial and industrial use, except those located in the CD District, shall provide space for off-street loading and unloading of delivery, shipment or transport vehicles.

(2) Space designated for compliance with off-street parking requirements shall not be used to comply with these requirements and vice-versa.

(3) Off-street loading area dimensions shall be at minimum, 12 feet by 30 with a vertical clearance of 16 feet above the finished grade of the space.

(4) Space(s) shall be designed and located such that a delivery, shipment or transport vehicle can safely maneuver by means of not more than two continuous movements. All movements shall be made completely on private property outside any public street right-of-way.

(5) The required number of off-street loading spaces shall be as follows:

(a) Retail use: one space for each 5,000 square feet of floor space or major fraction thereof, not to exceed two spaces.

(b) Wholesale and industrial uses: one space for each 10,000 square feet of floor space or major fraction thereof, not to exceed three spaces.

(6) For purposes of this section, "major fraction" shall constitute 51%.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2539, § 5, passed 11-12-1992; Ord. No. 2724, §§ 1, 2, passed 10-14-1993; Ord. No. 94-156, § 14, passed 12-8-1994; Ord. No. 95-78, § 2, passed 8-10-1995; Ord. No. 95-114, § 1, passed 11-9-1995; Ord. No. 95-115, § 1, passed 11-9-1995; Ord. No. 00-19, § 13, passed 2-10-2000)

**SEC. 9-4-252 SCHEDULE OF REQUIRED PARKING SPACES.**

Off-street parking spaces shall be provided for all land uses in the following proportions:

## Use Required spaces

Airport, bus station, train station and the like plus 1 space per 2 employees	1 space per 4 seating accommodations for waiting passengers,
Athletic, sports recreation, or similar health club employee, plus required spaces for associated uses such as lounges, restaurants and the like	1 space per 300 storage feet of non-storage area, plus 1 space per
Auditorium, civic center, coliseum and the like	1 space per 8 seats in the largest assembly area
Auto, truck or boat repair (the repair stalls may count as spaces)	1 space per 2 employees, plus 3 storage spaces for each repair stall
Auto wash	1 space per employee, plus 1 space in addition to each wash bay
Automobile sales	1 space per 400 square feet of show room area devoted to sales
Banks, savings and loans, and similar financial institutions with drive through facilities window	1 space per 300 feet of gross floor area, plus 1 space per 2 employees, plus storage space for 3 vehicles per drive through
Banks, savings and loans, and similar financial institutions without drive-through facilities	1 space per 200 feet of gross floor area, plus 1 space for each 2 employees
Barber or beauty shop; principal or accessory use	2 spaces per barber, beautician or other employee
Bowling alley as a lounge, restaurant and the like	3 spaces per lane, plus requirements for any associated use, such
Church or similar place of worship	1 space per 5 seats in the main congregation area
Civic or fraternal organization	1 space per 100 square feet of floor area used for assembly
Clubhouse or recreation buildings and the like, in conjunction with pool area when applicable residential uses	1 space per 500 square feet of building area and swimming
Commercial recreation and amusements outdoor, driving range, miniature golf and the like	1 space per 3 customary units of measurement for the particular use, plus 10 spaces for waiting, plus 1 space per 2 employees
Commercial recreation-indoor, skating rinks, pool halls and the like	1 space per 200 feet of activity area
Dining and entertainment establishment dining area, hallway, foyer, dance floor, bar and other area	1 space for every 50 square feet of activity area, including any accessible by the patrons of the establishment
Dormitories for technical schools, colleges and universities	0.75 space per bed

Dry cleaning or laundry establishment for 3 vehicles at each drive through window	1 space per 300 square feet of gross floor area and storage space
Dwelling, mobile home	Per Article H
Dwelling, single-family	2 spaces
Dwelling, two-family attached (duplex)	4 spaces
Emotional or physical rehabilitation facility 1 space per staff or visiting doctor	1 space per bed or resident, plus 1.5 spaces per 2 employees, plus
Family care home attendant	1 space for every 3 resident clients, plus 1 space per resident
Flea market or farmer's market sales area or 1 space per 4 vendors whichever is greater	1 space per employee, plus 1 space per 100 square feet of covered
Fraternity or sorority, when associated with a technical school, college or university	1 space per resident
Funeral home/mortuary minimum of 5 for funeral vehicles, plus 1 space per 2 employees	1 space for each 4 seats in every assembly room or chapel, plus a
Furniture and appliance store	1 space per 600 square feet of display area
Gasoline or automotive fuel sales, convenience store; retail non-storage retail area	1.5 spaces per individual pump (the service stall for each pump may count as 1 space), plus 1 space per 300 square feet of
Golf course; regulation and Par 3	3 spaces per hole, plus requirements for any associated use
Group care home, nursing home, convalescent home, rest home	1 space for each 3 residents, plus 1 space for each 2 employees on the shift of greatest employment
Home occupation barber, beauty and hair styling shops	1 space in addition to the residential requirement, except for
Hospital for each staff or visiting doctor	1 space for each bed, plus 1 for each 2 employees, plus 1 space
Housing designed for and used by elderly	Three-fourths space for each dwelling unit
Industrial or manufacturing, warehouse, wholesale, not otherwise listed personnel, plus 1 space per vehicle used in the conduct of business plus 1 space per 400 square feet of wholesale floor area	1.5 spaces per 2 employees, plus 1 space per managerial personnel, plus 1 visitor parking space per 10 managerial
Kindergarten, nursery, child day care, adult day care persons	1 space per employee, plus 1 space per 500 square feet of floor area, plus 4 parking spaces for loading and unloading
Land use intensity (LUI) developments	Per Article K
Laundry establishment, self service	1 space per 2 pieces of central equipment

Library, museum, art center	1 space per 3 seating accommodations
Master Plan Community (MPC) and/or Planned Unit Development (PUD) residential, social or recreational and residential accessory uses	Per Article J
Medical, dental or similar clinic employee	5 spaces per practicing physician or dentist and 1 space per other employee
Medical school, and the like spaces per classroom	1.5 spaces per 2 teaching or administrative personnel, plus 5
Mini storage warehouses	5 spaces, plus 1 space per 100 units
Mobile home sales	5 spaces, plus 1 space per 10,000 square feet of lot area
Motel/hotel for any other associated use such as a restaurant, lounge and the like	1 space per unit, plus 1 space per 2 employees, plus requirements
Multi-family	Per Article I
Office building	1 space per 300 square feet of nonstorage floor area
Post office employees, plus 1 space for each mail route vehicle	1 space per 400 square feet of gross floor area, plus 1 space per 2
Public or private club dining area, hallway, foyer, dance floor, bar and other area	1 space for every 50 square feet of activity area, including any accessible by the patrons of the establishment
Public utility building	1 space per employee
Public utility, customer service plus 1 space per 300 square foot of customer service area	1.5 spaces per 2 employees, plus 1 space per company vehicle,
Restaurant or establishment dispersing food, drink and refreshments without drive-through service	1 space per 3 seats, plus 1 space per 2 employees
Restaurant with drive-through service of 6 spaces for exclusive vehicle storage for drive-through service	1 space per 3 seats, plus 1 space per 2 employees, plus a minimum
Retail, commercial or personal sales and service, not otherwise listed	1 space per 200 square feet of nonstorage floor area
Room renting, rooming house, boarding house	1 space per person in addition to the residential requirement
School; elementary or junior high loading and unloading facilities for students	1 space per 2 employees plus safe and convenient off-street
School; senior high	5 spaces for administrative offices, plus 1 space for each 2 employees, plus 5 spaces per classroom, plus 1 space per 10 seats in the largest assembly area or gymnasium

Shopping centers; general	1 space per 200 square feet of nonstorage retail floor area
Stadium	1 space per 8 seats
Theaters	1 space per 4 seats in the viewing area
Tobacco warehouse	1 space per 5,000 square feet of gross floor area
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 96-75, § 1, passed 8-8-1996; Ord. No. 97-132, § 1, passed 12-11-1997; Ord. No. 09-27, §§ 11, 12, passed 4-9-2009; Ord. No. 09-99, § 2, 12-10-2009; Ord. No. 14-074, _ 1, passed 11-13-2014)	

#### **SEC. 9-4-253 UNLISTED USES.**

(A) Where a particular use or class of use is not listed under the schedule of required parking spaces in section 9-4-252, the Director of Planning and Development Services shall determine the minimum number of spaces to be required in each individual case. In reaching this determination, the Director of Planning and Development Services shall be guided by the requirements for similar uses, the number and type of vehicles and/or persons likely to be attracted to the proposed use and studies of the parking requirements in other jurisdictions.

(B) Appeal from this decision shall be made to the Board of Adjustment in the nature of an appeal from an administrative decision.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-4-254 ADDITIONAL PARKING STANDARDS FOR CERTAIN SPECIFIC USES.**

Within any MCG District all required parking spaces for all permitted or special uses shall be located within the MCG District; provided, however, additional accessory parking spaces in excess of required minimums and all driveways shall be permitted in all nonresidential zoning districts.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2423, § 4, passed 2-13-1992; Ord. No. 2539, §§ 3, 4, passed 11-12-1992; Ord. No. 94-77, § 3, passed 5-12-1994; Ord. No. 97-85, §§ 1, 2, passed 8-14-1997; Ord. No. 99-6, § 2 and 3, passed 1-14-1999)

#### **SEC. 9-4-255 PARKING STANDARDS SPECIFIC TO THE UNIVERSITY NEIGHBORHOOD REVITALIZATION INITIATIVE (UNRI) OVERLAY DISTRICT.**

Within a University Neighborhood Revitalization Initiative Overlay District, in addition to the other requirements of this article, the following provisions shall be applicable:

(A) Single family dwellings and two family attached dwelling units shall be limited to the parking and/or storage of four vehicles, boats, trailers, campers and the like total per dwelling unit on the subject lot. This requirement is not intended to limit the occasional parking of guests.

(B) Screening of the rear yard shall be required when more than one vehicle, boat, trailer, camper and the like total are parked and/or stored in the rear yard and are visible from adjoining properties on the side and rear of the subject lot.

(C) Screening requirements can be satisfied by either a fence at least six feet in height that creates a complete visual barrier from adjoining properties or with evergreen vegetative materials that are three feet in height at the time of planting and will reach a height of six feet and create a complete visual barrier from adjoining properties within two years of planting. Vegetation materials listed in § 9-4-267(C)(3),(5) and (7) shall be utilized to satisfy screening requirements of this section. The property owner shall be responsible for maintaining all vegetation required by this section in a healthy condition. Any dead, unhealthy or missing vegetation shall be replaced. Replacement shall occur at the earliest suitable planting season.

(D) Rear yard parking and/or storage areas shall be constructed of an all-weather material such as asphalt, concrete, brick, CABC or other materials approved by the City Engineer and rear yard parking and/or storage areas shall be connected

to the front and/or side yard parking and/or storage areas by a driveway constructed of an all-weather material such as asphalt, concrete, brick, CABC or other materials approved by the City Engineer.

(E) Rear yard parking and/or storage areas shall be contained and delineated by a barrier at least six inches in height.

(F) Notwithstanding the provisions related to nonconforming situations contained in Article C of this chapter, the requirements contained herein shall be applicable to all existing and future required or proposed parking areas.

(G) The exemption provided in § 9-4-243 (B) shall not apply to the University Neighborhood Revitalization Initiative Overlay District.

(H) The exemption provided in § 9-4-248 (B) shall not apply to rear yard parking areas in the University Neighborhood Revitalization Initiative Overlay District.

(Ord. No. 13-037, § 1, passed 9-12-2013)

### ***ARTICLE P. VEGETATION REQUIREMENTS***

#### **SEC. 9-4-260 PURPOSE.**

(A) To create a better quality of living for the community by encouraging the preservation of existing vegetation and to stabilize the environment's ecological balance;

(B) To help reduce the negative impact of glare, noise, trash mitigation, odors, air pollution, excessive heat, overcrowding, lack of privacy and visual disorders when incompatible land uses adjoin one another; and

(C) To promote and preserve the public health, safety and welfare.

(Ord. No. 95-112, § 1, passed 10-9-1995)

#### **SEC. 9-4-261 GENERALLY.**

(A) The requirements contained herein are a combination of site vegetation, parking/drive area vegetation and screening and bufferyard screening vegetation.

(B) The provisions contained herein shall not apply to those properties located within the CD Downtown Commercial Zoning District and as further provided.

(C) The provisions contained herein shall not apply to the Pitt/Greenville Airport Authority property and the Pitt County Detention Center property.

(D) The provisions contained herein shall apply only to those uses having a land use classification number of 2 or more, in accordance with Article D, section 9-4-78 and Appendix A of this chapter.

(Ord. No. 95-112, § 1, passed 10-9-1995; Ord. No. 98-144, § 1, passed 11-12-1998)

#### **SEC. 9-4-262 PRELIMINARY AND FINAL VEGETATION PLAN REQUIRED; APPROVAL; TIMING OF PERMITS.**

(A) Prior to the issuance of any permit or the granting of any other approval the applicant shall receive approval of a preliminary vegetation plan which denotes the category (i.e., large tree, small tree, shrub) and number of all required

vegetation materials and which illustrates the location of qualified existing and proposed materials within the available and adequate open spaces where the materials may be located in accordance with this article. Preliminary vegetation plans shall not require plant material identification by scientific or common name.

(B) The preliminary vegetation plan shall indicate the following site data and notes:

(1) *Site data.*

(a) Total per acre requirement by category.

(b) Total street tree requirement by category for each public and/or private street frontage.

(c) Total screening requirement by category for each individual bufferyard.

(d) Proposed vegetation by category and total number of materials to be located within each individual public utility or drainage easement.

(2) *Notes.*

(a) Minimum plant sizes shall be in accordance with the zoning regulations as follows:

*Planting Material Type      Minimum Planting Size*

1. Large tree

single stem      10 feet (height) and 2-inch caliper

multi-stem clump      10 feet (height)

2. Small tree      8 feet (height) and 1-1/2-inch caliper

3. Shrub      18 inches (height), except as provided under section 9-4-267

(b) Existing substitute vegetation materials have been noted including their specific location(s), type(s) and size(s).

(c) No portion of any parking area, including any driveway, parking space, drive isle or turning area, shall be located more than 30 feet from an on-site small tree or more than 75 feet from an on-site large tree. For purposes of this section, the measurement shall be from the farthest edge of the subject area to the center of the base of the closest qualifying tree.



(d) Site plan approval from the respective easement holder shall be construed as approval of all noted and/or illustrated encroachments as shown on this plan.

(C) The preliminary vegetation plan shall be submitted for review at the time of original submission of any site plan required pursuant to Article R of this chapter. Preliminary vegetation plan approval shall be required in conjunction with site plan approval prior to the issuance of any building permit.

(D) Preliminary and final vegetation plans indicating proposed and existing materials shall require approval of the Director of Planning and Development Services, or authorized representative.

(E) Temporary certificates of occupancy may be issued following approval of a preliminary vegetation plan prior to the installation of required vegetation materials.

(F) Except as further provided under subsection (G) below, prior to issuance of a final occupancy permit all vegetation materials required by this article shall be in place and written certification from the installer stating that the vegetation has been installed in accordance with the approved preliminary plan and applicable requirements shall be submitted to the Director of Planning and Development Services, or authorized representative. This written certification shall include a final vegetation plan indicating the preliminary vegetation plan site data, material type(s), common plant name(s) and the specific location of all installed and/or existing qualified materials. The final vegetation plan shall be indicated on an approved site plan. Written certification shall serve as a request for inspection. Full compliance with the requirements contained herein shall be the responsibility of the property owner and approval by the city of any materials installed or the issuance of any permit shall not release the property owner from the responsibility. No final occupancy permit shall be issued prior to inspection and approval of the required materials and improvements, except as further provided.

(G) (1) A final occupancy permit may be issued prior to installation of required materials in accordance with this section.

(2) Where vegetation materials would otherwise be required to be installed between May 1 and October 1 the installation may, at the option of the owner, be delayed; provided, however, the materials shall be installed not later than November 1 of that same year. Request for the delay shall be made by the property owner, on forms supplied by the city, to the Director of Planning and Development Services, or authorized representative, prior to the issuance of any final occupancy permit. Failure to install all required materials and to provide written certification of their installation on or before November 1 shall constitute a violation of the zoning regulations.

(H) Installation of vegetation improvements may be phased to coincide with construction of site improvements provided the phasing is set forth on the preliminary vegetation plan. Phasing shall be subject to approval of the Director of Planning and Development Services on a case-by-case basis.

(Ord. No. 95-112, § 1, passed 10-9-1995; Ord. No. 96-90, § 1, passed 9-12-1996; Ord. No. 98-144, §§ 2, 3, 4, passed 11-12-1998; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-4-263 SITE VEGETATION MATERIAL REQUIREMENTS (PER ACRE).**

(A) (1) For purposes of this article the total gross acreage of a lot or tract carried to one decimal point (0.0) shall be multiplied by each of the following minimum requirements to determine the minimum site vegetation:

- (a) Five large trees;
- (b) Ten small trees; and
- (c) Twenty-five shrubs.

(2) However, no lot or tract regardless of size (acreage), shall have less than the following minimum site vegetation:

- (a) One large tree;
  - (b) Ten small trees; and
  - (c) Fifteen shrubs.
- (B) The minimum requirements listed under subsection (A) above, shall be in addition to any screening requirements which may apply per section 9-4-266 of this article and the evergreen hedge option set forth under section 9-4-119, Article G of this chapter.
- (C) Street yard vegetation may count toward and be considered part of the minimum requirements listed under subsection (A) above; provided, however, where the site vegetation material requirement is less than the street yard vegetation installation requirement set forth under section 9-4-268(K) of this article, additional materials shall be provided to ensure compliance with section 9-4-268(K).
- (D) Parking area vegetation may count toward and be considered part of the minimum requirements listed under subsection (A) above, provided all other requirements of section 9-4-268(L) of this article are met.
- (E) The area within any public street right-of-way or private street easement shall not be included in the calculation of total gross acreage.
- (F) The area within any public utility easement, public drainage easement or other public easement, wherein the owner is prohibited from locating required materials in accordance with section 9-4-268(B) of this article, shall not be included in the calculation of total gross acreage.  
(Ord. No. 95-112, § 1, passed 10-9-1995; Ord. No. 98-144, § 5, 6, passed 11-12-1998)

#### **SEC. 9-4-264 VEGETATION QUALIFICATION STANDARDS; PLANT SIZE.**

- (A) Unless otherwise provided, all plant materials shall meet the following minimum size standards at the time of planting and/or qualification in the case of existing materials:

*Planting Material Type      Minimum Planting Size*

1. Large tree
  - single stem      10 feet (height) and 2-inch caliper
  - multi-stem clump      10 feet (height)
2. Small tree      8 feet (height) and 1-1/2-inch caliper
3. Shrub      18 inches (height), except as provided under section 9-4-267

- (B) Caliper measurements shall be taken at six inches above grade.
- (C) For purposes of this section the minimum size of all plants shall be an approximate measurement; provided, however, the intent of this section shall be to ensure that materials are generally in compliance with the required standards.  
(Ord. No. 95-112, § 1, passed 10-9-1995; Ord. No. 96-6, § 1, passed 1-11-1996)

#### **SEC. 9-4-265 VEGETATION MATERIAL (CATEGORY) SUBSTITUTION; INSTALLED AND/OR EXISTING.**

- (A) Any plant material which otherwise specifically satisfies the requirements of this article may count toward satisfying all the requirements.
- (B) One large tree may substitute for two small trees or five shrubs.

- (C) One small tree may substitute for three shrubs.
- (D) (1) Healthy, existing or transplanted large trees may substitute for required vegetation in accordance with the following:
- (a) Each two-inch or more caliper, but less than six-inch caliper, large tree (ten-foot minimum height) may substitute for one large tree or two small trees or five shrubs;
  - (b) Each six-inch or more caliper, but less than ten-inch caliper, large tree may substitute for one and one-half large trees or three small trees or six shrubs;
  - (c) Each ten-inch or more caliper, but less than 24-inch caliper, large tree may substitute for two large trees or four small trees or eight shrubs; and
  - (d) Each 24-inch or more caliper large tree may substitute for three large trees or five small trees or ten shrubs.
- (2) For purposes of this section, when a substitution allowance results in a fraction of a number, then the fraction shall be disregarded and the substitution allowance shall be to the next lower whole number.
- (3) In cases where the trunk of the tree(s) is not accessible for measurement, a minimum height requirement of 30 feet may substitute for the minimum diameter requirements in the case of subsections (D)(1)(a), (b) and (c) above, and a minimum height of 40 feet may substitute for the minimum diameter requirement in the case of subsection (D)(1)(d) above.
- (E) For each existing six-inch-plus caliper large tree retained within a non-residential parking area island and/or peninsula, the minimum parking space requirement shall be reduced by up to three spaces, at the option of the owner, to provide the area of minimum protection set forth under subsection (G)(2), and minimum open space area set forth under section 9-4-268(I), provided the total parking space reduction is not more than 30% of the minimum parking space requirement.
- (F) (1) Except as further provided, minimum non-screening Bufferyard B setbacks set forth under section 9-4-119, and/or minimum street right-of-way building setbacks for residential and nonresidential uses may be reduced by up to 10% at the option of the owner, where the reduction is necessary to retain an existing ten-inch-plus caliper large tree, provided:
- (a) The tree is determined, by the Director of Planning and Development Services or his or her designated representative, to be either natural growth (seedling) vegetation or that the tree has been in existence for not less than 20 years at the current location, otherwise previously transplanted trees shall not qualify for purposes of this section;
  - (b) The reduction is indicated upon an approved site plan; including the location, type and caliper of the subject tree, and the building separation and future no-build zone as further described;
  - (c) A building to tree trunk separation of not less than ten feet is maintained at the time of initial construction;
  - (d) No new future buildings, expansions or additions to existing buildings, or other impervious areas including parking areas and/or drives, shall be allowed to encroach into a designated future no-build zone, described as a ten-foot radius from the center of the trunk of the retained tree; and
  - (e) A six-inch or greater caliper large tree shall be substituted in replacement of any dead or diseased tree qualified under this requirement, at the location of the removed tree, within 60 days of removal of the tree by the owner or within the period following notice by the city.

(2) The setback reduction allowance shall not apply to single-family and two-family attached (duplex) development or associated accessory structures.

(G) Existing substitute material standards.

(1) *Existing substitute material shall be protected from site development activities.* Specifically, there shall be no change of grade (cut or fill), compaction of soils, storage of construction material, debris, chemicals and/or machinery or other activities which otherwise inhibits the percolation of surface water within the "Area of Minimum Protection" as described under subsection (G)(2) below.

(2) *Area of minimum protection (by plant material type).*

(a) Large tree: Eight-foot radius or drip zone, whichever is less.

(b) Small tree: Six-foot radius or drip zone, whichever is less.

(c) Evergreen shrub: Four-foot radius or drip zone, whichever is less.

(3) *Barrier required.* Existing substitute material shall be screened by means of a visible barrier which identifies the limits of the area of minimum protection.

(4) *Qualifying the location and material type; site identification.*

(a) Prior to site plan approval the existing substitute material shall be identified upon the preliminary vegetation plan in sufficient detail to ensure compliance with this section.

(b) All large and small trees subject to this section shall be individually flagged or paint-marked at the time of submission of the preliminary and final vegetation plan, except as further provided.

(c) Where there are 20 or more qualified large and/or small trees located within a continuous stand the boundary of the tree line may be indicated on the preliminary and final vegetation plan in lieu of individual marking. For purposes of this section, the term "continuous stand" shall be construed as a unified and closely spaced group of trees which is void of impervious encroachments. Scattered individual or groups of trees which do not, or will not upon maturity, share common canopy space and/or a narrow linear row(s) of trees shall not be construed as a continuous stand.

(Ord. No. 95-112, § 1, passed 10-9-1995; Ord. No. 96-6, §§ 2-4, passed 1-11-1996; Ord. No. 98-144, § 7, passed 11-12-1998; Ord. No. 05-123, §§ 1, 2, passed 10-13-2005; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-4-266 SCREENING VEGETATION REQUIREMENT WITHIN BUFFERYARDS C, D, E AND F.**

(A) (1) Unless otherwise provided, within Bufferyards C, D, E and F, as required per Article G of this chapter, a complete visual screen shall be installed along the entire length of the subject bufferyard in accordance with the following:

(2) Minimum vegetation material:

(a) Bufferyard C: Three large evergreen trees, four small evergreen trees and 16 evergreen shrubs per each 100 linear feet of buffer or fraction thereof.

(b) Bufferyard D: Four large evergreen trees, six small evergreen trees and 16 evergreen shrubs per each 100 linear feet of buffer or fraction thereof.

(c) Bufferyard E: Six large evergreen trees, eight small evergreen trees and 26 evergreen shrubs per each 100 linear feet of buffer or fraction thereof.

(d) Bufferyard F: Eight large evergreen trees, ten small evergreen trees and 36 evergreen shrubs per each 100 linear feet of buffer or fraction thereof.

(e) Where the fence, evergreen hedge or berm option is utilized within the bufferyard in accordance with the provisions of section 9-4-119, then the minimum vegetation material required by this subsection is reduced by 25% for Type D, E and F bufferyards.

(f) Where the fence, evergreen hedge or berm option is utilized within the bufferyard in accordance with the provisions of section 9-4-119, then up to 25% of the minimum vegetation material required by this subsection for Type C, D, E and F bufferyards may be deciduous (non-evergreen).

(B) Bufferyard screening vegetation shall be in addition to and shall not count toward the site vegetation material requirement as set forth under section 9-4-263 of this article and/or the evergreen hedge option set forth under section 9-4-119, Article G of this chapter.

(C) The intent of this section shall be to provide a complete year round opaque visual barrier between incompatible land uses. Qualified vegetation should therefore be spaced to accomplish this end. No horizontal plane, as viewed perpendicular from the property line, may be void of vegetation within five years of planting for a height of at least 12 feet. Beyond this five-year time period the vegetation screening shall be expected to increase in height in accordance with the natural growth patterns of the approved materials.

(D) Bufferyard screening exemptions.

(1) For all uses except public schools and churches, bufferyard screening is not required along those areas where there are 500 or more feet separating adjoining property lines from any on-site improvements.

(2) In the case of public schools, bufferyard screening is not required along those areas where there are 250 or more feet separating adjoining property lines from on-site improvements.

(3) In the case of churches, bufferyard screening is not required.

(E) Parking area screening shall be in accordance with section 9-4-268(I) of this article.

(Ord. No. 95-112, § 1, passed 10-9-1995; Ord. No. 98-144, §§ 8, 9, 10, passed 11-12-1998; Ord. No. 11-073, § 1, passed 11-17-2011)

#### **SEC. 9-4-267 ACCEPTABLE VEGETATION BY MATERIAL TYPE.**

(A) *Materials list notations; meanings.*

(1) Acceptable screening vegetation: (S)

(2) Tolerant to periodic wet soil conditions: (W)

(3) Various varieties: (\*)

(4) Native: (N)

(5) Minimum height of 12 inches: (H)

(6) Light: limited shade: (L1)

(7) Light: limited shade to complete shade: (L2)

(B) *Certain vegetation materials; maximum allowable percentage.* The following vegetation materials, as listed by common name, shall constitute not more than 25% of the total requirement for the specific category:

- (1) Large tree category - River birch.
- (2) Small tree category - Aristocrat pear, Bradford pear, Capitol pear and Cleveland select pear.
- (3) Evergreen shrub category - Red-tip photinia.

(C) *Materials for vegetation requirements.* Except as further provided, materials listed below shall be utilized to satisfy the vegetation requirements of this article:

- (1) *Shrubs 1.5 - 6 feet - evergreen.*

Abelia x grandiflora	Glossy Abelia	(*)
Aucuba japonica	Japanese Aucuba	(*)(L2)
Buxus microphylla japonica	Japanese Boxwood	(*)(L1)
Buxus microphylla [Koreana]	Korean Boxwood	(*)(L1)
Buxus sempervirens [Suffruticosa]	Dwarf Boxwood	(L1)
Cephalotaxus harringtonia	Japanese Plum Yew	(L1)
Chamaecyparis obtusa [Nana Gracilis]	Dwarf Hinoki Cypress	
Cotoneaster horizontalis	Rockspray Cotoneaster	(*)(H)
Cryptomeria japonica nana	Dwarf Japanese Cedar	
Euonymus fortunei [Vegetus]	Evergreen Bittersweet	(*)
Euonymus japonicus [Microphyllus]	Dwarf Japanese Euonymus	(H)
Fatsia japonica Japanese Fatsia	(*)(L2)	
Gardenia jasminoides [Radicans]	Dwarf Gardenia	(H) (L1)
Hypericum patulum	St.-Johns-Wort	(*)
Ilex cornuta [Burfordii Nana]	Dwarf Burford Holly	(L1)
Ilex crenata [Compacta]	Compacta Holly	
Ilex crenata [Microphylla]	Littleleaf Japanese Holly	
Ilex cornuta [Carissa]	Carissa Holly	(L1)
Ilex cornuta [Rotunda]	Dwarf Horned Holly	
Ilex glabra [Shamrock]		(N)
Ilex vomitoria [Nana]	Dwarf Yaupon	(H)(N)(W)
Juniperus chinensis [Pfitzeriana]	Pfitzer Juniper	(*)
Juniperus davurica [Expansa] ([Personi])	Parsons Juniper	(*)(H)
Juniperus horizontalis	Prostrate Juniper	
Leucothoe axillaris	Coastal Leucothoe	(L2) (W)
Leucothoe fontanesiana	Drooping Leucothoe	(*)(L2) (W)
Ligustrum japonicum	Ligustrum	(L1) (S)
Loropetalum Chinese nana	Dwarf Chinese Fringe Flower	(L1)
Mahonia bealei Leatherleaf Mahonia	(*)(L2)	
Mahonia / Mahonia Hybrids		(*)(L2)
Nandina domestica	Nandina	(*)(L1)
Pieris japonica Japanese Andromeda	(*)(L1)	
Pinus mugo [Compacta]	Mugo Pine	(*)
Pittosporum tobira nana	Chinese Podocarpus	(L1)
Prunus laurocerasus	[Zabeliana] Zabel Laurel	(L1)
Raphiolepis indica	India Hawthorn	(*)
Rosa hybrid Dwarf Rose species		(*)
Taxus cuspidate	Japanese Yew	(L1)
Thuja occidentalis nana	Eastern arborvitae	(N)
Yucca filamentosa	Adam's Needle Yucca	(*)(H)(N)
Yucca gloriosa Mound-Lily Yucca		

(2) *Shrubs 1.5 - 6 feet - deciduous.*

Buddleia davidii nana	Dwarf Butterfly Bush	
Callicarpa americana	American Beautyberry	(N)
Chaenomeles japonica	Japanese Flowering Quince	(*)
Chaenomeles speciosa	Flowering Quince	
Clethra alnifolia nana	Dwarf Clethra	(N)
Cotoneaster divaricatus	Spreading Cotoneaster	
Hamamelis vernalis	Vernal Witch-Hazel	(L1)
Hydrangea macrophylla	Bigleaf Hydrangea	
Hydrangea quercifolia	Oakleaf Hydrangea	(L1)(N)
Hypericum kalmianum	Kalm St.-John's-Wort	
Itea virginica		
Jasminum nudiflorum	Winter Jasmine	(H)(L1)
Kerria japonica Kerria	(L1)	
Lagerstromia hubrids nana	Dwarf Crapemyrtles	
Rosa Rose Hybrids	(*)	
Spirea Spirea species	(*)	
Vaccinium ashei	Rabbiteye Blueberry	
Weigela Varieties	Dwarf Weigela	(*)

(3) *Shrubs 6 - 12 feet - evergreen.*

Azalea indica Indian Azalea	(*)(L2)	
Camellia japonica	Camellia	(*)(L2)
Camellia sasanqua	Sasanqua Camellia	(*)(L1)
Camellia sinensis	Tea Plant	(S)(L1)
Cleyera japonica	Cleyera	(S)(L2)
Cotoneaster Cotoneaster species	(*)	
Elaeagnus pungens	Thorny Elaeagnus	(*)(S)
Euonymus japonica	Evergreen Euonymus	(*)
Ilex cornuta Chinese Holly	(*)(L1)(S)	
Ilex cornuta Burfordii	Burford Holly	(*)(L1)(S)
Ilex crenata Japanese Holly	(*)(S)	
Ilex glabra Inkberry Holly	(L1)(N)(W)	
Ilex latifolia Lusterleaf Holly	(L1)(S)	
Ilex vomitoria Pendula	Weeping Yaupon Holly	(*)(N)(W)
Illicium anisatum	Anisetree	(L2)
Illicium floridanum	Florida Anisetree	(*)(L2)(N)(W)
Juniperus chinensis	Juniper species	(*)
Leucothoe populifolia	Florida Leucothoe	(L2)(N)(W)
Ligustrum japonicum	Japanese Privet	(*)(L1)(S)
Ligustrum lucidum	Tall Glossy Privet	(*)(L1)(S)
Ligustrum sinense Variegatum	Variegated Chinese Privet	(L1)
Loropeialum chinense	Loropetalum	(L1)(S)
Michelia figo Banana Shrub		
Myrica cerifera Wax-Myrtle	(W)(S)(N)	
Osmanthus x fortunei	Fortune Tea Olive	(*)(L1)(S)
Osmanthus fragrans	Fragrant Tea Olive	(*)(L1)
Osmanthus heterophyllus	Holly Osmanthus	(*)(L1)(S)
Pittosporum tobira	Pittosporum	(L1)
Podocarpus macrophyllus maki	Podocarpus	(*)(S)
Pyracantha koidzumii	Formosa Fire thorn	(*)(S)
Thuja orientalis Oriental Arborvitae	(*)(S)	

Viburnum japonicum	Japanese Viburnum	(S)
Viburnum tinus Laurestinus Viburnum	(*)(S)	
Yucca aloifolia Spanish-Bayonet		
 (4) <i>Shrubs 6 - 12 feet - deciduous.</i>		
Azalea hybrid Hybrid Azalea	(*)(L2)	
Buddleja davidii	Butterfly-Bush	(*)
Calycanthus floridus	Sweet Shrub	(*)(L1)(N)
Chimonanthus praecox	Winter Sweet	(*)
Chionanthus virginicus	Fringe Tree	
Cotinus coggyria	Smoketree	(*)(N)
Cornus species Dwarf Dogwoods	(L2)(N)	
Cotoneaster salicifolius floccosus	Willowleaf Cotoneaster	(*)
Cytisus scoparius	Scotch Broom	(*)
Deutzia scabra Pride of Rochester	(*)	
Elaeagnus commutata	Silverberry	
Euonymus alatus	Winged Euonymus	(L1)
Euonymus americanus	Strawberry-Bush	(L2)(N)
Ficus carica Common Fig Tree	(*)	
Forsythia x intermedia	Border Forsythia	(*)
Hamamelis virginiana	Common Witch-Hazel	(L1)(N)
Hibiscus syriacus	Rose of Sharon	(*)
Hydrangea paniculata [Grandiflora]	Peegee Hydrangea	(*)
Ilex decidua Possumhaw	(*)(L2)(N)	
Ilex verticillata Winterberry	(*)(N)(W)	
Itea virginica Virginia Sweet spire	(*)(L1)(N)(W)	
Kolkwitzia amabilis	Beautybush	(*)
Lagerstromia species	Dwarf Crapemyrtles	
Lonicera fragrantissima	Winter Honeysuckle	
Philadelphus coronarius	Sweet Mock Orange	(*)
Poncirus trifoliata	Hardy Orange	(*)
Spiraea prunifolia [Plena]	Bridal Wreath Spirea	
Spiraea x vanhouttei	Vanhoutte Spirea	
Viburnum x burkwoodii	Burkwood Viburnum	(*)
Viburnum dentatum	Arrowwood Viburnum	(N)
Viburnum x juddii	Judd Viburnum	
Viburnum macrocephalum [Sterile]	Chinese Snowball	
Viburnum opulus [Roseum]	European Snowball	(*)
Viburnum plicatum tomentosum	Doublefile Viburnum	(*)
Weigela florida Weigela	(*)	
 (5) <i>Small trees - evergreen.</i>		
Cornus Kousa angustata	Evergreen Dogwood	
Cupressus arizonica	Arizona Cypress	(*)(S)
Ilex x attenuata Hybrid Holly	(*)(S)(L1)	
Ilex cassine Dahoon Holly	(*)(W)(L1)(N)	
Ilex x [Nellie R. Stevens]	Nellie Stevens Holly	(L1)(S)
Ilex opaca American Holly	(*)(L1)(N)	
Ilex vomitoria Yaupon Holly	(*)(S)(L1)(N)	
Magnolia grandiflora [Little Gem]	Little Gem Magnolia	(S)(L1)(N)
Magnolia virginiana	Sweet Bay	(*)(L1)(N)(W)
Olea species Cold Hardy Olive	(L1)	

Pinus virginiana	Virginia Pine	(N)
Prunus caroliniana	Carolina Cherry-Laurel	(*)(S)(N)
Quercus acuta Japanese Evergreen Oak	(S)	

(6) *Small trees - deciduous.*

Acer buergeranum	Trident Maple	(*)
Acer ginnala Amur Maple	(*)	
Acer griseum Paperbark Maple		
Acer palmatum Japanese Maple	(*)(L2)	
Acer palmatum dissectum	Laceleaf Japanese Maple	(*)(L2)
Acer truncatum Shantung Maple		
Amelanchier arborea	Serviceberry	(*)(N)
Carpinus caroliniana	American Hornbeam	(N)(L2)
Cercis canadensis	Eastern Redbud	(*)(N)
Cercis species Redbuds		
Cornus florida Flowering Dogwood	(*)(N)(L1)	
Cornus kousa Kousa Dogwood	(*)	
Cornus mas Cornelian Cherry Dogwood	(*)	
Crataegus phaenopyrum	Washington Hawthorne	(*)(N)
Halesia carolina	Carolina Silverbell	(N)(L2)
Hamamelis mollis	Chinese Witch-Hazel	(*)(L1)
Koelreuteria bipinnata	Chinese Flame Tree	
Koelreuteria paniculata	Golden-Rain-Tree	(*)
Lagerstroemia indica	Crape-Myrtle	(*)
Magnolia macrophylla	Bigleaf Magnolia	(*)(N)
Magnolia x Saucer Magnolia	(*)	
Magnolia stellata	Star Magnolia	(*)
Malus hybrida Flowering Crab Apple	(*)	
Morus alba White Mulberry	(*)	
Morus alba [?]Pendula[?]	Weeping White Mulberry	(*)
Oxydendrum arboreum	Sourwood	(N)(L1)
Pistacia chinensis	Pistachio	(*)
Prunus cerasifera	Plum Species	(*)
Prunus serrulata	Japanese Cherry	(*)
Prunus subhirtella pendula	Weeping Cherry	(*)
Prunus yedoensis	Yoshino Cherry	(*)
Punica granatum	Pomegranate	(*)
Salix caprea Goat Willow	(*)(W)	
Sassafras albidum	Common Sassafras	(N)
Stewartia varieties	Stewartia	
Styrax varieties Snowball		
Ulmus parvifolia	Chinese Elm	(*)
Viburnum prunifolium	Blackhaw Viburnum	(L1)
Viburnum rufidulum	Southern Blackhaw	(L1)(N)
Vitex agnus-castus	Chaste - Tree	(*)

(7) *Large trees - evergreen.*

Cedrus deodara Deodar Cedar	(*)(S)	
Cryptomeria japonica	Japanese Cryptomeria	(S)
Cupresso- cyparis leylandii	Leyland Cypress	(*)(S)
Ilex attenuate Holly species	(L1)	
Juniperus virginiana	Eastern Red Cedar	(*)(S)(N)
Magnolia grandiflora	Southern Magnolia	(*)(S)(N)

Pinus bungeana	Lacebark Pine		
Pinus eliotti	Slash Pine		
Pinus palustris	Longleaf Pine	(N)	
Pinus strobus	White Pine		
Pinus sylvestris	Scotch Pine		
Pinus taeda	Loblolly Pine	(N)	
Pinus thunbergiana	Japanese Black Pine		(S)
Quercus laurifolia	Laurel Oak		(N)
Quercus virginiana	Southern Live Oak		(N)(W)
Thuja species	Green Giant Arborvitae	(N)	

(8) *Large trees - deciduous.*

Acer rubrum	Red Maple	(*)(N)(W)	
Acer saccharum	Sugar Maple		(*)(N)(W)
Betula nigra	River Birch	(*)(W)(N)	
Celtis laevigata	Sugar Hackberry	(*)(N)(W)	
Celtis occidentalis	Common Hackberry		(*)(N)
Cladrastis lutea	Yellowwood	(*)(N)	
Diospyros virginiana	Persimmon		(*)(N)
Fagus grandifolia	Beech		(N)
Ginkgo biloba	Maidenhair Tree	(*)	
Gymnocladus dioicus	Kentucky Coffee Tree		(W)(N)
Liquidambar styraciflua	Sweet-Gum		(*)(N)(W)
Liriodendron tulipifera	Tulip-Tree		(*)(N)(W)
Magnolia acuminata	Cucumber Tree		(*)
Metasequoia glyptostroboides	Dawn Redwood		(*)(W)
Nyssa sylvatica	Black Tupelo	(*)(N)	
Platanus occidentalis	Sycamore		(N)(W)
Prunus sargentii	Sargent Cherry		(*)
Quercus acutissima	Sawtooth Oak		(N)
Quercus alba	White Oak	(N)	
Quercus coccinea	Scarlet Oak		(*)(N)
Quercus macrocarpa	Bur Oak		(N)
Quercus nigra	Water Oak	(N)(W)	
Quercus palustris	Pin Oak		(*)(N)(W)
Quercus phellos	Willow Oak		(N)(W)
Quercus rubra	Red Oak	(N)	
Quercus velutina	Black Oak		(N)
Salix babylonica	Weeping Willow		(W)
Quercus shumardii	Shumard Oak		(N)(W)
Quercus falcata	Southern Red Oak	(N)	
Quercus nuttalli	Nuttall Oak	(N)	
Quercus shumardii	Shumard Oak		(N)(W)(L1)
Taxodium ascendens	Pond Cypress		(N)
Taxodium distichum	Bald Cypress		(*)(W)(N)
Tilia americana	American Linden	(*)(N)(W)	

(D) *Vegetation material (type) substitution.* Vegetation material type(s) not listed above under this section may be substituted for required material(s) on a one-for-one basis provided the substitute material(s) meet the requirements of this article. Where substitute material(s) are proposed the owner/developer shall provide at the time of preliminary and final bufferyard plan submission, evidence in sufficient detail to ensure compliance with this section. No substitute material(s) shall be utilized to fulfill the requirements of this article except as specifically approved by the Director of Planning and Development Services on a case-by-case basis.

(Ord. No. 95-112, § 1, passed 10-9-1995; Ord. No. 96-6, §§ 5-8, passed 1-11-1996; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 11-073, §§ 2, 3, passed 11-17-2011; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-268 STANDARDS.**

- (A) *Seeding.* All open space areas that are not landscaped shall be seeded with lawn or other ground cover.
- (B) *Easement.* No vegetation materials required by this article shall be located or planted on property subject to utility or drainage easements without the written consent of the city and the easement holder. Site plan approval from the respective easement holder shall be construed as approval of all noted and/or illustrated encroachments.
- (C) *Solar access.* If the development on an adjoining lot is existing, and is designed for solar access, small trees shall be substituted for large trees on a one-for-one basis where large trees would destroy solar access. This subsection shall apply only to bufferyard screening trees and site vegetation trees when no other planting areas are available.
- (D) *Drainage ditch.* When a drainage ditch separates property lines, or is otherwise contained within a lot or tract, all vegetation required by this article shall be provided. However, in no case shall the required vegetation be located within five feet of the outer edge of the drainage ditch. Stormwater detention structures having a slope of two feet horizontal for each one foot vertical or steeper shall be considered a drainage ditch for purposes of this section. Placement of vegetation within easements shall be in accordance with subsection (B) above.
- (E) *Overhead utility lines.* No new or qualified existing large tree shall be located within 15 feet of an overhead electric distribution, telephone or cable TV line or within 25 feet of an overhead electric transmission line. Service (drop) lines shall not be included for purposes of this requirement.
- (F) *Horizontal measurements.* All such measurements shall be made from the center of the base of the subject vegetation.
- (G) *Visibility; sight distances maintained.* Visibility shall be reserved in accordance with the sight distance standards and requirements of Title 6, Chapter 2, Streets and Sidewalks, of the Greenville City Code and as provided by notation or description upon any map recorded pursuant to the subdivision regulations.
- (H) *Garage/trash container, recycling center and compactor, additional standards.* Except as further provided, in addition to any required visual barrier(s) and/or vegetation improvements, all garbage/trash containers and recycling centers shall be enclosed on three sides by a complete visual screen consisting of a fence, vegetation or combination thereof and compactors shall be completely enclosed by a screen and safety barrier composed of an opaque masonry wall and opaque metal or wooden gate, said wall and gate shall be not less than two feet higher than the highest point of the compactor. The Director of Planning and Development Services or designee may approve substitute wall and gate material provided the wall and gate results in an opaque visual screen and safety barrier as required by this subsection; vegetation shall not be acceptable for this purpose.
- (I) *Screening vegetation location.*
- (1) Required screening vegetation shall be installed within the minimum bufferyard setback except as further provided:
    - (a) Where a drainage, utility improvement or other natural feature, including existing vegetation, prevents the installation of required vegetation within the minimum bufferyard area, as determined by the city, the materials shall be installed within an area of equal width to the required bufferyard area. This [area of equal width] shall be located adjacent to and extend from the drainage, utility improvement or other natural feature. Buildings, structures, parking areas, drives and other site improvements may encroach into the area of equal width.
    - (b) Each ten-inch-plus caliper large tree, which trunk is located completely or partially within 20 feet of the interior limit of any screening bufferyard set forth under section 9-4-119, shall qualify as part of the vegetation requirement of the bufferyard, with respect to the minimum screening vegetation type and amount, provided the required visual vegetative screen is achieved and maintained, and the qualified tree

is not separated from the associated screening bufferyard by any intervening building or roofed structure. The subject tree shall not qualify for both the site and the screening vegetation requirements, with respect to total material and/or substitution requirements, applicable to the site.

(2) Screening vegetation shall not be located within a stormwater detention structure which has a slope of two feet horizontal for each one foot vertical or steeper. All plantings within a stormwater detention structure shall otherwise be allowed subject to approval of the City Engineer and provided the vegetation materials are of a variety that can customarily withstand periodic flooding and wet soil conditions.

(3) Where the materials are planted on slopes, of two feet horizontal for each one foot vertical or steeper, a terraced planting area, designed in accordance with acceptable and recognized practice, shall be provided.

(4) Where the materials are planted in areas lying below the finished grade of the surrounding portions of the lot the materials shall be of a size and type which can be expected to fulfill the requirements of this article.  
(Ord. No. 05-123, § 3, passed 10-13-2005; Ord. No. 10-34, § 5, 4-8-2010)

(J) *Site vegetation location.* Required site vegetation may be located at any point within the boundary of the subject lot, except as farther provided:

(1) With the exception of street yard trees, site vegetation shall not be located within ten feet of a principal and/or accessory structure.

(2) Site vegetation shall not be located within a stormwater detention structure which has a slope of two feet horizontal for each one foot vertical or steeper. Existing vegetation material located within a stormwater detention structure may otherwise be allowed to qualify for purposes of this section, subject to the approval of the City Engineer and provided the vegetation materials are of a variety that can customarily withstand periodic flooding and wet soil conditions as approved by the Director of Planning and Development Services on a case-by-case basis.

(Ord. No. 06-75, § 1, passed 8-10-2006)

(K) *Street yard vegetation installation requirements.*

(1) Street yard vegetation may count toward and be considered part of the site vegetation material requirement as set forth under section 9-4-263 of this chapter.

(2) (a) Street yard vegetation shall be installed, at the rate of two large trees per each 100 linear feet or fraction thereof of street frontage (public or private), on any lot containing a use with a land use classification number of two or more; provided, however, where vegetation material installation is required pursuant to section 9-4-271. Nonconforming vegetation; compliance required and large trees cannot be located in compliance with this article due to the proximity of an overhead utility transmission line, or substandard available open space including bufferyard width, island/peninsula area or dimension and the like, small trees shall be substituted for large trees at the ratio of two small trees for each one large tree. Substitutions shall only be considered and allowed on an individual tree-by-tree basis. The intent of this section shall be to require the installation of large trees to the greatest extent possible.

(b) Where the small tree substitution is allowed each small tree shall have not less than six square feet of exclusive open space which measures not less than two feet at its narrowest dimension. Where the available open space does not meet this requirement, as determined by the Director of Planning and Development Services, shrubs may be substituted for small trees on a one-for-one basis; provided, however, where the open space is less than four square feet in area and/or less than two feet in width ground cover may be substituted for shrubs.

(3) Except as otherwise provided under this section the vegetation material (category) substitution standards contained under section 9-4-265 may apply at the option of the owner.

(4) Such street yard vegetation shall be located within 15 feet of the street right-of-way or easement line unless otherwise provided; however, no large tree shall be installed closer than two feet to the back of curb, travel surface or sidewalk located on the right-of-way or easement.

(Ord. No. 06-75, § 1, passed 8-10-2006)

(L) *Parking area vegetation location.*

(1) Any on-site large tree, small tree or shrub which has been qualified pursuant to this article may count toward the parking area vegetation requirement, provided the materials comply with all other requirements of this section.

(2) No portion of any parking area, including any driveway, parking space, drive isle or turning area, shall be located more than 30 feet from an on-site small tree or more than 75 feet from an on-site large tree. For

purposes of this section, the measurement shall be from the farthest edge of the subject area to the center of the base of the closest qualifying tree.

(3) Such tree(s) may be located, at the option of the owner, within an area adjacent to and extending from the parking/drive surface or on islands contained within and/or peninsulas extending into the impervious areas.

(4) Where the trees are located on island(s) and/or peninsulas, the island(s) and/or peninsula(s) shall individually contain not less than 100 square feet of open space and shall measure not less than eight feet at its narrowest dimension wherein the open space is proposed to contain a large tree, or not less than five feet at its narrowest dimension wherein the open space is proposed to contain only small trees. Any open space area between the point of curvature and the point of tangency shall be included in the minimum area calculation; however, such area shall be exempt from the minimum dimension requirement. Areas not meeting these requirements shall not be considered for purposes of this section. (See also subsection (L)(8) below.)

(5) Where vegetation is proposed within any island and/or peninsula the materials shall be located and designed to minimize potential conflicts with vehicular drives, parking, loading docks and turning areas and product and/or equipment storage and display areas. Specifically, large and small trees shall be set back and/or off-set from bumper overhang encroachment areas or other hazards in a manner approved by the Director of Planning and Development Services or authorized representative.

(6) When a parking and/or drive area is not constructed of a permanent hard surface material, such as asphalt or concrete which clearly defines the travel and parking area, the island(s) and/or peninsula(s) shall be set apart from all vehicular areas by a raised vertical curb, wheel stop or other physical barrier which otherwise delineates the open space contained therein.

(7) The minimum open space shall be grassed or contain ground cover or other erosion-control material such as mulch over the balance of the area, provided the area(s) shall be clear of impervious surface and/or subsurface materials which would otherwise prohibit the percolation of surface water.

(8) When located on such island(s) and/or peninsula(s), no large tree shall have less than 100 square feet of exclusive open space, and no small tree shall have less than 50 square feet of exclusive open space. Shrubs and ground cover may encroach into the open space area(s) described herein.

(9) Parking area screening shall be required in accordance with the following:

(a) Except as further provided, parking area screening shall be installed within a ten-foot area adjacent to and extending the full street side width of all parking areas which front a public or private street. For purposes of this section, any parking area drive or drive isle, which separates a parking space from the street right-of-way or easement line, shall be considered part of the parking area and the drive or drive isle shall be screened in accordance with this section. Parking areas which deflect from the street line shall be considered a part of the parking area subject to the screening requirement of this section where the parking area is less than 50 feet from the street right-of-way or easement line and in accordance with subsection (L)(9)(b) below.

(b) The intent of parking area vegetation screening shall be to provide a year-round visual screen between parking areas and public or private streets. Qualified vegetation should therefore be spaced to accomplish this end. No horizontal plane, as viewed perpendicular from the street line, may be void of vegetation, or other approved visual screen, within three years of planting for a height of at least 30 inches, (under normal growing conditions), above the finished grade of the immediately adjacent parking area surface.

(c) A wall, fence, berm or other structure which provides a qualified visual screen, alone or in combination with qualified vegetation, to a height of 30 inches may substitute for a portion or all of the parking area screening requirement, provided all other provisions of this article are met. Non-vegetative visual screens shall be installed or improved to the minimum required height prior to the issuance of any final occupancy permit.

- (d) When vegetation material installation is required pursuant to section 9-4-271 and where the available open space is less than two feet in width, ground cover may be substituted for parking area screening.
- (e) Parking areas, or portions thereof, which are set back 50 feet or more from the street right-of-way or street easement line, shall be exempt from the parking area screening requirement of this section.
- (f) Vegetation and above-grade structures and/or improvements shall comply with the sight distance standards and requirements of Title 6, Chapter 2, Streets and Sidewalks, of the Greenville City Code and as provided by notation or description upon any map recorded pursuant to the subdivision regulations and as provided by notation or description upon any approved site plan.

(10) When a parking lot existing on the effective date of this section (November 12, 1998) is required to comply with the standards set forth under this article, the minimum number of required parking spaces may be reduced up to 10% where the loss of existing spaces occurs as a result of the application of this subsection.

(11) Bufferyards which separate parking areas and drive isles from perimeter property lines shall be considered an "island and/or peninsula" and the open space and vegetation material located therein shall be subject to subsections (L)(5), (6), (7) and (8) of this section.

(12) New parking areas and/or expansion areas to existing parking areas shall comply with all parking area requirements in effect at the time of development regardless of the percent of expansion.  
(Ord. No. 95-112, § 1, passed 10-9-1995; Ord. No. 98-144, § 11, 12, 13, passed 11-12-1998; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-4-269 DEFINITIONS OF CERTAIN TERMS; MEANINGS.**

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Building expansion(s), parking area and/or drive expansion(s) and proposed building construction.* Include both singular and cumulative expansions and/or construction over any twelve-month period.

*Ground coverage.* Includes both lot coverage (building footprint) and impervious surface area.

*Impervious surface area.* Includes all on-site drives, parking spaces (stalls), parking bays, travel and storage lanes, loading zones and turning areas constructed with a hard surface all-weather material including gravel, stone, CABC and the like. The area within any public street right-of-way and/or private street easement shall not be included in the calculation of impervious surface area.

*Parking area.* Shall not be construed to include any impervious surface area utilized principally for stock, product and/or equipment storage and/or display including but not limited to vehicle and mobile home sales lots or tractor and trailer loading docks and turning areas.

(Ord. No. 95-112, § 1, passed 10-9-1995)

#### **SEC. 9-4-270 MAINTENANCE OF REQUIRED VEGETATION.**

The property owner shall be responsible for maintaining all vegetation required by this article in a healthy condition. Any dead, unhealthy or missing vegetation shall be replaced. Replacement shall occur at the earliest suitable planting season.

(Ord. No. 95-112, § 1, passed 10-9-1995)

#### **SEC. 9-4-271 NONCONFORMING VEGETATION; COMPLIANCE REQUIRED.**

(A) Property that does not comply with the requirements contained in this article shall meet the provisions of this section.

(B) When there is noncompliance with the vegetation standards and requirements of this article, and when an applicant files the necessary forms for a building permit and/or change of use permit, one of the three following situations shall apply:

(1) The provisions of this article are not applicable when:

- (a) There is a change of land use where the new land use is of the same or lower land use classification;
- (b) Building expansion(s) are proposed which constitute less than a 20% expansion in lot coverage;
- (c) Parking area and/or drive expansion(s) are proposed which constitute less than a 20% expansion in impervious surface areas;
- (d) Building and parking area and/or drive expansion(s) are proposed which collectively constitute less than a 50% expansion in existing impervious area and lot coverage combined; and
- (e) The valuation of any proposed building construction, including repairs, renovations and/or expansions, is less than or equal to 50% of the current tax valuation of all on-site building improvements as listed on the Pitt County tax record. The valuation of proposed construction shall be based on applicable building permit application data.
- (f) Complete demolitions and reconstructions invoke full compliance with vegetation requirements.

(2) Vegetation improvements will be required in accordance with subsection (C) below when:

- (a) There is a change in land use where the new land use is of a higher land use classification;
- (b) Building expansion(s) are proposed which constitute a 50% or more expansion in lot coverage;
- (c) Parking area and/or drive expansion(s) are proposed which constitute a 50% or more expansion in impervious surface areas;
- (d) Building and parking area and/or drive expansion(s) are proposed which collectively constitute a 50% or more expansion in existing impervious area and existing lot coverage combined; or
- (e) The valuation of any proposed building construction, including repairs, renovations and/or expansions, exceeds 50% of the current tax valuation of all on-site building improvements as listed on the Pitt County tax record. The valuation of proposed construction shall be based on applicable building permit application data.

(3) Street trees and parking screening shall be required in accordance with subsection (C) below when building expansions or parking and/or drive expansion or a combination of both which constitute an expansion between 20% to 50% of existing lot coverage and/or impervious area.

(C) When vegetation improvements are required based on subsection (B)(2) and/or (B)(3) above the following shall apply:

(1) *Screening vegetation requirements (Bufferyards C, D, E and F).*

- (a) Where all of the minimum bufferyard width is available, all required screening vegetation shall be installed.
- (b) Where less than 100% of the minimum standard bufferyard width is available, a fence, evergreen hedge or berm meeting the requirements of section 9-4-119, Article G of this chapter, shall be installed and all required screening vegetation shall be installed except as further provided.

- (c) Where less than 100% of the minimum reduced width bufferyard is available, a percentage of each required material (small trees, large trees, shrubs) equal to the percentage of the reduced bufferyard width available shall be installed within such areas.
  - (d) Where less than six feet of bufferyard width is available, small trees may be substituted for large trees on a one-for-one basis.
  - (e) Where less than three feet of bufferyard width is available, shrubs may be substituted for small trees on a one-for-one basis.
  - (f) Where less than two feet of bufferyard width is available, ground cover may be substituted for shrubs.
- (2) *Site vegetation requirements.*
- (a) All required site vegetation shall be installed.
  - (b) The provisions of this section shall not be deemed to require the removal of existing structures, buildings, mechanical equipment, lighting or any existing impervious areas.
  - (c) The intent of this section shall be to require the installation of required vegetation, to the greatest extent possible, in all available open space areas existing at the time of site plan application. All required vegetation materials shall be planned for installation prior to the location or expansion of any new impervious area or building.
  - (d) This section shall apply to street yard vegetation as part of the site vegetation requirement.
- (3) *Parking lot and drive area vegetation requirements.*
- (a) All required parking lot and drive area vegetation shall be provided in accordance with section 9-4-268(L) of this article.
  - (b) The provisions of this section shall not be deemed to require the removal of existing structures, buildings, mechanical equipment, and lighting or any existing impervious areas.
  - (c) The intent of this section shall be to require the installation of all required parking lot and drive area vegetation to the greatest extent possible, in all available open space areas existing at the time of site plan application. All required vegetation materials shall be planned for installation prior to the location or expansion of any new impervious area or building.  
(Ord. No. 95-112, § 1, passed 10-9-1995; Ord. No. 98-144, § 14, passed 11-12-1998; Ord. No. 18-037, § 1, passed 6-14-2018)

#### **SEC. 9-4-272 FLEXIBILITY IN ADMINISTRATION.**

(A) The City Council recognizes that, due to the wide variety of types of development and property boundary configurations, the varying quantity and dimension of available open spaces, the natural and built environment and other existing adverse physical conditions, it is neither possible nor prudent to establish inflexible vegetation regulations. Therefore, the Director of Planning and Development Services, or his or her authorized representative, may permit deviations from the specific requirements of this article provided the deviations are in accordance with subsection (B) or (E).

(B) Prior to the administrative approval of any deviation to the requirements of this article, the Director of Planning and Development Services, or his or her authorized representative, shall first determine the application meets all of the following criteria:

- (1) The deviation is necessary due to unique physical conditions of the property, which may include existing vegetation conditions;

- (2) The hardship in complying with the requirements is not created by a proposed building, building expansion or expansion of impervious area into available open space wherein required plantings could be located in accordance with ordinance provisions;
- (3) The hardship in complying with the requirements is not related to the expense or cost of installing the required materials or other improvements;
- (4) The deviation represents the least possible deviation from the letter of this article that will allow reasonable use of the property; and
- (5) The deviation is in harmony with the general purpose and intent of this article and preserves its spirit.
- (C) Any approved deviation shall be noted on the preliminary and final vegetation plan and include the original minimum requirement, the justifications for the deviation and the resulting modified requirement.
- (D) Whenever the condition or circumstances for which any approved deviation was approved no longer exist, the original applicable minimum requirements shall immediately apply and the vegetation improvements required by the requirements shall be installed.
- (E) The Director of Planning and Development Services, or his or her authorized representative, may reduce vegetation requirements for properties located in any industrial zoning district only when expansions are proposed and not for new development, on a case-by-case basis. However, street trees, bufferyard screening and parking area screening shall continue to be required, but the actual locations may be adjusted based on site constraints, including but not limited to, conflicting locations of utilities, swales, storm water structures and egress.  
(Ord. No. 98-144, § 15, passed 11-12-1998; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 18-037, § 2, passed 6-14-2018; Ord. 19-045, § 1, passed 9-12-2019)

#### **ARTICLE Q. OTHER REQUIREMENTS**

##### **SEC. 9-4-281 SIDEWALK REQUIREMENTS ALONG MAJOR THOROUGHFARES, MINOR THOROUGHFARES AND BOULEVARDS.**

Construction of sidewalks shall be required along major thoroughfares, minor thoroughfares and boulevards in conjunction with the construction of any new development of non-residential developments, mixed-use developments and multifamily residential developments in accordance with the provisions of this section. The sidewalk requirements in this section are in addition to sidewalk requirements set forth under Art. 5: Subdivisions, Sec. 9-5-123.

- (A) Sidewalks shall be provided along both sides of major thoroughfares, minor thoroughfares and boulevards as designated on the adopted Highway Map from the Highway Element of the Comprehensive Transportation Plan, as amended, excluding: freeways, expressways, US-264 between NC-11 and NC-33, and Stantonsburg Dr. from B's Barbeque Rd. westward. The developer shall provide the sidewalk on the side of the street where the development is located in conjunction with the new development on existing lots.
- (B) Construction of sidewalks required by this section shall be accomplished along the entire length of all property of the development abutting major thoroughfares, minor thoroughfares and boulevards.
- (C) Sidewalks shall be constructed in accordance with the *Manual of Standard Designs and Details*. The specific design and location of all sidewalks shall be reviewed by the Director of Public Works. The Director of Public Works may expand the required width of sidewalks from the *Manual of Standard Design and Details* in certain locations of the city and in limited cases, reduce the required width of sidewalks to avoid obstructions while remaining in compliance with dimensional standards of the Americans with Disabilities Act.
- (D) All required sidewalks shall be installed prior to any occupancy, including temporary occupancy, of new development.

(E) (1) If special conditions make sidewalk construction unnecessary or undesirable and such conditions have been verified by the Director of Public Works, the requirement to construct sidewalks along major thoroughfares, minor thoroughfares and boulevards in conjunction with the construction of any new building on existing lots may be deferred. Such deferment shall be granted upon written application to and approval of the Director of Public Works based on circumstances the Director determines are currently undesirable for sidewalk installation.

(2) General standards the Director may use while considering deferment of sidewalk installation shall include, but not be limited to, pending changes to rights-of-way alignments, pending changes to roadway drainage facilities, unsafe contours or unprotected drainage facilities adjacent to the sidewalk route, or pending utility work or other construction scheduled in the area beyond the developer's control that could damage the sidewalk if installed. Special conditions which make the sidewalk construction unnecessary or undesirable shall not include personal circumstances of the developer or the lack of sidewalks on adjacent or nearby properties.

(3) If approved for a circumstance where the sidewalk construction is being delayed, the cost of the installation and construction of the deferred sidewalk, as determined by the Public Works Director, shall be paid by the developer to the city and the city will construct and install the sidewalk when the circumstances for deferment no longer exist. If approved for a circumstance where the sidewalk construction will not occur, no payment for sidewalk construction will be required by the developer. Appeals of decisions made by the Director of Public Works may be made by the developer to the Board of Adjustment.

(Ord. No. 14-073, § 1, passed 11-13-2014)

## **ARTICLE R. SITE PLAN REVIEW**

### **SEC. 9-4-301 PURPOSE.**

The purpose of site plan review is to:

- (A) Provide site-specific information on a particular site's capacity to support the proposed development;
- (B) Ensure compliance with the standards and requirements of the city and Greenville Utilities Commission as they relate in the individual case;
- (C) Provide a coordinated and timely review procedure by which to ensure comprehensive and equitable enforcement of the minimum standards of the city and Greenville Utilities Commission; and
- (D) Achieve the specific purposes set forth under Article A, section 9-4-2, which best promote and preserve the health, safety and general welfare of the people.

(Ord. No. 2337, § 1, passed 6-13-1991)

### **SEC. 9-4-302 APPLICABILITY.**

Site plan review shall be required for the following development activities:

- (A) All development activities other than individual lot development of single-family, two-family attached (duplex), mobile home or mobile homes within qualified mobile home parks; and
- (B) Any change of use.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-303 APPLICATION; SUBMISSION REQUIREMENTS, REVIEW PROCEDURE.**

(A) All applications for site plan approval shall be submitted to the Director of Planning and Development Services in accordance with the Land Development Administrative Manual which is incorporated herein by reference.

(B) The submission requirements and review procedure set forth in the Land Development Administrative Manual shall be considered the minimum necessary to ensure the purposes of this section.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-304 COMPLIANCE WITH SUBDIVISION REGULATIONS.**

All development of lands, within the city's planning and zoning jurisdiction and of other lands subject to specific conditions, ordinances, policies or agreements of the city, shall comply with the city subdivision regulations, whether or not the subject tract is actually divided for purposes of transferring title. Applicable regulations shall include but not be limited to water and sanitary sewer extension(s), street extension(s), storm drainage requirements and the like.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 96-44, § 1, passed 6-13-1996)

**SEC. 9-4-305 COMPLIANCE WITH OTHER APPLICABLE REQUIREMENTS.**

All developments shall comply with all applicable county, state and federal permits. Where a county environmental health or other general occupancy permit is necessary prior to the issuance of a building permit the site plan approval shall be held pending receipt of the permit.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-306 ISSUANCE OF PERMITS; ENFORCEMENT.**

(A) No permits for any use or improvements shall be issued and no construction activities shall be allowed for any development subject to this chapter until a site plan has been approved as provided herein.

(B) The Building Inspector shall issue a building permit for development upon determining that the application for the permit complies with the approved site plan.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-307 APPEALS; LAND DEVELOPMENT ADMINISTRATIVE MANUAL REQUIREMENTS AND PROCEDURES; ZONING REGULATIONS.**

(A) Appeal from the Land Development Administrative Manual requirements and procedures shall be made to the Planning and Zoning Commission. The appeal shall be administered in the same manner as a preliminary subdivision plat.

(B) Appeal from any Zoning Ordinance regulation shall be made to the Board of Adjustment in accordance with Article S.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-308 FEE.**

A fee shall be paid to the city for each proposed site plan application and the fee shall be set out in the *Manual of Fees* for the City of Greenville.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-309 DENIAL RESULTING FROM VIOLATION OF TREE PROTECTION PRIOR TO DEVELOPMENT REGULATIONS.**

Preliminary and final plats shall be denied or disapproved in accordance with the provisions of section 6-5-27 of the Greenville City Code.  
(Ord. No. 07-33, § 4, passed 3-8-2007)

**ARTICLE S. BOARD OF ADJUSTMENT****SEC. 9-4-316 CREATED.**

The Board of Adjustment is hereby created, pursuant to NCGS 160D-302.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-317 COMPOSITION.**

(A) The Board of Adjustment (hereinafter called the Board) shall consist of seven regular members and four alternate members. Six of the regular members and three alternate members shall reside within the corporate limits of the City of Greenville at the time of their appointment and shall be appointed by the City Council. One of the regular members and one alternate member shall reside outside of the corporate limits of the city, but within the limits of the extraterritorial jurisdiction of the City of Greenville, at the time of their appointment and shall be appointed by the Chairperson of the Board of Commissioners of Pitt County.

(B) The extraterritorial representatives have equal rights, privileges and duties with the City members of the Board, and, unless excused from voting in accord with applicable laws, are required to vote on each question, regardless of whether the matters at issue arise within the city or within the extraterritorial area.

(C) Each alternate member, while attending any meeting of the Board and serving in the absence of any regular member, shall have and may exercise all powers and duties of a regular member. Any alternate member may serve for any regular member without regard to which jurisdiction the alternate or the regular member was originally appointed by.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2721, § 1, passed 10-14-1993; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 14-041, passed 6-12-2014)

**SEC. 9-4-318 APPOINTMENT OF MEMBERS.**

Appointments to the Board shall be made by the City Council and Board of County Commissioners in accordance with the applicable appointment policies of the respective jurisdiction.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-319 RULES; MEETINGS; RECORDS, PROCEEDINGS TO CONFORM TO STATUTORY REQUIREMENTS, CONFLICTS.**

The Board of Adjustment shall adopt the necessary rules to conduct its affairs and establish regular meeting dates. All meetings of the Board shall be open to the public, and a public record of all findings and decisions shall be maintained. All proceedings shall be in accordance with the General Statutes of North Carolina pertaining to Boards of Adjustment.

(Ord. No. 2337, § 1, passed 6-13-1991)

A member of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter than is not susceptible to change; undisclosed ex parte communications; a close familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection (NCGS 160D-109(d)).

**SEC. 9-4-320 POWERS AND DUTIES.**

(A) The Board of Adjustment shall have the following powers and duties:

(1) *Appeal of administrative decisions.* To hear and decide appeals where it is alleged there is error in any order requirement, decision or determination made by the Zoning Enforcement Officer in the enforcement of this chapter or interpretation of the Director of Planning and Development Services in the administration of this chapter;

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- (2) *Special uses.* To hear and decide only such special uses as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter;
- (3) *Variances.* To **rule on requests for** variances in accordance with state law;
- (4) *Interpretation.* To interpret the location of lines on the official zoning map or Zoning Ordinance text requirements where the map or text appears to be unclear; and
- (5) *Conditions of approval.* In granting any special use **permit** or variance, the Board may prescribe appropriate conditions and safeguards to ensure the purposes of this chapter.

(B) The Director of Planning and Development Services may reject an application for a special use permit or variance if he or she believes that the granting of the permit or variance would not be in accordance with state law. Such a rejection shall be made in writing with reasons for the rejection stated. A rejection may be appealed to the Board as an appeal of an administrative decision. If the Board determines that the rejection was in error, the Board may then hear the application for a special use permit or a variance no earlier than the next regular meeting.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 2411, § 1, passed 11-9-1992; Ord. No. 97-93, § 3, passed 9-11-1997; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-4-321 APPEALS PROCEDURE.**

The procedures governing appeals from the enforcement and interpretation of this chapter shall be in accordance with state law, the Land Development Administrative Manual, and the Rules of Procedure of the Board of Adjustment.  
(Ord. No. 2337, § 1, passed 6-13-1991)

#### **SEC. 9-4-322 FEE.**

A fee shall be paid to the city for each application for a variance, special use, appeal or interpretation and the fee shall be set out in the *Manual of Fees* for the city.  
(Ord. No. 2337, § 1, passed 6-13-1991)

#### **SEC. 9-4-323 APPEAL STAYS ALL PROCEEDINGS.**

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after notice of appeal has been filed with him or her, that because of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this article. In that case proceedings shall not be stayed except by a restraining order, which may be granted by a court of record on application, on notice to the officer from whom the appeal is taken and due cause shown. The officer from whom an appeal is taken may seek and utilize the advice of competent authorities, including the Building Inspector, in making a determination under this section.  
(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 98-142, § 1, passed 11-12-1998)

#### **SEC. 9-4-324 APPEALS FROM BOARD DECISIONS.**

Appeals from the decisions of the Board of Adjustment shall be made in accordance with applicable law.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**ARTICLE T. AMENDMENTS****SEC. 9-4-331 WHO MAY PETITION.**

A petition for an amendment to either the Zoning Ordinance of the city or the official zoning map of the city may be initiated by the City Council, the Planning and Zoning Commission, any department or agency of the city, or the owner or authorized agent of the owner of any property within the zoning jurisdiction of the city that desires an amendment to either the Zoning Ordinance or map which would affect property in which he or she has a vested property right recognized under existing law.

**In accordance with G.S.160D-601, no amendments to the zoning ordinance or the official zoning map that downzone property shall be initiated nor shall they be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment unless the down-zoning amendment is initiated by the City.**

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-332 FEE.**

A fee shall be paid to the city for each proposed amendment, supplement, change, modification, or repeal to this chapter or the official zoning map and the fee shall be set out in the *Manual of Fees* for the city.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-333 PROCEDURE.**

The procedures governing amendments to this chapter shall be in accordance with state law, the *Land Development Administrative Manual* and the Rules of Procedure of the Planning and Zoning Commission.

**(A) In accordance with NCGS 160D-109(a), no member of the City Council shall vote on a and legislative decision regarding any zoning map (rezoning) or text amendment where the outcome of the matter being considered is likely to have a direct, substantial, and readily identifiable impact on the member or if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.**

**(B) In accordance with NCGS 160D-109(b), no member of the Planning and Zoning Commission shall vote on a recommendation regarding any zoning map (rezoning) or text amendment where the outcome of the matter being considered is likely to have a direct, substantial, and readily identifiable impact on the member or if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.**

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-333.1 ZONING MAP AMENDMENTS.**

In deciding whether to approve an amendment to the official zoning map of the city, the Planning and Zoning Commission and the City Council shall consider the following factors:

- (A) Conformance of the proposed map amendment with the City Land Use Plan Map and the text of the Comprehensive Plan;
- (B) Compatibility of the proposed map amendment with surrounding zoning patterns;
- (C) Compatibility of the proposed map amendment and the range of uses permitted in the requested zoning classification with existing and future adjacent and area land uses;
- (D) Impact of the proposed map amendment on area streets and thoroughfares; and
- (E) Other factors which advance the public health, safety and welfare and the specific purposes stated in section 9-4-2. (Ord. No. 97-82, § 1, passed 8-14-1997)

**SEC. 9-4-334 SUBMITTAL TO PLANNING AND ZONING COMMISSION FOR RECOMMENDATION.**

Unless initiated by the Planning and Zoning Commission, the City Council shall submit all proposed amendments to this chapter to the Planning and Zoning Commission for review and recommendation. The Planning and Zoning Commission shall have 65 days within which to submit its report. If the Planning and Zoning Commission fails to submit a report within the above period, it shall be deemed to have approved the proposed amendment.  
(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-334.1 FUTURE LAND USE MAP: SEQUENCE OF RELATED ZONING AMENDMENT CONSIDERATION; EFFECT OF DENIAL OF PETITION ON SUBSEQUENT SIMILAR PETITION.**

(A) When a petition has been initiated for an amendment to the Future Land Use Plan Map, a petition for an amendment to the official zoning map of the city affecting the same property, or any portion thereof, shall not be initiated in accordance with section 9-4-331 and shall not be considered by the Planning and Zoning Commission until City Council approves or denies the amendment to the Future Land Use Plan Map.

(B) Except as further provided, when the City Council has denied any petition for amendment of the Future Land Use Plan Map, a petition for an amendment to the Future Land Use Plan Map affecting the same property, or any portion thereof, shall not be accepted by the Planning and Zoning Commission until the expiration of six months from the date of the previous denial. This section shall not prohibit the Planning and Zoning Commission or the City Council from initiating an amendment to the Future Land Use Plan Map, affecting the same property or any portion thereof, at any time following denial of any petition for amendment of the Future Land Use Plan Map.

(Ord. No. 10-96, § 1, passed 11-8-2010)

**SEC. 9-4-335 WHEN CITY COUNCIL TO CONSIDER AMENDMENTS.**

Except as provided under section 9-4-334 and section 9-4-334.1 the City Council shall consider changes and amendments to this chapter at any meeting during the year in accordance with applicable law.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 07-122, § 2, passed 9-13-2007)

**SEC. 9-4-336 WITHDRAWAL OF ZONING AMENDMENT PETITION FROM PLANNING AND ZONING COMMISSION CONSIDERATION.**

(A) Petition for zoning amendment may be withdrawn not less than ten working days prior to the Planning and Zoning Commission meeting date. A petition that is withdrawn twice within any 12-month period shall not be considered by the Planning and Zoning Commission until the expiration of 12 months from the date of the last withdrawal.

(B) All requests for withdrawal must be filed in writing with the Director of Planning and Development Services.

(C) Reconsideration of withdrawn petitions shall be in accordance with original submission requirements.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-337 WITHDRAWAL OF ZONING AMENDMENT PETITION FROM CITY COUNCIL CONSIDERATION FOLLOWING PLANNING AND ZONING COMMISSION RECOMMENDATION.**

(A) Petition for zoning amendment may be withdrawn from City Council ~~public~~ **legislative** hearing provided that the request is made at least 72 hours prior to the ~~public~~ hearing date. If the ~~public~~ hearing is continued to a later date, the date of the original scheduled hearing shall control.

(B) All requests for withdrawal must be filed in writing with the City Manager.

(C) Petitions withdrawn in accordance with this section shall not be reconsidered by the Planning and Zoning Commission until the expiration of six months following the date of withdrawal.

(D) Reconsideration of withdrawn petitions shall be in accordance with original submission requirements.

(E) Original requests referred back to the Planning and Zoning Commission for reconsideration shall not require a filing fee provided all other submission requirements are met.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-338 EFFECT OF DENIAL OF PETITION ON SUBSEQUENT SIMILAR PETITION.**

When the City Council has denied any petition for zoning amendment, a petition for the same amendment affecting the same property, or any portion thereof, shall not be accepted by the Planning and Zoning Commission until the expiration of six months from the date of the previous denial.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-339 APPEAL TO DECISION OF CITY COUNCIL.**

Appeals from the decisions of City Council shall be made in accordance with applicable law.

(1971 Code, § 9-4-340) (Ord. No. 2337, § 1, passed 6-13-1991)

**ARTICLE U. ADMINISTRATION, ENFORCEMENT, PENALTIES****SEC. 9-4-349 DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES INTERPRETS.**

It is the intent of this chapter that all questions of interpretation shall be the responsibility of the Director of Planning and Development Services.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-350 DUTIES OF CITY COUNCIL.**

(A) It is further the intent of this chapter that the duties of the City Council in connection with this chapter shall be to:

- (1) Consider, and act upon proposed amendments to this chapter; and
- (2) Establish a schedule of fees and charges for this chapter as set forth in the City of Greenville *Manual of Fees*.

(B) The duties of the City Council shall not include hearing and deciding questions of interpretation and enforcement that arise.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-351 ENFORCEMENT AND APPEALS.**

The Zoning Enforcement Officer shall be responsible for the enforcement of this chapter. The Zoning Enforcement Officer may provide for the enforcement of this chapter by means of withholding permits and/or issuance of civil citation(s) in accordance with section 9-4-356 of this article. He or she may provide for enforcement by instituting injunction, mandamus or other appropriate action or proceeding to prevent unlawful erection, construction, reconstruction, alteration, conversion, moving, maintenance or use; to correct or abate the violation; or to prevent the occupancy of the building, structure or land. If a decision of the Zoning Enforcement Officer is questioned, the aggrieved person may appeal the decision to the Board of Adjustment in accordance with applicable procedure and law.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-93, § 4, passed 9-11-1997)

**SEC. 9-4-352 PERMITS REQUIRED.**

No land, building or structure shall be used, no building, sign or structure shall be erected, and no existing building, sign or structure shall be moved, expanded, enlarged or altered until the Director of Planning and Development Services has approved the use or construction in accordance with the provisions of this chapter.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-4-353 CERTIFICATE OF OCCUPANCY.**

A certificate of occupancy issued by the Building Inspector is required in advance of occupancy or use of a building hereafter erected, altered or moved; and for a change of use of any building or land. It shall be unlawful to occupy any

building or structure without a certificate of occupancy. A certificate of occupancy shall not be issued unless the proposed use of a building or structure conforms to the applicable provisions of these regulations.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-354 REMEDIES.**

Where any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the Zoning Enforcement Officer, Building Inspector, any other appropriate city authority, or any person who would be damaged by the violation, may, in addition to other remedies, institute an action for injunction, mandamus or other appropriate action or proceeding to prevent the violation.

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 97-93, § 5, passed 9-11-1997)

**SEC. 9-4-355 REVOCATION OF PERMITS AND CERTIFICATES.**

A stop-work order may be issued or a building permit or certificate of occupancy may be revoked by the Building Inspector when the method of moving, construction, alteration, repair or use violates any provision of these regulations or any state or local law, ordinance or resolution. Upon notice, any further work upon the moving, construction, alteration or repair of a building or structure, or further use of a building, structure or land shall be deemed a violation.

(Ord. No. 2337, § 1, passed 6-13-1991)

**SEC. 9-4-356 PENALTIES FOR VIOLATIONS.**

(A) Any violation of the provisions of this chapter or a failure to comply with any of its requirements shall subject the offender to a civil penalty as follows:

- (1) In the amount of \$50 for each offense on the first day of the offense;
- (2) In the amount of \$100 for each offense either on the second day of the offense, or when the offense is a second offense within a 12-month period; and
- (3) In the amount of \$250 for each offense either on the third day and on each subsequent day of the offense, or when the offense is the third or subsequent offense within a 12-month period.

(B) Violators shall be issued a written citation which must be paid within 72 hours. If a person fails to pay the civil penalty within 72 hours, the city may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

(C) This chapter may also be enforced by any appropriate equitable action.

(D) Each day that any violation continues shall be considered a separate offense for purposes of the penalties and remedies specified in this section. Notwithstanding the foregoing, the Zoning Enforcement Officer may invoke the escalating civil penalties authorized by subsection (A) whenever the violation continues and there has been sufficient time for the violation to be corrected after notification that the violation exists or whenever the violation has occurred previously during a 12-month period.

(E) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this chapter.

(F) The owner, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this chapter may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

(G) In lieu of the civil penalty set forth in subsection (A), a violator shall be subject to a civil penalty in the amount of \$500 for each day whenever the violation involves either the requirement to maintain flags as set forth in section 9-4-227(D)(1), or the requirement to maintain or remove balloons each day as set forth in section 9-4-227(D)(2).

(Ord. No. 2337, § 1, passed 6-13-1991; Ord. No. 98-35, § 1, passed 3-12-1998; Ord. No. 99-4, § 6, passed 1-14-1999)

(H) In lieu of the civil penalty set forth in subsection (A), a violator shall be subject to a civil penalty in the amount of \$25 for each day whenever the violation involves either:

- (1) The parking area surface material requirement set forth in section 9-4-248(A);
  - (2) The maximum front yard area parking coverage requirement set forth in section 9-4-248(D), and (E); or
  - (3) The parking, storage and/or maneuvering requirements set forth in section 9-4-248(F).
- (Ord. No. 05-63, § 1, passed 6-9-2005)

**APPENDIX A: TABLE OF USES**

(A) *Index to use table categories contained in this Appendix.*

- (1) General
- (2) Residential
- (3) Home Occupations
- (4) Governmental
- (5) Agricultural/Mining
- (6) Recreational/Entertainment
- (7) Office/Financial/Medical
- (8) Services
- (9) Repair
- (10) Retail Trade
- (11) Wholesale/Rental/Vehicle - Mobile Home Trade
- (12) Construction
- (13) Transportation
- (14) Manufacturing/Warehousing
- (15) Other Activities (not otherwise listed - all categories)

(B) *Key to tables.*

- (1) Permitted uses are indicated by the letter P.
- (2) Special uses are indicated by the letter S.
- (3) (a) Each listed principal use activity is assigned a land use classification number (LUC#) ranging from 1 to 5 for purposes of determining required bufferyards.  
  
(b) In the case of planned centers containing multiple principal uses, such as shopping centers, office/commercial unit ownership type developments and the like, the initial bufferyard requirement shall be based on the anticipated primary occupancy of such center and such requirement shall apply to all subsequent uses absent any change in zoning for such planned center.
- (4) Each listed accessory use activity is assigned an asterisk (\*) in substitution for a land use classification number. Such, and other accessory use(s) shall be subject to the land use classification number of the associated principal use.

(C) *Tables.* The following uses shall be allowed only within the respective zoning districts as specified herein:

**SEE ATTACHMENT TABLE OF USES**

## CHAPTER 5: SUBDIVISIONS

### Section

#### *Article A. General Provisions*

- 9-5-1 Title
- 9-5-2 Purpose
- 9-5-3 Authority
- 9-5-4 Jurisdiction
- 9-5-5 Definitions
- 9-5-6 Lots created contrary to subdivision regulations
- 9-5-7 Lots created prior to enactment of subdivision regulations
- 9-5-8 Relation of subdivision regulations to zoning and other regulations
- 9-5-9 Application of subdivision regulations; effect
- 9-5-10 Penalties for selling lots in unapproved subdivisions
- 9-5-11 Effect of final plat approval on status of dedication; acceptance
- 9-5-12 Effect of application of subdivision regulations on erection of buildings
- 9-5-13 Effect of application of subdivision regulations on naming streets
- 9-5-14 Prerequisite to plat application
- 9-5-15 Approval of public services
- 9-5-16 Planning and Zoning Commission to act in lieu of City Council
- 9-5-17 Subdivision Review Board to act in lieu of Planning and Zoning Commission
- 9-5-18 Transition regulations for developing property brought into extraterritorial jurisdiction

#### *Article B. Procedure for Review and Approval of Subdivision Plats*

- 9-5-41 General procedures
- 9-5-42 Preliminary and final plats; required certification
- 9-5-43 Preliminary plats; approval generally
- 9-5-44 Same; submission
- 9-5-45 Same; format; general information; site information
- 9-5-46 Same; review procedure
- 9-5-47 Same; departmental findings
- 9-5-48 Same; disposition of copies
- 9-5-49 Same; construction plan required; authority; contents
- 9-5-50 Same; construction plan to coincide with preliminary plat; minor alterations; resubmission of plat copies reflecting alterations
- 9-5-51 Final plat; generally
- 9-5-52 Same; format; general information; site information
- 9-5-53 Same; review procedure
- 9-5-54 Same; departmental findings
- 9-5-55 Same; disposition of copies
- 9-5-56 Same; recordation
- 9-5-57 No responsibility, liability for improvements prior to acceptance
- 9-5-58 Resubdivision procedure
- 9-5-59 Disapproval of plats resulting from violation of tree protection prior to development regulations

#### *Article C. Design Standards for Subdivision Plats*

- 9-5-80 Relation to Thoroughfare Plan
- 9-5-81 Street design standards
- 9-5-82 Utility easements
- 9-5-83 Lot lines and utility easements
- 9-5-84 Projection of easements to adjacent undeveloped property
- 9-5-85 Multipurpose easements
- 9-5-86 Minor drainage easements
- 9-5-87 Major utilities, substation sites and the like
- 9-5-88 Preservation of significant water areas; intent

- 9-5-89 Same; maintenance of natural waterways and water areas; relationship to greenway plan
- 9-5-90 Same; changes in location or extent of significant natural waterways and water areas
- 9-5-91 Drainage
- 9-5-92 Protection from flooding and other adverse water conditions
- 9-5-93 Sedimentation and erosion control
- 9-5-94 Floodprone or flood hazard areas
- 9-5-95 Block standards; general design
- 9-5-96 Pedestrian crosswalks within blocks
- 9-5-97 Lots; general design
- 9-5-98 Double frontage lots
- 9-5-99 Driveways; condition of lot access
- 9-5-100 Public sites and open spaces; relation to quasi-public and private open space network; intent
- 9-5-101 Reservations for recreation areas; generally
- 9-5-102 Same; minimum area
- 9-5-103 Same; waiver provisions
- 9-5-104 Same; authority of Planning and Zoning Commission to seek advice
- 9-5-105 Same; owner to give option to city; provisions of option
- 9-5-106 Same; relation to bikeway plan

#### *Article D. [Reserved]*

#### *Article E. Required Improvements*

- 9-5-115 Conformance with the *Manual of Standard Designs and Details* and the *Manual for the Design and Construction of Water and Waste Water System Extensions for Greenville Utilities Commission*
- 9-5-116 Permanent monuments and markers
- 9-5-117 Streets and alleys; grading and surfacing
- 9-5-118 Same; curbs and gutters
- 9-5-119 Street signs
- 9-5-120 Street lights (public)
- 9-5-121 Street trees
- 9-5-122 Ground cover
- 9-5-123 Sidewalks; where to be installed
- 9-5-124 Drainage; conformance with *Manual of Standard Designs and Details*
- 9-5-125 All subdivisions to be adequately drained
- 9-5-126 Public water supply required
- 9-5-127 Public sanitary sewerage required; exceptions
- 9-5-128 General erosion protection; conservation of topsoil; preservation of desirable vegetation
- 9-5-129 Fire protection facilities
- 9-5-130 Wire installation to be underground; exceptions

#### *Article F. Completion of Improvements; Maintenance Guarantees*

- 9-5-141 Satisfactory completion of improvements; offers to dedicate; maintenance guarantees; prior to approval of final plats
- 9-5-142 Performance guarantee
- 9-5-143 Type of guarantee
- 9-5-144 Plans and construction programs
- 9-5-145 Amount and terms of performance guarantee; time limitations
- 9-5-146 Inspections; inspection reports
- 9-5-147 Action on inspection reports; reports indicating satisfaction of requirements
- 9-5-148 Same; reports indicating failure to satisfy requirements
- 9-5-149 Same; reports indicating unsatisfactory progress
- 9-5-150 Actions following failure to complete work under performance guarantee
- 9-5-151 Acceptance of guarantee of other governmental agency or utility
- 9-5-152 Building permits and certificates of occupancy prior to completion of improvements

#### *Article G. Amendments*

- 9-5-161 Planning and Zoning Commission review; recommendation
- 9-5-162 Public notice and hearing
- 9-5-163 Limitation on resubmittal

#### *Article H. Violations, Penalties and Remedies*

- 9-5-171 Penalties for violation
- 9-5-172 Remedies

**Article I. Variances**

9-5-181 Authorized; procedure

**Article J. Legal Status and Effective Date**

9-5-191 Separability  
 9-5-192 Repeal  
 9-5-193 Effective date

**Cross-reference:**

*Flood Damage Prevention, see Title 9, Chapter 6*  
*Planning and Zoning Commission, see Title 9, Chapter 2*  
*Public Utilities, see Title 8, Chapter 1*  
*Storm drainage, see Title 9, Chapter 1*  
*Streets and Sidewalks, see Title 6, Chapter 2*  
*Trees, see Title 6, Chapter 5*

**Editor's note:**

*Ord. No. 1941, § 1, adopted Jan. 12, 1989, deleted former Ch. 5 and set out a new chapter on subdivision regulations. Former Ch. 5 consisted of §§ 9-5-19-9-5-18, 9-5-41-9-5-71; 9-5-81-9-5-111, 9-5-131-9-5-146, 9-5-161-9-5-172, 9-5-181-9-5-183, 9-5-191, 9-5-192, 9-5-201, 9-5-211-9-5-213; and derived from Ord. No. 959, adopted May 8, 1980.*

**Statutory reference:**

*Authority to adopt, see G.S. ~~160A-371~~ **160D-801** et seq.*

**ARTICLE A. GENERAL PROVISIONS****SEC. 9-5-1 TITLE.**

This chapter shall be known and may be cited as the Subdivision Regulations for Greenville, North Carolina, and may be referred to as the subdivision regulations or this chapter.  
 (Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-2 PURPOSE.**

(A) Public health, safety, economy, good order, appearances, convenience and the general welfare require the harmonious, orderly and progressive development of land within the city and its extraterritorial planning jurisdiction. In furtherance of this intent, regulation of land subdivision by the city has the following purposes, among others:

- (1) To encourage economically sound and stable development in the city and its environs;
- (2) To ensure the timely provision of required streets, utilities and other facilities and services to new land developments;
- (3) To ensure adequate provision of safe, convenient vehicular and pedestrian traffic access and circulation in and through new land developments;
- (4) To ensure provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational and other public purposes or the provision of funds in lieu of dedication;

- (5) To ensure, in general, the wise and timely development of new areas in harmony with comprehensive plans as prepared and adopted by the city;
- (6) To ensure accurate public records of land ownership, title transfer, the effective conduct of public and private business and the protection of private property rights; and
- (7) To provide for and protect the option of the consumer to use alternative energy sources by such means as protecting solar access to promote site planning and design which demonstrates a concern for increased energy conservation in residential structures and increased use alternative energy systems to encourage the development of efficient street systems which are compatible with the aforementioned emphases on conservation and resource development and which facilitate development of alternative transportation systems; while not excluding other methods which can be demonstrated to facilitate energy efficient land use.
- (B) These regulations are intended to provide for the harmonious development of the city and its environs, and in particular:
- (1) For coordinating streets within new subdivisions with other existing planned streets or official adopted Thoroughfare Plan street;
- (2) For appropriate shapes and sizes of blocks and lots;
- (3) For providing land for streets, school sites and recreational areas and providing easements for utilities other public facilities and services;
- (4) For distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, prosperity or general welfare; and
- (5) For appropriate development of energy standards that lead to energy conservation and use of broad alternative energy resources.
- (Ord. No. 1941, § 1, passed 1-12-1989)

### SEC. 9-5-3 AUTHORITY.

These regulations are enacted in accordance with the provisions of the North Carolina General Statutes, G.S. Chapter ~~160A~~, ~~Article 19, Part 2~~ **160D, Article 8**; G.S. Chapter 39, Article 5A; Chapter 47-30 through 47-32.1; G.S. Chapter 47A; G.S. Chapter 47C; and G.S. Chapter 136, Article 7 as amended.

(Ord. No. 1941, § 1, passed 1-12-1989)

### SEC. 9-5-4 JURISDICTION.

The regulations contained herein, as provided in G.S. ~~160A-360~~ **160D-201**, shall govern each and every subdivision within the jurisdiction of the City of Greenville. Furthermore, the extraterritorial planning jurisdiction specified in the adopted ordinance has been drawn on a map and set forth in a written description, as amended, which has been duly recorded in the office of the Register of Deeds.

(Ord. No. 1941, § 1, passed 1-12-1989)

### SEC. 9-5-5 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Approved streets.* Public or private streets that have been platted pursuant to this chapter and of which construction has been completed and accepted or guaranteed.

*Construction plans.* Construction plans are engineering details and specifications for the provision of necessary and/or required facilities and improvements. Such facilities and improvements may include but not be limited to public streets, water, sanitary sewer and storm drainage systems.

*Manual for the Design and Construction of Water and Waste Water System Extensions for Greenville Utilities Commission.* The *Manual for the Design and Construction of Water and Waste Water Systems Extensions for Greenville Utilities Commission* is incorporated herein as a supplement to the subdivision regulations. Such supplement contains design considerations, submittal requirements, material specifications and project guidelines for water and sanitary sewer system extensions.

*Manual of Standard Designs and Details.* The *Manual of Standard Designs and Details* is incorporated herein as a supplement to the subdivision regulations. Such supplement contains engineering designs and details relative to plat layout; storm drainage design; sedimentation control; basins; pipes and manholes; ending walls and retaining walls; street standards; pavement design; ground cover; driveways; parking; stormwater detention and other uniform design standards.

*Minor subdivision plats.* A minor subdivision plat is classified in the following manner:

- (1) Involving lots fronting on an existing and/or approved street(s). In interpretation of this section, the term "lots fronting" shall be construed to include condominium and townhouse developments which share common area;
- (2) Not involving the dedication or extension of any public street;
- (3) Not involving the extension of public sanitary sewer, storm sewer or water lines; and
- (4) Not involving the creation of residual parcels or lots.

*Planning and Zoning Commission.* The body created by City Council in section 9-2-1 of the City Code, pursuant to G.S. ~~160A-361~~ **160D-301** and ~~160A-367~~ **160D-604**, to act as a planning agency for the City Council on planning and zoning matters within the city's planning and zoning jurisdiction.

*Private streets.* Streets that have been designated by easement and as such constitute public vehicular areas as provided and regulated by applicable law. Such streets shall be constructed in accordance with the standards specified in the *Manual of Standard Designs and Details* and shall be maintained by the property owner or pursuant to recorded agreements. No new private streets are allowed after August 14, 2014.

*Public streets.* Streets that have been accepted for permanent maintenance by either the State of North Carolina or the City of Greenville.

*Streets.* Those areas delineated by dedicated rights-of-way or common property easements designed and constructed as required by this chapter for the purpose of carrying vehicular traffic to and from abutting property.

*Subdivision.* All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this chapter:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the existing standards of the municipality as shown in this chapter. In interpretation of this section, the term previously subdivided and recorded lots shall mean approved and recorded pursuant to the subdivision regulations in effect at the time of their creation;

- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved. In interpretation of this section, the phrase “where no street right-of-way dedication is involved” shall be construed as meaning that any such parcels shall be served by an approved public street;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets; and
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality as shown in this chapter.

**(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.**

*Subdivision Review Board.* The membership of the Board is as follows: the Director of Planning and Development Services, the Director of Engineering and Inspections and the General Manager of the Greenville Utilities Commission, or their respective designated representative. The Board has the authority to approve minor and final subdivision plats as well as soil erosion and sedimentation control plans.

*Thoroughfares.* Public streets designed and intended to carry intra-city and inter-city traffic. Such streets are designated as either major or minor thoroughfares as shown on the city Thoroughfare Plan as amended.

(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 2432, § 1, passed 3-12-1992; Ord. No. 2516, § 1, passed 9-14-1992; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 14-049, § 10, passed 8-14-2014; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-5-6 LOTS CREATED CONTRARY TO SUBDIVISION REGULATIONS.**

Any lot created in a manner contrary to the subdivision regulations in effect at the time of its creation, whether or not the lot was recorded, shall not be sold, offered for sale, used, occupied or recorded if previously unrecorded until the lot has been approved and recorded pursuant to the requirements provided herein.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-7 LOTS CREATED PRIOR TO ENACTMENT OF SUBDIVISION REGULATIONS.**

Any lot created prior to existence of applicable subdivision regulations, whether or not the lot was recorded, shall not be sold, offered for sale, used, occupied or recorded if previously unrecorded without proper certification based on findings supported by adequate evidence that creation and recording of the lot (if recorded) was prior to existence of applicable subdivision regulations and that the area and the dimensions of the lot are as they existed prior to application of subdivision regulations.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-8 RELATION OF SUBDIVISION REGULATIONS TO ZONING AND OTHER REGULATIONS.**

(A) Regulations set forth herein are part of a system of regulations governing land development and use. They supplement and are supplemented by zoning, health, drainage, flood hazard and other controls.

(B) Applications for subdivision approval shall be considered in relation to all such regulations applicable in the particular case, and not only in relation to the subdivision regulations set forth herein. Where there are conflicts between these and other lawfully adopted regulations involved in such considerations. Those which establish the highest requirements or more stringent limitations shall govern, except where specific exceptions are set forth in the regulations.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-9 APPLICATION OF SUBDIVISION REGULATIONS; EFFECT.**

(A) Within the jurisdiction of these regulations, no subdivision shall be made, platted or recorded for any purpose, nor shall parcels resulting from such subdivision be sold or offered for sale, nor shall any permit be issued for construction or use

of any lot, unless the subdivision meets all of the requirements of these and applicable related regulations, as set forth in section 9-5-8, above.

(B) No plat of any subdivision within such jurisdiction shall be filed or recorded by the Pitt County Register of Deeds until it shall have been approved pursuant to these requirements and the approval entered in writing on the plat by the Chairperson of the Planning and Zoning Commission. Recordation for the purpose of correction or otherwise shall be subject to approval as provided herein for an original subdivision.

(C) Filing or recording a subdivision plat not having the approval of the Planning and Zoning Commission as required herein is hereby declared a misdemeanor and upon conviction is punishable as provided by law.

(Ord. No. 1941, § 1, passed 1-12-1989)

#### **SEC. 9-5-10 PENALTIES FOR SELLING LOTS IN UNAPPROVED SUBDIVISIONS.**

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the City of Greenville, subdivides land in violation of this chapter or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved and recorded in the office of the Register of Deeds shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided by law. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. In no event shall the city issue any permit for development, improvement or use of any land which has been subdivided in violation of this chapter.

(Ord. No. 1941, § 1, passed 1-12-1989)

#### ***Cross-reference:***

*Penalties for violation, see § 9-5-171*

#### **SEC. 9-5-11 EFFECT OF FINAL PLAT APPROVAL ON STATUS OF DEDICATION; ACCEPTANCE.**

(A) The approval of a plat by the Planning and Zoning Commission or the Subdivision Review Board shall not be deemed to constitute or effect an acceptance by the city or the public of the dedication of any public street, facility or ground shown upon the plat. Acceptance of such dedications shall be made only by resolution of the City Council, following approval of the final plat by the Subdivision Review Board.

(B) Dedication of any street right-of-way shall be deemed to constitute and include a general utility easement.

(C) Acceptance of physical improvements will be made by the City Engineer, the Public Works Director, and the General Manager of the Greenville Utilities Commission once the required improvements have been installed and are found to be in accordance with approved plans and city and Greenville Utilities Commission standards.

(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 1968, § 2, passed 3-9-1989)

#### **SEC. 9-5-12 EFFECT OF APPLICATION OF SUBDIVISION REGULATIONS ON ERECTION OF BUILDINGS.**

(A) No principal building, accessory building or structure shall be erected on a lot which does not abut an approved street.

(B) Any building erected in violation of this section shall be deemed an unlawful structure, and the city shall bring appropriate action or cause the building to be vacated or removed.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-13 EFFECT OF APPLICATION OF SUBDIVISION REGULATIONS ON NAMING STREETS.**

(A) The Planning and Zoning Commission shall approve and authorize any existing or proposed street or road located within the city.

(B) It shall be unlawful for any person to reference or propose any new street or road name on any plat, or in any deed or instrument without first receiving the approval of the Planning and Zoning Commission. Any person violating this provision shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided by law.

(C) Street names shall be no longer than 14 characters, including letters and spaces, and not including the suffix (i.e., road, street, avenue) and block number. Street names longer than 14 characters may be approved by resolution of the City Council. Street names longer than 14 characters should generally be used only to honor individuals, events or locations and the name necessary for that purpose is longer than 14 characters.

(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 2106, § 2, passed 12-11-1989)

**SEC. 9-5-14 PREREQUISITE TO PLAT APPLICATION.**

Each individual subdivision plat of land within the city's jurisdiction shall be approved by the Planning and Zoning Commission as provided in G.S. ~~160A-373~~ **160D-803** prior to recordation in the Register of Deeds.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-15 APPROVAL OF PUBLIC SERVICES.**

(A) No public street shall be maintained by the city nor any street dedication accepted for ownership until the final subdivision plat has been approved by the Planning and Zoning Commission and recorded in the Register of Deeds.

(B) Public improvements may be extended by the property owner within the subdivision after the preliminary plat has been approved by the Planning and Zoning Commission and all conditions of approval are met, including but not limited to construction plan approval as provided herein. However, no building permit shall be issued until the final plat has been approved as provided herein and recorded in the Register of Deeds. Building permits may be issued within any group housing, condominium and townhouse type development following preliminary plat and construction plan approval, provided the lot containing the use is an existing lot of record platted pursuant to the requirements contained herein. Final plat(s) shall be required for the dedication of easements prior to the occupancy of any unit or structure. Minor subdivision for the purpose of creating unit ownership or other means of division shall be required prior to the transfer of title to any building, unit and/or parcel within the development.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-16 PLANNING AND ZONING COMMISSION TO ACT IN LIEU OF CITY COUNCIL.**

The Planning and Zoning Commission shall act in lieu of the City Council as provided in G.S. ~~160A-373(3)~~ **160D-803(c)** concerning the approval of all preliminary and final subdivision plats.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-17 SUBDIVISION REVIEW BOARD TO ACT IN LIEU OF PLANNING AND ZONING COMMISSION.**

The Subdivision Review Board shall act in lieu of the Planning and Zoning Commission **as provided in 160D-803(c)** concerning the approval of all minor and final subdivision plats and soil erosion and sedimentation control plans.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-18 TRANSITION REGULATIONS FOR DEVELOPING PROPERTY BROUGHT INTO EXTRATERRITORIAL JURISDICTION.**

(A) *Final subdivision plats.* An approved and recorded final subdivision plat shall constitute evidence of compliance under the terms of G.S. ~~160A-360(i)~~ **160D-202(i)** for the purpose of subdividing property and constructing improvements required to obtain final plat approval under county standards, and shall confer the right to complete the subdivision under the county regulations governing the approved final plat; provided, all future construction and/or use of lots in the subdivision shall be in compliance with the zoning regulations of the city as contained in Chapter 4 of Title 9 of the Greenville City Code.

(B) *Preliminary subdivision plats.* A preliminary subdivision plat shall not constitute evidence of compliance under the terms of G.S. ~~160A-360(i)~~ **160D-202(i)** for the purpose of obtaining approval for a final plat under sections 9-5-51 through 9-5-59 of the Greenville City Code. However, an opportunity to complete a subdivision as proposed on a preliminary plat will be available under the following conditions:

(1) A final subdivision plat meeting the rules for submission has been submitted to the county for final consideration on or before the date the property becomes subject to the regulations of this Chapter 5; or

(2) In the absence of a pending final plat in accordance with subsection (B)(1) above, the owner/developer must present to the city adequate evidence of substantial investment in reliance on the preliminary plat, or those portions of a preliminary plat which have not been approved as phases under final plats. The Director of Planning and Development Services or designee shall determine whether substantial investment has been made, taking into consideration the percentage of the preliminary plat which has been constructed under approved final plats or is subject to a pending or is subject to a pending or approved final plat, the extent to which a unified design for the entire subdivision is evident in the preliminary plat and any pending or approved final plats for phrases of the preliminary, the installation of subdivision improvements (including water, sewer or waste disposal, drainage, lighting, common areas, streets or roads), or the construction or work toward construction of any improvements or amenities in the area subject to the preliminary plat. If the Director of Planning and Development Services determines that there is a substantial investment in the preliminary plat, or that portion of the preliminary plat which is not covered by pending or approved final plats, the Director of Planning and Development Services or designee shall issue a written notice to the owner/developer confirming an opportunity to complete the subdivision as proposed on the preliminary plat. The opportunity to complete the subdivision or portions thereof in accordance with the preliminary plat shall be afforded notwithstanding noncompliance with the requirements of this Chapter 5 of Title 9 of the Greenville City Code. An appeal from the decision of the Director of Planning and Development Services or designee may be taken to the Planning and Zoning Commission.

(3) A preliminary plat approved for completion under subsection (B)(2) shall be valid for the period set forth by the approving jurisdiction or five years, whichever is less.

(4) Any change to a preliminary plat approved for completion under subsection (B)(2) above shall be in compliance with the requirements of this Chapter 5, Title 9 of the Greenville City Code. Minor deviations may be approved by the Director of Planning and Development Services or designee, where the approval of the deviation is in keeping with the general policy of this subsection (B).

(5) Nothing in this section shall be construed to exempt or exclude applicable Zoning Ordinance restrictions or requirements currently in effect, including but not limited to lot width, lot area or street frontage.

(6) In the interpretation of the conditions stated above, the Director of Planning and Development Services or designee shall be guided by the general policy underlying these transition regulations for developing property brought into the extraterritorial jurisdiction. The general policy is to allow the completion under county regulations of those subdivisions which have been started under county regulations. The greater the investment in construction under previous regulations, and the greater the percentage of units constructed in accordance with the original design of the subdivision, the stronger the policy justification for allowing completion under the original design and preliminary plat.

(Ord. No. 1969, § 1, passed 3-9-1989; Ord. No. 06-75, § 2, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

**ARTICLE B. PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS****SEC. 9-5-41 GENERAL PROCEDURES.**

(A) Pursuant to G.S. ~~460A-373~~ **160D-803**, no final subdivision plat within the jurisdiction of the City of Greenville shall be recorded by the Register of Deeds of Pitt County until it has been approved by the Planning and Zoning Commission and the Subdivision Review Board as provided herein. To secure final plat approval, the subdivider shall follow the procedures and requirements established in this article, the *Manual of Standard Designs and Details* and the *Manual for the Design and Construction of Water and Waste Water System Extensions for Greenville Utilities Commission* which are incorporated herein by reference. Copies of the *Manual of Standard Designs and Details* may be purchased from the Development Department or City Clerk. Copies of the *Manual for the Design and Construction of Water and Waste Water System Extensions for Greenville Utilities Commission* may be purchased from the Greenville Utilities Commission.

(B) Preliminary plats shall be approved by the Planning and Zoning Commission. Final plats shall be approved by the Subdivision Review Board; provided, however, the final plat conforms substantially to the approved preliminary plat or section thereof. If the final plat differs substantially from the approved preliminary plat, the subdivider will be required to resubmit the preliminary plat to the Planning and Zoning Commission for approval.

(C) The Planning and Zoning Commission and Subdivision Review Board shall meet in accordance with adopted rules of procedure and the North Carolina Open Meetings Law.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-42 PRELIMINARY AND FINAL PLATS; REQUIRED CERTIFICATION.**

Preliminary and final plats shall be required for all subdivisions, and every plat shall be prepared by a registered land surveyor or professional engineer duly authorized under the laws of this state to prepare such plats.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-43 PRELIMINARY PLATS; APPROVAL GENERALLY.**

Preliminary plats shall be approved by the Planning and Zoning Commission. Approval shall be recorded in writing by the Chairperson of the Planning and Zoning Commission before final plats are submitted. Such approval shall confer upon the subdivider the right for a five-year period from the date of approval that the terms and conditions under which the preliminary approval was granted will not be changed for the plat. The five-year period shall start from the Planning and Zoning Commission meeting date at which approval was granted. If the property as indicated on the preliminary plat is not platted as provided herein in its entirety within the five-year period, the preliminary plat or portion thereof not platted shall be subject to revision and compliance with the restrictions and requirements currently in effect. The five-year provision shall not be construed to exempt or exclude applicable Zoning Ordinance restrictions and requirements currently in effect.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-44 SAME; SUBMISSION.**

All preliminary plats shall be submitted to the Director of Planning and Development Services or designee, as agent for the city Planning and Zoning Commission, at least 30 working days prior to the scheduled meeting date of the Planning and Zoning Commission. Working days shall not be construed to include city-observed holidays or weekends. It is the intent of the City of Greenville and Utilities Commission staff and other agencies to review all properly submitted plats in a timely manner, which will afford the subdivider a reasonable period of time within which to respond to all comments and/or requested revisions. All plats submitted in accordance with the minimum requirements contained herein shall be available for revision not less than 20 working days prior to the scheduled meeting date. Plats revised pursuant to the initial review and as required shall be submitted to the Director of Planning and Development Services or designee in accordance with section 9-5-45(A)(8)(b) and (c), below, not less than 16 working days prior to the scheduled meeting date.

(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 06-75, § 2, passed 8-10-2006; Ord. No. 17-030, § 1, passed 4-10-2017; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-5-45 SAME; FORMAT; GENERAL INFORMATION; SITE INFORMATION.**

All applications for preliminary plat approval shall be submitted in accordance with and contain the following information:

(A) *Format.*

- (1) Scale of one inch equal to 200 feet or larger;
- (2) Drawn in ink or pencil on Mylar film;
- (3) Mylar film size shall be a minimum of 18 inches by 24 inches and a maximum of 30 inches by 42 inches;
- (4) Boundary lines shall be distinctly and accurately represented, all bearings and distances shown, with an accuracy of closure of not less than one in 2,500 and in accordance with the *Standards of Practice for Land Surveying in North Carolina*;
- (5) Elevation and benchmarks shall be referenced to National Geodetic Vertical Datum (NGVD);
- (6) Prepared by a professional engineer;
- (7) Multiple sheets shall be collated and stapled. Match lines shall be clearly indicated;
- (8)
  - (a) Fifteen blue-line paper copies at the time of original submission for departmental review;
  - (b) Two blue-line paper copies shall be submitted for each review department requesting revisions. Following the total number is to be specified by the Director of Planning and Development Services or designee;
  - (c) Fifteen blue-line paper copies shall be submitted to the Planning and Zoning Commission following the initial review;
  - (d) Three Mylar film copies for disposition in accordance with section 9-5-48, upon request of the Director of Planning and Development Services or designee.
- (9) List of all adjoining property owners within 100 feet, their current mailing addresses. Such list shall be obtained from the Pitt County tax records and shall display the signature of the person preparing the plat;
- (10) Shall conform to the applicable provisions of the *Manual of Standard Designs and Details*. The following certificates shall be required:
  - (a) Standard title block for preliminary plats; and
  - (b) Standard approvals information block.
- (11) A fee shall be paid to the city for each application for a preliminary plat and the fee shall be set out in the *Manual of Fees for the City of Greenville*; and
- (12) Owner's statement. The owner or agent of the owner shall submit a signed statement requesting Planning and Zoning Commission consideration of the preliminary plat as submitted and acknowledging that such approval is subject to approval of a construction plan as provided herein. The statement shall be on the preliminary plat approval procedure, format, mapping and application requirement sheet as provided by the Planning and Development Services Department.

(B) *General information.*

- (1) Subdivision name;
- (2) The name(s) of the city, township, county and state in which the subdivision is located;
- (3) Name, address and telephone number of land owner(s);
- (4) Name, address and telephone number of the subdivider and/or developer;
- (5) Name, address and telephone number of the engineer preparing the plat;
- (6) North Carolina registration number and seal as listed per subsection (B)(5) above;
- (7) Locational vicinity map, at a scale of one inch equal to 1,000 feet showing the subdivision in relation to major and minor roads or streets, natural features, existing city limit lines and other obvious references;
- (8) Date of original survey, plat preparation and/or revision(s);
- (9) Number of sheets; and
- (10) Scale denoted both graphically and numerically.

(C) *Site information.*

- (1) North arrow and delineation as to whether true, grid or magnetic, including date;
- (2) Existing, platted and proposed streets, their names and numbers (if state marked routes) shown and designated as public indicating right-of-way and/or easement widths, pavement widths, centerline curve and corner radius data, including sight distance triangles and typical cross-sections. All streets indicated on the city Thoroughfare Plan shall indicate future right-of-way widths;
- (3) Proposed and existing lot lines within the subdivision showing approximate dimensions. Plat references shall be indicated for existing lots;
- (4) Location of all existing buildings with exterior dimensions including heights, number of stories, distance to existing and proposed lot lines, private drives, public rights-of-way and easements;
- (5) Existing and proposed property lines, public streets, right-of-way and/or easement widths, pavement widths, easements, utility lines, hydrants, recreation areas or open spaces on adjoining property;
- (6) Ownership of all contiguous property indicated and referenced by deed book/map book and page number;
- (7) Existing zoning classification(s) boundaries of the tract to be subdivided and on adjoining property within 100 feet;
- (8) Political subdivision(s) including city limit lines, township boundaries and county lines;
- (9) Watercourses, railroads, bridges, culverts, storm drains, wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or stream beds, ditches or other natural or improved features which affect the site;
- (10) Proposed pedestrian, riding, bicycle trails or easements, their location, width and purpose;
- (11) Sites proposed to be dedicated or reserved for public or private purposes including location, intended use, size and expected future ownership and maintenance of such spaces;

(12) Recreation area(s) as required and pursuant to the City Code and Comprehensive Plan. If such subdivision is for residential purposes, indicate the location of all public parks or recreation areas within one-half-mile radius;

(13) Statement of proposed ownership and maintenance or other agreements when private recreation areas are established;

(14) Topography (existing and proposed) at a contour interval of one foot, based on mean sea level datum, with an accuracy of plus or minus 0.5 foot and referenced to the National Geodetic Vertical Datum (NGVD);

(15) Existing and proposed watercourses, their names, direction of flow, centerline elevations, cross-sections, and any other pertinent datum;

(16) Floodway zone and floodway fringe zone shown, indicating base flood elevations for all lots adjoining such zones;

(17) Lot numbers and block numbers in consistent and logical sequence;

(18) Water supply watershed district boundary;

(19) Fire hydrant locations and connections;

(20) Water main locations, connections and anticipated sizes;

(21) Sanitary sewer main locations, connections and anticipated sizes;

(22) Storm sewer main locations, connections, and anticipated sizes;

(23) Street and lot drainage correlated to the city drainage system, including break points and the direction of surface water flow on each lot, street and ditch;

(24) Easements, including but not limited to electric, water, sanitary sewer, storm sewer, drainage, gas or other service delivery easements including their location, width and purpose;

(25) Environmental Health Department approval attached if public water and sanitary sewer systems are not available;

(26) Distance to and location of public water and sanitary sewer systems if such facilities are not available;

(27) The following in tabular form:

- (a) Lineal feet in streets;
- (b) Number of lots created;
- (c) Acreage in total tract; and
- (d) Acreage in parks, recreation areas, common areas and the like.

(28) The name and location of any property within the proposed subdivision or within any contiguous property that is listed on the National Register of Historic Places, or that has been designated by ordinance as a local historic property and/or district;

(29) Environmental impact statement pursuant to G.S. Chapter 113A. The Planning and Zoning Commission may require the subdivider to submit an environmental impact statement with the preliminary plat if:

- (a) The development exceeds two acres in area; and

(b) The Board deems it necessary due to the nature of the land to be subdivided or peculiarities in the proposed layout.

(30) Statements on the plat that:

(a) Construction plan approval from Greenville Utilities Commission and City of Greenville shall be obtained prior to construction of any street, water and/or sanitary sewer and storm drainage system;

(b) All required improvements shall conform to the city *Manual of Standard Designs and Details* and the *Manual for the Design and Construction of Water and Waste Water System Extensions for Greenville Utilities Commission*; and

(c) All lots shall equal or exceed the minimum development standards of the city Zoning Ordinance.

(31) Any other information considered by either the subdivider or the Planning and Zoning Commission to be pertinent to the review of the preliminary plat; and

(32) Written statement addressing the reasons for being unable to meet the minimum requirements as listed above under this section.

(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 2379, §§ 1, 2, passed 10-10-1991; Ord. No. 2501, § 1, passed 8-13-1992; Ord. No. 97-80, § 1, passed 8-14-1997; Ord. No. 06-75, § 2, passed 8-10-2006; Ord. No. 14-049, § 11, passed 8-14-2014; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-5-46 SAME; REVIEW PROCEDURE.**

(A) The Planning and Zoning Commission shall review and take action on each preliminary plat duly presented to the Director of Planning and Development Services or designee. Before taking final action on the plat, the Planning and Zoning Commission shall hear the report of the Director of Planning and Development Services or designee and other public officials and agencies concerning the proposed development. If the preliminary plat is disapproved, the Planning and Zoning Commission shall specify the reasons for such action in writing.

(B) Before final action is taken by the Planning and Zoning Commission on a preliminary plat, notice that the preliminary plat will be reviewed at a meeting shall be published. The notice shall be given once a week for two successive weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than ~~ten~~ **eight** days nor more than 25 days before the date of the meeting. In computing such period the day of publication is not to be included by the day of the meeting is to be included.

(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 06-75, § 2, passed 8-10-2006; Ord. No. 16-051, § 1, passed 8-18-2016; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-5-47 SAME; DEPARTMENTAL FINDINGS.**

The City of Greenville Director of Planning and Development Services or designee, City Engineer, Director of Public Works, Chief of Fire and Rescue, and Director of Recreation and Parks; Greenville Utilities Commission gas, electric, water/sewer engineering; Pitt County Drainage District; and Pitt County Environmental Health Department, if applicable, shall furnish in writing their approval or disapproval of the preliminary plat.

(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 06-75, § 2, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-5-48 SAME; DISPOSITION OF COPIES. (to be revised for reference to the Land development administrative manual)**

~~If the preliminary plat is approved, the subdivider shall transmit three Mylar film copies of the plat to the Director of Planning and Development Services or designee for signature, reproduction and distribution to the following agencies:~~

~~(A) Planning and Development Services ————— Two paper copies and one Mylar copy~~

~~(B) Greenville Utilities Commission ————— One Mylar copy~~

<del>(C) Public Works</del>	<del>One paper copy</del>
<del>(D) Fire and Rescue</del>	<del>One paper copy</del>
<del>(E) Recreation and Parks</del>	<del>One paper copy</del>
<del>(F) Telephone company</del>	<del>One paper copy</del>
<del>(G) Cable TV company</del>	<del>One paper copy</del>
<del>(H) County Engineer</del>	<del>One paper copy</del>
<del>(I) U.S. Postal Service</del>	<del>One paper copy</del>
<del>(J) Person or firm preparing the plat</del>	<del>One Mylar copy</del>

(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 06-75, § 2, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-5-49 SAME; CONSTRUCTION PLAN REQUIRED; AUTHORITY; CONTENTS.**

(A) Following the preliminary plat approval, not to exceed five years, a construction plan for the entire development shall be submitted to the City Engineer and the general manager of the Greenville Utilities Commission for review and approval. The construction plan may be submitted in phases.

(B) The subdivider shall submit a construction plan to the city and Greenville Utilities Commission for review and approval prior to the construction or improvement of any street, water line, sanitary sewer, storm sewer, drainage facility or other improvement.

(C) The City Engineer and the General Manager of the Greenville Utilities Commission or their respective designee shall have final joint approval authority of any construction plan. Such approval shall be noted in writing on the plan prior to construction of any public or private facility or structure. Grading and storm drainage improvements may be allowed following the approval of the City Engineer prior to state approval of proposed utility improvements.

(D) Submission requirements and review procedure for all construction plans shall be submitted in accordance with the *Manual of Standard Designs and Details* and the *Manual for the Design and Construction of Water and Waste Water System Extensions* for Greenville Utilities Commission.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-50 SAME; CONSTRUCTION PLAN TO COINCIDE WITH PRELIMINARY PLAT; MINOR ALTERATIONS; RESUBMISSION OF PLAT COPIES REFLECTING ALTERATIONS.**

(A) The location, dimension and extent of all proposed improvements shown on the construction plan shall coincide with the preliminary plat as approved by the Planning and Zoning Commission.

(B) Minor alterations that, in the opinion of the Director of Planning and Development Services or designee, City Engineer and General Manager of Greenville Utilities Commission, do not substantially deviate from the approved preliminary plat may be allowed. Such minor alterations may include but not be limited to the relocation, dimension and extent of proposed improvements due to engineering necessity.

(C) Major alterations that, in the opinion of the Director of Planning and Development Services or designee, City Engineer and General Manager of Greenville Utilities Commission, do in fact involve substantial deviation from the approved preliminary plat shall not be allowed. Major alterations may include but not be limited to the relocation, deletion, addition, dimension and extent of proposed improvements which alter: street alignment, interior arrangement, continuation and/or projection; lot and/or block dimension inconsistent with applicable requirements; increase the total number of lots; increase

the volume and/or location of off-site drainage; or other condition found to be injurious to either surrounding properties or the City of Greenville. Appeal from this section may be taken to the Subdivision Review Board.

(D) The subdivider shall revise the preliminary plat, as approved pursuant to subsection (B), above, to reflect all such minor alterations. Copies shall be submitted for disposition in accordance with section 9-5-48, above, prior to obtaining construction plan approval as provided herein.

(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 06-75, § 2, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-5-51 FINAL PLAT; GENERALLY.**

(A) The final plat and all required materials shall be submitted to the Director of Planning and Development Services or designee as agent for the Planning and Zoning Commission not less than ten working days prior to the scheduled Subdivision Review Board meeting. Working days shall not be construed to include city observed holidays or weekends.

(B) No final plat shall be submitted until the subdivider has obtained preliminary plat approval as required under this chapter.

(C) No final plat shall be approved until the subdivider has installed in the proposed subdivision or section thereof to be recorded all improvements required by this chapter or shall have guaranteed their installation as provided herein.

(D) The final plat shall substantially conform to the preliminary plat as approved. If the final plat does not substantially conform to the preliminary plat as approved the Planning and Zoning Commission may consider appropriate revision to the previously approved preliminary plat as provided by this chapter. The Planning and Zoning Commission shall reserve the right to deny revision of any preliminary plat where it is found the revision, deletion or addition thereto would not be in the best interest of the adjoining or surrounding property owners or the City of Greenville.

(1971 Code, § 9-5-60) (Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 06-75, § 2, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-5-52 SAME; FORMAT; GENERAL INFORMATION; SITE INFORMATION.**

All applications for final plat approval shall be submitted in accordance with and contain the following information:

(A) *Format.*

(1) Scale of one inch equal to 100 feet or larger;

(2) Drawn in ink on Mylar film;

(3) Mylar film shall be 18 inches by 24 inches at 0.003 to 0.004 inch thickness;

(4) Boundary lines shall be fully dimensioned by lengths and bearing with an error of closure not less than one in 5,000 and in accordance with the *Standards of Practice for Land Surveying in North Carolina* related to true, magnetic median or North Carolina grid coordinate system. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest minute;

(5) Prepared by a surveyor licensed and registered in the State of North Carolina;

(6) Multiple sheets shall be collated and stapled (paper copies only). Match lines shall be clearly indicated;

(7) (a) Twelve blueline paper copies at the time of original submission for departmental review;

(b) Two blueline paper copies shall be submitted, for each review department requesting revision, following the initial review. The total number is to be specified by the Director of Planning and Development Services or designee; and

(c) The original drawing and three Mylar film copies for disposition in accordance with section 9-5-55, upon request of the Director of Planning and Development Services or designee.

(8) One copy of the declaration of covenants, conditions and restrictions or otherwise as required pursuant to the North Carolina General Statutes. Such agreements shall be approved by the city prior to final plat approval;

(9) (a) If utility, street or other improvements as required have not been installed and approved by the city and Greenville Utilities Commission at the time of submission of the final plat, the subdivider shall transmit one copy of a written estimate (prepared by a professional engineer) of such necessary improvements to the city for review and approval at the time of the original submission of the final plat.

(b) A surety agreement duly executed shall be filed with the City Engineer not less than three working days prior to the scheduled Subdivision Review Board meeting. Working days shall not be construed to include city observed holidays or weekends.

(c) In cases where a payment in lieu of dedication of land is due, a certified check payable to the City of Greenville in the full amount of the payment shall be required prior to approval.

(10) Shall be submitted in accordance with the *Manual of Standard Designs and Details*. The following certificates shall be required:

- (a) Standard title block;
- (b) Standard source of title information block;
- (c) Standard owners statement block;
- (d) Standard approvals information block;
- (e) Standard dedication information block; and
- (f) Standard certification block.

(11) A filing fee shall be paid to the city for each application for a final plat and the fee shall be set out in the *Manual of Fees* for the city;

(12) Certified copy of the construction permit issued by the North Carolina Health Department for water supply and sewerage system to serve the land included within the final plat, if not to be served by a public utility system; and

(13) When property outside the existing city limits is subdivided and sanitary sewer service is requested or required, an annexation petition and required maps shall be submitted to the Director of Planning and Development Services or designee. Pursuant to this requirement, no final plat shall be recorded until the property contained within the plat has been annexed to the City of Greenville. Delay of the effective date of annexation as established by ordinance of City Council shall not delay recordation of such plat.

(B) *General information.*

- (1) Subdivision name;
- (2) The name(s) of the city, township, county and state in which the subdivision is located;
- (3) Name, address and telephone number of land owner(s) or legal agent;
- (4) Name, address and telephone number of the surveyor preparing the plat;

- (5) North Carolina registration number and seal as listed per subsection (B)(4) above;
  - (6) Locational vicinity map, at a scale of one inch equal to 1,000 feet showing the subdivision in relation to major and minor roads or streets, adjacent subdivision sections, political divisions, landmarks or other obvious references;
  - (7) Date of original survey plat preparation and/or revision(s);
  - (8) Number of sheets; and
  - (9) Scale denoted both graphically and numerically.
- (C) *Site information.*
- (1) North arrow and delineation as to whether true, grid or magnetic, including date;
  - (2) Street names and designation as to public or private;
  - (3) Right-of-way and/or easement widths, pavement widths, and sight distance triangles of all streets within the subdivision;
  - (4) Right-of-way and/or easement widths and pavement widths of all adjacent streets;
  - (5) Location of all points of curvature and tangency;
  - (6) Location of all points of intersection where circular curves are not used;
  - (7) Property lines with bearings or deflection angles, arc lengths, chord length (indicated by dashed lines) as appropriate;
  - (8) The delta angle, degree of curve, tangent distance, radius and method (arc or chord) for each curve;
  - (9) Sufficient surveying data to determine readily and reproduce on the around every straight or curved boundary line, street line, lot line, right-of-way line, easement line and setback line;
    - (10) Accurate location and description of all monuments, markers and control points;
    - (11) Location, description and use of all existing and proposed easements;
    - (12) Location, description and use of any sites proposed for dedication or reservation for public purposes;
    - (13) Location, description and use of all pedestrian, riding, bicycle trails or natural buffers to be dedicated or reserved for public purpose;
    - (14) Location, description and use of areas to be used for purposes other than residential;
    - (15) Property lines and ownership of all contiguous property indicated and referenced by deed book/map book and page number;
    - (16) Location of existing buildings or structures, watercourses, railroads, bridges, culverts, storm drains, corporate limits, township boundaries, county lines and easements both on the land to be subdivided and immediately adjoining thereto;
    - (17) When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dashed lines and identification of the respective tracts shall be shown on the plat;

(18) Floodway zone and flood fringe zone, indicating base flood levels and minimum building elevations for all lots adjoining such zones;

(19) Water supply watershed district boundary and certificate of approval for recording in accordance with Title 9, Chapter 4, Zoning;

(20) The area in square feet of each proposed lot and common area within the subdivision;

(21) Block and lot numbers in consistent and logical sequence;

(22) The following in tabular form:

- (a) Number of lots created;
- (b) Acreage in total tract;
- (c) Acreage in common area(s); and
- (d) Acreage in parks, recreation areas and the like.

(23) The name and location of any property within the proposed subdivision or within any contiguous property that is listed on the National Register of Historic Places, or that has been designated by ordinance as a local historic property and/or district;

(24) Any other information considered by either the subdivider or the Planning and Zoning Commission to be pertinent to the review of the final plat; and

(25) Written statement addressing the reasons for being unable to meet the minimum requirements as listed above under this section.

(1971 Code, § 9-5-61) (Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 2379, §§ 3, 4, passed 10-10-1991; Ord. No. 2501, § 2, passed 8-13-1992; Ord. No. 97-80, § 2, passed 8-14-1997; Ord. No. 06-75, § 2, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-5-53 SAME; REVIEW PROCEDURE.**

The Subdivision Review Board shall review and take action on each final plat duly presented to the Director of Planning and Development Services or designee. Before taking action on the plat, the Subdivision Review Board shall hear the report of the Director of Planning and Development Services or designee and other public officials and agencies concerning the proposed final plat.

(1971 Code, § 9-5-62) (Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 06-75, § 2, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-5-54 SAME; DEPARTMENTAL FINDINGS.**

The City of Greenville Director of Development or designee, City Engineer, Greenville Utilities Commission gas, electric, water/sewer engineering; and Pitt County Environmental Health Department, if applicable, shall furnish in writing their approval or disapproval of the plat.

(1971 Code, § 9-5-63) (Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 06-75, § 2, passed 8-10-2006)

#### **SEC. 9-5-55 SAME; DISPOSITION OF COPIES.**

If the final plat is approved, the subdivider shall transmit the original drawing, and three Mylar film copies as required to the Director of Planning and Development Services or designee for signature, recordation and distribution as follows:

- |                                       |                  |
|---------------------------------------|------------------|
| (A) Pitt County Register of Deeds     | Original drawing |
| (B) Planning and Development Services | One Mylar copy   |
| (C) Greenville Utilities Commission   | One Mylar copy   |
| (D) Person or firm preparing the plat | One Mylar copy   |
- (1971 Code, § 9-5-64) (Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 06-75, § 2, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-5-56 SAME; RECORDATION.**

The Director of Planning and Development Services or designee shall record the original drawing of the final map in the Pitt County Register of Deeds together with all applicable documents not more than five working days following final approval unless as further provided herein.

(1971 Code, § 9-5-65) (Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 06-75, § 2, passed 8-10-2006; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-5-57 NO RESPONSIBILITY, LIABILITY FOR IMPROVEMENTS PRIOR TO ACCEPTANCE.**

The City of Greenville shall, in no event, be required to open, operate, repair or maintain any street or other land or facility offered for dedication prior to the city's acceptance, by resolution of City Council, of such dedication.

(1971 Code, § 9-5-66) (Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-58 RESUBDIVISION PROCEDURE.**

For any replatting or resubdivision of land, the same procedures, rules, relations and requirements shall apply as prescribed herein for an original subdivision.

(1971 Code, § 9-5-67) (Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-59 DISAPPROVAL OF PLATS RESULTING FROM VIOLATION OF TREE PROTECTION PRIOR TO DEVELOPMENT REGULATIONS.**

Preliminary and final plats shall be denied in accordance with the provisions of section 6-5-27 of the City Code.

(1971 Code, § 9-5-68) (Ord. No. 07-33, § 5, passed 3-8-2007)

***ARTICLE C. DESIGN STANDARDS FOR SUBDIVISION PLATS*****SEC. 9-5-80 RELATION TO THOROUGHFARE PLAN.**

Arrangement, character, extent, width, grade and location of all streets shall conform to the Thoroughfare Plan of the city and elements thereof officially adopted.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-81 STREET DESIGN STANDARDS.**

The following design standards shall apply to all streets in proposed subdivisions:

- (A) The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographical and soil conditions, to public convenience and safety and in their appropriate relation to the proposed use of the land to be served by such streets.
- (B) Where there exists a conflict between city and state street standards, the more restrictive shall apply.
- (C) The arrangement of streets in new subdivisions shall make provision for the continuation of the existing streets in adjoining areas.
- (D) Where a new subdivision adjoins unsubdivided land susceptible to being subdivided, then the new streets shall be carried to the boundaries of the tract proposed to be subdivided; and the arrangement shall make provision for the logical and proper projection of such streets.
- (E) Where a new subdivision adjoins unsubdivided lands that do not have direct and adequate access to an approved public street, then the new streets shall be carried to the boundaries of the tract proposed to be subdivided to ensure the adjoining lands of direct and adequate access. Private streets shall not constitute direct and adequate access for purposes of this section.
- (F) In cases where a subdivider is required to carry a new street to the boundary of the tract to be subdivided and the boundary line is a ditch, canal or other drainage facility, the subdivider shall dedicate the appropriate land to the boundary of the tract to be subdivided and construct or guarantee the required improvements to the boundary or to a further point as provided by private agreement.
- (G) Reserve strips controlling access to public streets shall be prohibited except under conditions approved by the Planning and Zoning Commission.
- (H) The street arrangement within new subdivisions shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it or affect the health, safety and welfare of property owners and residences in the surrounding area. Streets within or adjacent to subdivisions intended for residential purposes shall be so designed that their use by through traffic shall be discouraged except, however, where such streets are existing or proposed thoroughfares.
- (I) Street right-of-way and/or easement and paving widths shall be based upon the volume of traffic generated by the area served by such street and the future traffic circulation pattern of the surrounding area and city as a whole. The traffic generation factors used to determine the required street section are contained in the *Manual of Standard Designs and Details* in conjunction with the adopted Thoroughfare Plan for the city.
- (J) Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations and where the Planning and Zoning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted and improved within such tract.
- (K) Names of new streets shall not duplicate existing or platted street names unless a new street is a continuation of or in alignment with the existing or platted street. Addresses shall be assigned in accordance with the address numbering system in effect in the city.
- (L) The vacation of any street or part of a street dedicated for public use, if such vacation interferes with the uniformity of the existing street pattern or any future street plans prepared for the areas, shall not be permitted.
- (M) Where a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets and logical further resubdivision.
- (N) All buildings shall be located within proximity of an approved street in accordance with Title 9, Chapter 4, Article F and within an acceptable distance to a fire hydrant, which has been connected to a public water supply system, approved by the city and the Greenville Utilities Commission. The hydrant shall be installed within the right-of-way or easement of a street or as otherwise approved by the Chief of Fire and Rescue and Greenville Utilities Commission. Hydrant locations and

requirements shall be in accordance with the *Manual for the Design and Construction of Water and Waste Water System Extensions for Greenville Utilities Commission*.

(O) Each lot created within a subdivision shall have direct access to an approved street in accordance with the Zoning Ordinance or as provided by subsection (U) below.

(P) Street jogs with centerline offsets of less than 150 feet shall not be allowed.

(Q) Street intersections shall not include more than four street approaches.

(R) Streets shall be designed to intersect as nearly as possible at right angles, and no street shall intersect another at less than 60 degrees.

(S) Loop/connecting streets which begin and terminate without intersecting another street providing access to the general street system shall not exceed 2,000 feet as measured along the centerline of the street.

(T) Cul-de-sac/terminal streets shall only be utilized either when the extension of the proposed street is infeasible due to one or more of the following conditions listed under subsection (T)(1) below, or when the street meets all the conditions listed under subsection (T)(2) below.

(1) Such streets shall only be utilized when the extension of the proposed street to adjoining property or to its intersection with an existing or proposed street is infeasible due to one or more of the following conditions:

(a) Intervening environmental and/or geographic features including but not limited to significant drainage systems, ponds/lakes, severe topography and regulatory wetlands;

(b) Intervening existing and/or vested adjacent development or development plans including buildings, parking lots and drives, stormwater structures, approved preliminary platted lots or recorded final platted lots, and approved site plans or other vested condition that prohibits future extension;

(c) The shape and/or dimension of the tract proposed for subdivision, where a significant portion of the subdivision area would otherwise be unusable absent terminal extension; or

(d) Intervening or approved public and/or private streets where such intersection is either prohibited by regulation or found to create a hazardous condition in the opinion of the City Engineer. Cul-de-sac/terminal streets allowed under this section may not create a public safety hazard.

(2) (a) Limited and reasonable use of cul-de-sac/terminal street(s) not meeting the conditions of subsection (T)(1) above may be approved where the specific cul-de-sac/terminal street design, length, location and use both individually, and/or in combination with other cul-de-sac/terminal streets in any common subdivision or development, meets all of the following conditions:

1. Does not negatively impact vehicular and pedestrian traffic circulation inconsistent with the street design standards contained herein, the *Manual of Standard Designs and Details* incorporated herein by reference, and/or the goals and objectives of the Comprehensive Plan;

2. Does not unduly increase the public cost of or inhibit the provision of public services, including but not limited to garbage and waste collection and public transit;

3. Does not unduly impact the public cost of or inhibit the provision of public safety and life services, including but not limited to fire suppression, emergency rescue and police protection;

4. Does not unduly restrict or inhibit adequate access to adjoining lots and/or tracts within the subject subdivision and/or on adjoining properties; and

5. Does not otherwise create a public safety hazard.

(b) The Planning and Zoning Commission shall determine compliance under this section following review and recommendation of the Director of Planning and Development Services or his or her authorized representative. The Director of Planning and Development Services may seek and rely on the advice of the public service and public safety providers in the formulation of any recommendation concerning the design, length, location and use of such cul-de-sac/terminal street(s).

(3) A cul-de-sac/terminal street shall not exceed 1,000 feet in length as measured along the centerline of such street from the right-of-way as projected from the intersecting street to the furthestmost point. When a cul-de-sac/terminal street intersects only another cul-de-sac/terminal street, the regulatory length of all such streets shall be measured individually from the intersection street that is not a cul-de-sac/terminal street to the furthestmost point of all such streets.

(U) No new private streets are allowed after August 14, 2014.

(V) Curve radius, property line radius, tangent distances between reverse curves, right-of-way widths, easement widths, pavement widths, pavement design and storm drainage system design provisions are contained in the *Manual of Standard Designs and Details* and the adopted Thoroughfare Plan for the city.

(W) Planned Unoffensive Industry (PIU) and Planned Industry (PI) Districts street standards and exemptions are as follows.

(1) PIU and PI Districts shall be exempt from the maximum “loop connecting” and “cul-de-sac terminal” street standards listed above under subsections (S) and (T) of this section.

(2) PIU or PI Districts shall comply with all other provisions of this section.

(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 2098, § 1, passed 11-16-1989; Ord. No. 2603, § 1, passed 3-18-1993; Ord. No. 94-85, § 1, passed 6-9-1994; Ord. No. 06-13, § 1, passed 2-9-2006; Ord. No. 06-75, § 1, passed 8-10-2006; Ord. No. 14-049, § 12, passed 8-14-2014; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-5-82 UTILITY EASEMENTS.**

(A) Easements for utilities shall be provided where necessary along front, rear or side lot lines, but shall not be required to center on such lines. Those easements shall be sufficiently wide to provide for installation of the utilities and access for maintenance and operation.

(B) The minimum width of the easements shall be as follows:

- (1) Water lines: Ten feet.
- (2) Gas lines: Ten feet.
- (3) Electrical lines: Ten feet.
- (4) Storm sewer: As necessary on determination of the City Engineer.
- (5) Sanitary sewer shall be in accordance with the following table:

Depth of Cover Minimum Easement Width (feet)

Force main: All	10
Gravity sewers: 0-10	20
10-15	30
Greater than 15	40

- (6) Multipurpose: See section 9-5-85, below.
- (7) Hydrant: Five feet as measured on the horizontal in all directions from the center of the hydrant. (Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-83 LOT LINES AND UTILITY EASEMENTS.**

Lot lines shall be so arranged with respect to utility easements as to permit efficient installation of utilities without unnecessary irregularities in alignment.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-84 PROJECTION OF EASEMENTS TO ADJACENT UNDEVELOPED PROPERTY.**

Where a new subdivision is adjacent to undeveloped property that does not have direct access to public utility lines or facilities, adequate easements may be reserved on each side of all rear lot lines and along certain side lot lines where necessary for the future extension of utilities to the undeveloped property.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-85 MULTIPURPOSE EASEMENTS.**

Easements designated as general utility easements which contain multiple utility lines, structures or facilities shall be permitted only upon specific authorization of the City Engineer and the general manager of the Greenville Utilities Commission. The minimum acceptable width of such general utility easements shall be subject to approval on an individual case basis.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-86 MINOR DRAINAGE EASEMENTS.**

Minor drainage easements providing for drainage of surface waters from four or less lots and not involving regulated flood areas may be permitted to cross lots at points where such arrangements are found by the City Engineer to be necessary as a result of topography or soil conditions, and where suitable building sites are reserved. Such minor drainage easements may be required and designated to be maintained by the property owner.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-87 MAJOR UTILITIES, SUBSTATION SITES AND THE LIKE.**

Where major utility substations, pumping stations, pressure regulating stations and the like are required, adequate provision to provide screening shall be required.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-88 PRESERVATION OF SIGNIFICANT WATER AREAS; INTENT.**

It is the intent of these regulations both to safeguard existing and potential development in appropriate locations and to preserve and promote a desirable ecological balance. Therefore, insofar as it is reasonably practicable, subdivisions shall be located, designed and improved to preserve important natural water areas, related vegetation and wildlife habitats; to avoid creation of upstream impoundments or downstream runoff which would be harmful to such complexes or to existing or potential development in appropriate locations; and to maintain desirable groundwater levels.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-89 SAME; MAINTENANCE OF NATURAL WATERWAYS AND WATER AREAS; RELATIONSHIP TO GREENWAY PLAN.**

(A) Where a proposed subdivision is traversed by or includes in whole or in part a natural watercourse, marsh, pond or lake of substantial significance in the ecology of the general area, the water body shall, to the maximum extent reasonably feasible, be maintained in its natural state, together with bordering lands and other suitable protective strip or buffer as required by the Planning and Zoning Commission. The minimum width of any protective strip or other buffer required pursuant to this section shall not be less than 15 feet from the top of the bank as determined by the City Engineer.

(B) If any portion of the area proposed for subdivision lies within an area designated in the officially adopted Greenway Master Plan as a greenway corridor, the area so designated shall be dedicated and/or reserved to the public at the option of the city.

(C) The city and Greenville Utilities Commission shall have right of access onto all designated and/or dedicated areas within all easements as required for the construction and/or maintenance of public facilities.

(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 2490, § 1, passed 7-9-1992)

**SEC. 9-5-90 SAME; CHANGES IN LOCATION OR EXTENT OF SIGNIFICANT NATURAL WATERWAYS AND WATER AREAS.**

The City Engineer may permit changes in the location or extent of significant natural waterways and water areas only after making findings that such changes will not adversely affect desirable ecological conditions, drainage or water retention, or result in undesirable location or amount of upstream impoundment or downstream discharge.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-91 DRAINAGE.**

Adequate storm drainage shall be provided by means of storm drainage pipe and appurtenances thereto or by open or unenclosed drainage channels, all of which shall be installed in accordance with the *Manual of Standard Designs and Details*. The City Engineer shall determine what type of storm drainage shall be required and what improvements shall be installed. In the consideration of storm drain pipe size to be installed, the City Engineer shall take into consideration the existing drainage conditions, the effect upon those conditions by the proposed development and the future needs within the immediate area of the proposed development.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-92 PROTECTION FROM FLOODING AND OTHER ADVERSE WATER CONDITIONS.**

(A) No subdivision shall be so located or improved to create impoundments of surface water on developable upstream land outside the subdivision, to increase surface drainageways, to cause erosion onto neighboring property or into water areas, or to raise or lower groundwater levels in a manner which creates adverse effects within the subdivision or in surrounding areas. Where locations or improvements appear likely to have such effects, plats shall not be approved until suitable remedial measures have been provided.

(B) As appropriate to the circumstances, such measures may include requiring the subdivider to make provision for the necessary enlargements or improvements in off-site drainageways, establishing water retention and recharge areas, and mechanical and vegetative means to control runoff and erosion from the subdivision.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-93 SEDIMENTATION AND EROSION CONTROL.**

All subdivisions shall conform to the sedimentation and erosion control regulations as set forth by the City Code.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-94 FLOODPRONE OR FLOOD HAZARD AREAS.**

All subdivisions shall conform to the flood damage prevention regulations as set forth by the City Code. All subdivisions located in the area of special flood hazard as defined in section 9-6-2 shall be required to elevate all public streets located within the subdivision such that the lowest point on the street is no less than one foot below the 100-year flood elevation or no lower than the highest accessible point on the adjacent public street providing access to the site which shall be the point of entry between the development and the adjacent public street. All subdivisions located in the area of special flood hazard as defined in section 9-6-2 shall be required to elevate all private streets located within the subdivision upon property having a zoning classification allowing a residential use as a permitted use such that the lowest point on the street is no less than one foot below the 100-year flood elevation or no lower than the highest accessible point on the adjacent public street providing access to the site which shall be the point of entry between the development and the public street. Notwithstanding the foregoing, additional points of access onto a public street may be allowed to be constructed at a lesser elevation provided that the access is no lower than the elevation of the point of access to the public street and provided that all elevations are no lower than the minimum necessary to provide safe access to the public street.

(Ord. No. 00-19, § 14, passed 2-10-2000)

**SEC. 9-5-95 BLOCK STANDARDS; GENERAL DESIGN.**

Block lengths, widths and areas within bounding roads shall be such that:

(A) Adequate building sites, suitable to the contemplated or probable use are provided.

(B) Zoning requirements regarding minimum lot dimensions and area are assured.

- (C) Lengths between intersecting streets do not exceed 1,400 feet or be less than 300 feet.
- (D) Sufficient widths are provided to allow two tiers of lots where single-tier lots are required to separate development from traffic arteries, water areas, common areas or public property. Where double frontage lots are allowed, a nonaccess easement shall be provided as specified herein.
- (E) Planned Unoffensive Industry (PIU) and Planned Industry (PI) Districts shall be exempt from the maximum block length listed under subsection (C) above.  
(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 2098, § 2, passed 11-16-1989)

#### **SEC. 9-5-96 PEDESTRIAN CROSSWALKS WITHIN BLOCKS.**

Where orientation or length of blocks or other considerations justify such action, the Planning and Zoning Commission may require pedestrian circulation and provide access to schools, playgrounds, shopping centers, transportation and other facilities. Where such crosswalks are provided, they shall be located, dimensioned, fenced, screened or otherwise improved by the subdivider in such a manner as to provide security, tranquility and privacy for occupants of adjoining property, and safe use. Such pedestrian ways, if suitably improved, may be used by emergency vehicles but shall not be used by other motor vehicles.  
(Ord. No. 1941, § 1, passed 1-12-1989)

#### **SEC. 9-5-97 LOTS; GENERAL DESIGN.**

- (A) Lot dimensions and area shall not be less than the applicable requirements of the Zoning Ordinance.
- (B) All lots shall abut by their full frontage on an approved public street or private street where applicable.
- (C) Where public water and/or sewer service is not available, all lots shall be subject to the applicable requirements of the Pitt County Environmental Health Department and the City of Greenville.
- (D) Side lot lines shall be substantially at right angles to straight streets or radial to curved street lines.
- (E) Corner lots for residential purposes shall have extra width to permit appropriate building setback from and orientation to both streets.
- (F) Lots abutting a pedestrian crosswalk or alley within a block shall not be considered corner lots.
- (G) All lots shall contain an adequate building site.
- (H) Lots subject to flooding and lots deemed to be uninhabitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but the land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or shall not produce unsatisfactory living conditions.
- (I) All remnants of lots or residual parcels of a larger tract must be added to adjacent lots, rather than allowed to remain as unusable parcels.  
(Ord. No. 1941, § 1, passed 1-12-1989)

#### **SEC. 9-5-98 DOUBLE FRONTAGE LOTS.**

Double frontage lots shall be avoided except where essential to provide residential separation from traffic arteries or other incompatible uses. Where double frontage lots are allowed, a ten-foot nonaccess easement shall be provided along the street line outside any existing or future rights-of-way.  
(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-99 DRIVEWAYS; CONDITION OF LOT ACCESS.**

Driveways providing ingress and/or egress to all lots within new subdivisions platted pursuant to these regulations shall conform to the *Manual of Standard Designs and Details* and the driveway regulations as set forth by the City Code. However, where in the interest of public health, safety and welfare, the Planning and Zoning Commission finds that greater restrictions on the location and/or total number of driveways is necessary to ensure the interests, such greater restrictions shall be noted on the plat as a condition of approval. Where the condition applies to all or several lots shown upon the plat, the City Engineer shall enforce the noted condition in addition to other applicable regulations in effect at the time of driveway permit application.

**SEC. 9-5-100 PUBLIC SITES AND OPEN SPACES; RELATION TO QUASI-PUBLIC AND PRIVATE OPEN SPACE NETWORK; INTENT.**

(A) To provide for efficiency, economy and amenity, it is the intent of these regulations to encourage and promote the development and maintenance of public open space systems.

(B) It is intended that to the maximum extent reasonably feasible there shall be a continuous network of public lands adapted to multiple purposes, including preservation and maintenance of natural waterways and water areas, protection of watersheds, neighborhood or community service areas and other public uses requiring extensive open space.

(C) It is further intended that these regulations shall encourage and promote consolidation, combination and coordination of quasi-public and private common open space with the public land network where appropriate. The purposes of such action shall include the following, applied generally or under particular sets of circumstances:

(1) To increase the extent, effectiveness and amenity of the total open space network;

(2) To provide protection for areas of substantial ecological importance; and

(3) To minimize conflicts among automotive traffic, pedestrians and cyclists, and to provide safe, convenient movement systems for pedestrians and cyclists through open spaces not generally open to automotive traffic, in a pattern connecting their principal origins with destinations such as schools, parks and recreational facilities; and otherwise to ensure the advantages arising from an open space network with multiple potentials for public use and reuse, as contrasted with scattered open spaces serving only limited functions.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-101 RESERVATIONS FOR RECREATION AREAS; GENERALLY.**

All subdivisions shall indicate recreation area at the time of submission of the preliminary plat. If the subdivision is developed in sections, the recreation area shall be contained within the first section unless as otherwise approved by the Planning and Zoning Commission upon recommendation of the Director of Recreation and Parks. At the time of submission of the final plat, the owner shall give the city a valid option on the land provided for as recreation area. The total development area shall be used as the basis for computation of the area reserved for recreation purposes.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-102 SAME; MINIMUM AREA.**

The minimum amount of land which shall be reserved for recreation area in the subdivision plan shall be one acre for each subdivision and in addition, for all subdivisions over 25 acres in area, reservation of recreation space shall include one acre plus 4% of the gross total area over 25 acres or 400 square feet for each lot over 110, whichever is greater.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-103 SAME; WAIVER PROVISIONS.**

Any subdivision owner may submit a map to the Planning and Zoning Commission of the area which is intended to be developed as a subdivision and request advice as to whether or not a recreation area shall be required in the proposed subdivision. Within 30 days, the Planning and Zoning Commission shall make a decision as to whether a recreation area should be included in the subdivision plan. It is the intent of this section to permit an early determination regarding recreation areas, especially of small subdivisions which, because of their proximity to other recreation areas or other good reasons, may not need recreation areas for the orderly development of the proposed subdivision. The owner or developer shall consider final any decision made pursuant to this section only if the final subdivision plat is approved under the overall subdivision regulations within one year from the date of any determination pursuant to this section.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-104 SAME; AUTHORITY OF PLANNING AND ZONING COMMISSION TO SEEK ADVICE.**

The Planning and Zoning Commission may from time to time request opinions from the City Recreation Commission and other competent authorities.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-105 SAME; OWNER TO GIVE OPTION TO CITY; PROVISIONS OF OPTION.**

(A) At the time of submission of the final plat, the owner shall give to the city a valid option on the land provided for as recreation area. This option shall be a separate agreement to be drawn by the owner and approved by the City Attorney as to form and effect.

(B) This option may contain such terms as shall be mutually agreed to by the owner and the city but shall contain the following:

(1) Provision for payment of \$100 to the owner upon execution of the option, which shall be applied to the purchase price if the option is exercised;

(2) Provision that the owner shall sell the land at an agreed raw land value. The raw land value is the fair market value of the recreation area before improvements or development. Should the city and the owner fail to agree on the raw land value, they shall choose one M.A.I. appraiser to appraise the recreation area. The sum per acre determined by the M.A.I. appraiser shall constitute the price per acre for the land. Cost of this process shall be equally divided between the city and the owner;

(3) Provision that the option shall have a term of at least four years unless terminated by exercise of the option to purchase by the city, or unless sooner terminated by the city by an instrument in writing;

(4) Provision that in addition to the stipulated purchase price if the option is exercised, the owner shall be entitled to interest on the purchase price from the date of execution of the option at 6% per year; and

(5) Provision that the option shall become effective upon recordation of the final subdivision plat containing such recreation area in the Pitt County Register of Deeds.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-106 SAME; RELATION TO BIKEWAY PLAN.**

Arrangement, character, extent, width, grade and location of the bikeway system for Greenville shall conform to the bikeway plan of the city and elements thereof officially adopted.

(Ord. No. 1941, § 1, passed 1-12-1989)

**ARTICLE D. [RESERVED]****ARTICLE E. REQUIRED IMPROVEMENTS****SEC. 9-5-115 CONFORMANCE WITH THE MANUAL OF STANDARD DESIGNS AND DETAILS AND THE MANUAL FOR THE DESIGN AND CONSTRUCTION OF WATER AND WASTE WATER SYSTEM EXTENSIONS FOR GREENVILLE UTILITIES COMMISSION.**

In addition to the requirements set forth herein, required improvements shall conform to any applicable specifications set forth in the *Manual of Standard Designs and Details* published by the city and the *Manual for the Design and Construction of Water and Waste Water System Extensions for Greenville Utilities Commission*. In case of extraordinary subsurface conditions, terrain, the general pattern in the area, existing or probable development in the vicinity or other circumstances, the City Engineer and the general manager of Greenville Utilities, upon making supporting written findings, may establish greater or lesser requirements in particular cases.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-116 PERMANENT MONUMENTS AND MARKERS.**

Permanent monuments and markers shall be placed in accordance with the *Standards of Practice for Land Surveying in North Carolina* and the North Carolina General Statutes which apply to the subdivision of land. The registered land surveyor preparing the final plat shall be responsible for the placement of all required monuments and markers. Such monuments and markers shall be in place at the time the city accepts the improvements within the subdivision.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-117 STREETS AND ALLEYS; GRADING AND SURFACING.**

All streets and alleys within the jurisdiction of the City of Greenville shall be graded and surfaced in accordance with the design standards set out in Article C of this chapter and as specified in the *Manual of Standard Designs and Details*.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-118 SAME; CURBS AND GUTTERS.**

Minimum requirements shall apply as to use of curbs and gutters or open ditches and shall be constructed in accordance with the *Manual of Standard Designs and Details*.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-119 STREET SIGNS.**

Street name signs shall be installed in locations and according to specifications set forth in the *Manual of Standard Designs and Details*.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-120 STREET LIGHTS (PUBLIC).**

Street lights shall be provided at such locations as approved by the city and shall be installed and maintained by the Greenville Utilities Commission in accordance with current policy.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-121 STREET TREES.**

In all residential subdivisions, street trees shall be preserved where possible; where they do not exist, appropriate trees may be provided, planted and serviced in accordance with the *Manual of Standard Designs and Details*. Such trees shall be species which are resistant to damage and disease and which do not cause interference with utilities, street lighting or visibility at street intersections or intersections of driveways or walkways with streets, and which do not cause heaving of pavements when planted in specified locations.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-122 GROUND COVER.**

All land within the right-of-way which is not used for structures, vehicular or pedestrian traffic, or for other approved landscaping shall be provided with grass or other ground cover of a nature approved by the *Manual of Standard Designs and Details*. Such ground cover may include appropriate plant materials preserved in place.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-123 SIDEWALKS; WHERE TO BE INSTALLED.**

Sidewalks shall be provided by the subdivider in accordance with the following:

- (A) Sidewalks shall be provided in conjunction with public street extensions pursuant to section 9-5-81 of this chapter.
- (B) The location of proposed sidewalks required pursuant to this section shall be in accordance with the *Manual of Standard Designs and Details*.
- (C) Sidewalks shall be provided along both sides of all minor and major thoroughfare streets as shown on the official Thoroughfare Plan.
- (D) Sidewalks shall be provided along one side of all collector, standard residential and planned industrial streets.
- (E) Sidewalks shall be provided along one side of all minor residential streets which are in excess of 500 feet in length in the case of a cul-de-sac/terminal street or 1,000 feet in length in the case of a loop/connecting street.
- (F) The arrangement of sidewalks in new subdivisions shall make provision for the continuation of existing sidewalks in adjoining areas.

(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 97-131, § 1, passed 12-11-1997)

**SEC. 9-5-124 DRAINAGE; CONFORMANCE WITH MANUAL OF STANDARD DESIGNS AND DETAILS.**

All required storm drainage and surface water drainage systems shall be installed in accordance with the *Manual of Standard Designs and Details*.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-125 ALL SUBDIVISIONS TO BE ADEQUATELY DRAINED.**

All subdivided land shall be served by a storm and surface water drainage system located, designed and installed in such a manner as to preserve the public and private land from inundation during a storm of ten-year frequency.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-126 PUBLIC WATER SUPPLY REQUIRED.**

Each lot intended for a use requiring domestic water supply shall be served by a public system approved by the State of North Carolina.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-127 PUBLIC SANITARY SEWERAGE REQUIRED; EXCEPTIONS.**

(A) Each lot intended for a use requiring sanitary sewerage shall be served by the Greenville Utilities Commission and approved by the State of North Carolina, except where unfeasibility is documented and such documentation is accepted by the Planning and Zoning Commission.

(B) Where the Planning and Zoning Commission has accepted the unfeasibility of service by a public system, it shall require approval of the lot by the Pitt County Department of Environmental Health. Such approval shall be based upon the studies and conclusions as specified by applicable law.

(C) Nothing herein contained shall be deemed to prohibit installation of private systems where water is not used for human consumption.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-128 GENERAL EROSION PROTECTION; CONSERVATION OF TOPSOIL; PRESERVATION OF DESIRABLE VEGETATION.**

In general, in preparation of the subdivision and installation of improvements, appropriate measures shall be taken to prevent erosion and damaging situations on the property and on adjoining land or water areas in accordance with the soil erosion and sedimentation control regulations as set forth by the City Code. In any grading or filing operations, described topsoil shall be conserved and redistributed as such, particularly to cover exposed subsoils. Trees, shrubs and ground cover existing at the beginning of development operations shall be preserved to the maximum extent reasonably feasible where they are of species and in locations likely to add amenity to the completed development. The Planning and Zoning Commission may require preservation of specified trees or other vegetation in connection with a particular development except upon findings that such preservation is infeasible in view of the requirements for the installation of public utilities and facilities.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-129 FIRE PROTECTION FACILITIES.**

All lots served by public water supply systems shall also be afforded fire protection by means of hydrants installed in accordance with the requirements and specifications of the *Manual of Standard Designs and Details* and the *Manual for the Design and Construction of Water and Waste Water System Extensions for Greenville Utilities Commission*.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-130 WIRE INSTALLATION TO BE UNDERGROUND; EXCEPTIONS.**

Electrical distribution (defined for the purposes of these regulations as facilities for delivering electrical energy from a substation to a customer's meter), telephone and any other wire installation shall be underground unless infeasibility of such installation has been documented and the documentation accepted as satisfactory by the Planning and Zoning Commission. In making its decision on the adequacy of the documentation, the Commission shall consider the terrain, load characteristics, reliability, accessibility, system flexibility, equipment availability, cost, safety, trimming and customer desires.

(Ord. No. 1941, § 1, passed 1-12-1989)

**ARTICLE F. COMPLETION OF IMPROVEMENTS; MAINTENANCE GUARANTEES**

**SEC. 9-5-141 SATISFACTORY COMPLETION OF IMPROVEMENTS; OFFERS TO DEDICATE; MAINTENANCE GUARANTEES; PRIOR TO APPROVAL OF FINAL PLATS.**

Except as hereinafter provided concerning performance guarantees, before final plats are approved:

(A) All required improvements shall be completed by the owner or his or her agent, and inspected and approved by appropriate public officials or agencies; and

(B) All required offers to dedicate, or to reserve for future dedication, shall be made, clear of all liens and encumbrances on the property and public improvements thus dedicated.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-142 PERFORMANCE GUARANTEE.**

In lieu of completion of all or part of required improvements prior to approval of final plats, the property owner applicant may post a performance guarantee ~~in an amount sufficient~~ to secure to the City the satisfactory construction and installation of the uncompleted portion of the required improvements. ~~the property owner may provide a performance guarantee in accordance with NCGS 160D-804(1).~~ The performance guarantee shall be in an amount equal to 125% of the estimated cost of the installation of the required improvements, as determined by the City. The performance guarantee shall remain in full force and effect until such time as the construction of improvements are completed and accepted by the city. Failure to maintain the required performance guarantee shall result in the revocation of the approval of the preliminary plat and any permits issued as a result of the preliminary plat approval. The performance guarantee shall be automatically renewed unless all parties agree not to renew it at least sixty (60) days prior to its scheduled expiration date. A temporary construction easement permitting the City of Greenville or its designee(s) to access the property for the purpose of constructing/installing the guaranteed improvements is required to be provided with the performance guarantee. The temporary construction easement shall be valid and shall bind to all successive owners until the guaranteed improvements have been constructed/installed and approved or accepted by the City of Greenville. Said temporary construction easements shall be recorded at the office of the Pitt County Register of Deeds, with recording fees to be paid by the applicant/landowner.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-143 TYPE OF GUARANTEE.**

The performance guarantee may be in the form of a performance bond, a certified check, a first deed of trust, an irrevocable letter of credit, or an escrow deposit. All performance guarantees shall not be accepted unless the City Attorney has made a review thereof and provided a written opinion that the interests of the city are fully protected.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-144 PLANS AND CONSTRUCTION PROGRAMS.**

Plans, specifications, quantities, unit costs and estimated total costs shall be provided by the applicant to the City Engineer together with a schedule indicating time of initiation and completion of the work, as a whole or in stages. Number of copies shall be as required for records and processing in the particular case.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-145 AMOUNT AND TERMS OF PERFORMANCE GUARANTEE; TIME LIMITATIONS.**

(A) Following receipt of the required estimate, the City Engineer shall prepare recommendations as to the terms of the performance guarantee, including time of initiation and completion of the work, as a whole or in stages, and provisions for release of portions of the guarantee upon completion of portions or stages of the work. The life of a performance guarantee shall not be less than six months or greater than two years, unless otherwise provided. The time between initiation and completion of development shall not exceed four years, except as provided under subsection (C).

(B) Based on such estimate, with such changes as deemed necessary, the City Engineer shall set the amount and terms of the performance guarantee, subject to necessary legal review of form as provided in section 9-5-143.

(C) When in the opinion of the City Engineer the required improvements or portions thereof cannot be completed within the specified time frame due to a physical condition and/or lack of an approved final plat on an adjoining property, the performance guarantee or portion thereof for such improvements may be extended beyond the maximum time stated in subsection (A) above. Following approval of a final plat on an adjoining property, the required improvements or portion thereof shall be installed within the life of the current performance guarantee or 12 months, whichever is greater.

(D) The City Engineer may accept a substitute performance guarantee from any party to cover the cost of all or a portion of the remaining improvements shown on an approved final plat. When a substitute performance guarantee is offered, the City Engineer shall give ten days notice by certified mail to the party posting the original surety that the City Engineer intends to issue a notice to proceed for construction of the guaranteed improvements to the party offering the substitute surety. The notice to proceed will be issued to the party offering and posting the substitute surety unless the party posting the original surety makes a written request that the notice to proceed be issued to him or her, and has in place or offers a surety meeting the requirements of a substitute surety.

(E) When a substitute performance guarantee is accepted, the following rules shall apply.

(1) The work covered by a substitute performance guarantee shall be completed within 12 months.

(2) The original performance guarantee shall be released, reduced or returned to the party posting the original performance guarantee.

(3) The work performed under a notice to proceed shall conform to the original plans in accordance with the approved final plat.

(4) No extensions or substitutions of a substitute performance guarantee will be allowed.

(Ord. No. 1941, § 1, passed 1-12-1989; Ord. No. 1968, § 1, passed 3-9-1989)

#### **SEC. 9-5-146 INSPECTIONS; INSPECTION REPORTS.**

(A) The City Engineer shall make inspections to determine whether work has started as scheduled; shall make inspections as are necessary during the course of work; and shall make final inspections.

(B) Within five days of such inspections, copies of reports of the results thereof shall be provided to the file for public inspection.

(Ord. No. 1941, § 1, passed 1-12-1989)

#### **SEC. 9-5-147 ACTION ON INSPECTION REPORTS; REPORTS INDICATING SATISFACTION OF REQUIREMENTS.**

Where such reports indicate satisfactory completion of work within time limits set and in accord with other terms of the performance guarantee, for agreed upon stages or for the entire work, the City Engineer shall so indicate to the applicant, any surety company involved and the City Manager. The City Manager, upon such notification and any further assurance he or she may require from the City Attorney, shall then release all or portions of the performance guarantee in accordance with the terms thereof.

(Ord. No. 1941, § 1, passed 1-12-1989)

#### **SEC. 9-5-148 SAME; REPORTS INDICATING FAILURE TO SATISFY REQUIREMENTS.**

(A) Where the reports indicate failure to initiate work on schedule or to complete work on schedule in full compliance with the terms of the performance guarantee, the City Engineer shall so indicate to the applicant, any surety company involved and the City Manager. The notice shall indicate that unless action required under the terms of the performance guarantee is completed within 30 days of the date of the notification, the performance guarantee or portions thereof set forth in its terms shall be called.

(B) Unless the action is completed, as evidenced by inspections and reports of the City Engineer, the City Manager shall call the performance guarantee or affected portions thereof.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-149 SAME; REPORTS INDICATING UNSATISFACTORY PROGRESS.**

Where the reports indicate that work initiated appears likely not to be completed on schedule, and where the performance guarantee provides for extension of time for cause, the City Engineer shall notify the applicant and any surety company involved concerning potential need for an application for such extension. Where the notice has been given, no application for extension shall be considered after expiration of the original schedule date.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-150 ACTIONS FOLLOWING FAILURE TO COMPLETE WORK UNDER PERFORMANCE GUARANTEE.**

When work required under the terms of any performance guarantee is not completed by the applicant as specified therein, the City Manager, following the call of the guarantee, shall take such action as is appropriate in the circumstances of the case to procure the completion of the required improvements at the earliest reasonable time, according to the plans and specifications and staging of construction approved in connection therewith.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-151 ACCEPTANCE OF GUARANTEE OF OTHER GOVERNMENTAL AGENCY OR UTILITY.**

Where all or part of required improvements are to be completed by another government agency or utility the City Manager may accept the written guarantee of that agency to complete the improvements within a time to be mutually agreed upon.

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-152 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY PRIOR TO COMPLETION OF IMPROVEMENTS.**

(A) Building permits may be issued for construction of buildings in subdivisions which have been given final approval and properly recorded prior to completion of the required improvements.

(B) Certificates of occupancy may be issued, and buildings occupied only when all of the following improvements are available and as further provided below:

(1) Streets, passable for private, service and emergency vehicles under normal weather conditions, provided that distance along such streets shall not exceed one-fourth mile by normal routes;

(2) Driveways passable under normal weather conditions;

(3) Drainage assuring that under normal weather conditions there will be no flooding of the building site or accessways to the site;

(4) Erosion protection acceptable under normal weather conditions; and

(5) Domestic water supply and sanitary sewerage.

(C) No such permits or certificates shall be issued unless improvements are guaranteed and the applicant accepts tort liability pending completion of all required improvements.

(Ord. No. 1941, § 1, passed 1-12-1989)

**ARTICLE G. AMENDMENTS****SEC. 9-5-161 PLANNING AND ZONING COMMISSION REVIEW; RECOMMENDATION.**

All proposed amendments to these regulations, except those initiated by the Planning and Zoning Commission, shall be submitted to the Planning and Zoning Commission for its recommendations as to approval, approval with specified alterations, or denial. Unless the recommendation is forthcoming within 60 days of submittal, unless a longer period is agreed upon in writing by the person or agency initiating the proposal, the City Council may proceed to act without a recommendation. (Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-162 PUBLIC NOTICE AND HEARING.**

No such proposed amendment shall be acted upon by the City Council until after a public ~~public~~ **legislative** hearing thereon, ~~at least 15 days' notice of which shall have been published in a newspaper of general circulation.~~ **in accordance with NCGS 160D-301.**

(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-163 LIMITATION ON RESUBMITTAL.**

Except when initiated by City Council or the Planning and Zoning Commission, no proposed amendment failing of passage shall be considered in substantially the same form within one year of rejection. (Ord. No. 1941, § 1, passed 1-12-1989)

**ARTICLE H. VIOLATIONS, PENALTIES AND REMEDIES****SEC. 9-5-171 PENALTIES FOR VIOLATION.**

(A) Any violation of this chapter shall subject the offender to a civil penalty in the amount of \$50. Violators shall be issued a written citation which must be paid within 72 hours.

(B) Each day of continuing violation shall be a separate and distinct offense.

(C) Notwithstanding subsection (A), above, provisions of this chapter may be enforced through equitable remedies issued by a court of competent jurisdiction.

(D) In addition to or in lieu of remedies authorized in subsections (A) and (C) above, violations of this chapter may be prosecuted as a misdemeanor in accordance with applicable law.

(Ord. No. 1941, § 1, passed 1-12-1989)

***Cross-reference:***

*Penalties for selling lots in unapproved subdivisions, see § 9-5-10*

**SEC. 9-5-172 REMEDIES.**

Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of a building, structure or premises.

(Ord. No. 1941, § 1, passed 1-12-1989)

**ARTICLE I. VARIANCES****SEC. 9-5-181 AUTHORIZED; PROCEDURE.**

(A) The Planning and Zoning Commission may vary the requirements of this chapter where, because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this chapter could cause an unusual and unnecessary hardship on the subdivider.

(B) In granting variances, the Planning and Zoning Commission may require such conditions as will secure, insofar as practicable, the objectives of the requirement(s) varied. Any variance thus recommended is required to be entered in writing in the minutes of the Planning and Zoning Commission and the findings upon which departure was justified set forth.  
(Ord. No. 1941, § 1, passed 1-12-1989)

**ARTICLE J. LEGAL STATUS AND EFFECTIVE DATE****SEC. 9-5-191 SEPARABILITY.**

If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provisions or application directly involved in the controversy in which the judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances.  
(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-192 REPEAL.**

Previous subdivision relations in effect up to the effective date of these regulations are repealed as of the effective date of these regulations and shall be superseded thereby except insofar as actions remain pending under prior regulations.  
(Ord. No. 1941, § 1, passed 1-12-1989)

**SEC. 9-5-193 EFFECTIVE DATE.**

These regulations shall be effective at 12:01 a.m. January 12, 1989.  
(Ord. No. 1941, § 1, passed 1-12-1989)



## CHAPTER 6: FLOOD DAMAGE PREVENTION

### Section

- 9-6-1 Statutory authorization, findings of fact, purpose and objectives
- 9-6-2 Definitions
- 9-6-3 General provisions
- 9-6-4 Administration
- 9-6-5 Provisions for flood hazard reduction
- 9-6-6 Legal statutes and provisions

### **Cross-reference:**

*Emergency and rescue, see* § 5-3-1 *et seq.*

*Public Safety, generally, see Title 5*

*Public Utilities, see Title 8*

*Subdivisions within floodprone or flood hazard areas, see* § 9-5-94

### **Editor's note:**

Ch. 6 was rewritten by Ord. No. 03-123, enacted Dec. 15, 2003, with an effective date of Jan. 2, 2004. Former Ch. 6, §§ 9-6-1-9-6-6 was replaced by § 1 of Ord. No. 98-8, enacted Jan. 8, 1998. Ch. 6, §§ 9-6-1-9-6-14 and 9-6-16-9-6-19, was repealed by § 1 of Ord. No. 1705, enacted April 9, 1987, and § 1 of Ord. No. 1705 also enacted, in lieu thereof, a new Ch. 6 as previously set forth in §§ 9-6-1-9-6-6. The repealed provisions pertained to flood hazard areas and derived from Ord. No. 786, adopted June 8, 1978.

### **SEC. 9-6-1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.**

(A) *Statutory authorization.* The legislature of the State of North Carolina has, in Part 6, Article 21 of G.S. Chapter 143; **Part 2, Article 9, G.S. Chapter 160D**; and ~~Parts 3, 5 and 8 of Article 19 of G.S. Chapter 160A~~ Article 8 of G.S. Chapter 160A, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

(B) *Findings of fact.*

(1) The flood hazard areas within the jurisdiction of the City of Greenville are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood prone areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(C) *Statement of purpose.* It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging and all other development which may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(D) *Objectives.* The objectives of this chapter are:

(1) To protect human life and health;

(2) To minimize expenditure of public money for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business losses and interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, cable and sewer lines, streets and bridges located in flood prone areas;

(6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and

(7) To ensure that potential homebuyers are notified that property is in a special flood hazard area.  
(Ord. No. 03-123, passed 12-15-2003)

#### **SEC. 9-6-2 DEFINITIONS.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application.

*Accessory structure.* A structure, which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban "accessory structures." Pole barns, hay sheds and the like qualify as "accessory structures" on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

*Addition (to an existing building).* An extension or increase in the floor area or height of a building or structure.

*Appeal.* A request for a review of the Local Floodplain Administrator's interpretation of any provision of this chapter.

*Area of shallow flooding.* A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

*Area of special flood hazard.* See definition of special flood hazard area (SFHA).

*Base flood.* The flood having a 1% chance of being equaled or exceeded in any given year.

*Base flood elevation (BFE).* A determination as published in the Flood Insurance Study of the water surface elevations of the base flood.

*Basement.* Any area of the building having its floor subgrade (below ground level) on all sides.

*Building.* See definition of structure.

*Chemical storage facility.* A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

*Development.* Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations or storage of equipment or materials.

*Disposal.* Defined as in G.S. 130A-290(a)(6).

*Elevated building.* A non-basement building, which has its reference level raised above the ground by means of pilings, columns (posts and piers), or shear walls parallel to the flow of water.

*Encroachment.* The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

*Existing manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before June 8, 1978.

*Flood or flooding.* A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

*Flood boundary and floodway map (FBFM).* An official map of a community, issued by the Federal Emergency Management Agency, on which the Special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

*Floodplain development permit.* Any type of permit including grading, building, or any other development permit that is required in conformance with the provisions of this chapter prior to the commencement of any development activity.

*Flood hazard boundary map (FHBM).* An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard have been defined as Zone A.

*Flood insurance.* The insurance coverage provided under the National Flood Insurance Program.

*Flood insurance rate map (FIRM).* An official map of a community, issued by the Federal Emergency Management Agency on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

*Flood insurance study (FIS).* An examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

*Floodplain or flood prone area.* Any land area susceptible to being inundated by water from any source.

*Floodplain administrator.* The individual appointed to administer and enforce the floodplain management regulations.

*Floodplain management.* The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations and open space plans.

*Floodplain regulations.* This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

*Flood prone area.* See definition of floodplain.

*Floodproofing.* Any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

*Floodway.* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

*Flood zone.* A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

*Floor.* See definition of lowest floor.

*Freeboard.* The additional amount of height added to the base flood elevation (BFE) to account for uncertainties in the determination of flood elevations. See also definition of regulatory flood protection elevation.

*Functionally dependent facility.* A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

*Hazardous waste management facility.* A facility for the collection, storage, processing, treatment, recycling, recovery or disposal of hazardous waste as defined in G.S. Chapter 130A, Article 9.

*Highest adjacent grade (HAG).* The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

*Historic structure.* Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the United States Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of Interior, or directly by the Secretary of Interior in states without approved programs.

*Lowest adjacent grade (LAG).* The elevation of the ground, sidewalk, patio slab or deck support immediately next to the building after completion of the building. For Zones A and AO use the natural grade elevation prior to construction.

*Lowest floor.* Subfloor, top of slab or grade of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's "lowest floor", provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

*Manufactured home.* A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a recreational vehicle.

*Manufactured home park (MHP) or subdivision.* A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*Market value.* The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. “Market value” can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value) or adjusted assessed values.

*Mean sea level.* For purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988 or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

*New construction.* Structures for which the start of construction commenced on or after the effective date of the original version of this chapter and includes any subsequent improvements to such structures.

*Nonconforming building or use.* Any legally existing building or use which fails to comply with the current provisions of this chapter.

*Non-encroachment area.* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

*Obstruction.* Includes but is not limited to any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

*Post-firm.* Construction or other development, which started on or after January 1, 1975, or on or after the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

*Pre-firm.* Construction or other development, which started before January 1, 1975 or before the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

*Public safety and/or nuisance.* Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal or basin.

*Recreational vehicle (RV).* A vehicle, which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

*Reference level.* The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance of the building. Within special flood hazard areas designated as Zones A1-A30, AE, A, A99, AO or AH, the reference level is the top of the lowest floor or lowest attendant utility (including ductwork), whichever is lower.

*Regulatory flood protection elevation.* The elevation to which all structures and other development located within the special flood hazard areas must be elevated or floodproofed, if nonresidential.

(1) In “Special Flood Hazard Areas” where base flood elevations (BFEs) have been determined, this elevation shall be at least the BFE plus two (2) feet for all structures and other development except manufactured homes.

(2) For manufactured homes, this elevation shall be at least the BFE plus two (2) feet, provided that no portion of the manufactured home below the lowest floor is lower than the base flood elevation. Allowable elements below the lowest floor are limited to electrical, mechanical, and duct work, which are considered a standard part of the manufactured home. Cross over ducts for double and triple wide manufactured homes are specifically exempted from the freeboard requirement provided the bottom of all such cross over ducts are above the base flood elevation. All electrical, mechanical, and duct work which are not a part of the manufactured home shall be no lower than two (2) feet above the base flood elevation.

(3) In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

*Remedy a violation.* To bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

*Repetitive loss.* Flood-related damages sustained by a structure on two separate occasions during any ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

*Retrofitting.* Measures, such as floodproofing, elevation, construction of small levees, and other modifications, taken on an existing building or its yard to protect it from flood damage.

*Riverine.* Relating to, formed by, or resembling a river (including tributaries), stream, brook and the like.

*Salvage yard.* Property used for the storage, collection and/or recycling of any type of equipment whatsoever, whether industrial or noncommercial, and including but not limited to vehicles, appliances and related machinery.

*Special flood hazard area (SFHA).* The land in the floodplain subject to a 1% or greater chance of being flooded in any given year as determined in section 9-6-3(B) of this chapter.

*Solid waste disposal facility.* Any facility involved in the disposal of solid waste, as defined in G.S. 130A-290(a)(35).

*Solid waste disposal site.* Defined as in G.S. 130A-290(a)(36).

*Start of construction.* Includes substantial improvements, and the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction

of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

*Structure.* For floodplain management purposes, a walled and roofed building, a manufactured home, or a gas or liquid storage tank, or that is principally above ground.

*Substantial damage.* Damage of any origin sustained by a structure whereby the cost of restoring the structure during any one-year period to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of substantial improvement. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

*Substantial improvement.* Any combination of repairs, reconstruction, rehabilitation, addition or other improvement of a structure, taking place during any one-year period whereby the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project of improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

*Variance.* A grant of relief from the requirement of this chapter that permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

*Violation.* The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in sections 9-6-4 and 9-6-5 is presumed to be in violation until such time as the documentation is provided.

*Watercourse.* A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. "Watercourse" includes specifically designated areas in which substantial flood damage may occur.

*Water surface elevation (WSE).* The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. No. 03-123, passed 12-15-2003; Ord. No. 14-031, passed 5-8-2014)

### **SEC. 9-6-3 GENERAL PROVISIONS.**

(A) *Lands to which this chapter applies.* This chapter shall apply to all special flood hazard areas within the jurisdiction, including extraterritorial jurisdictions (ETJ) if applicable, of the City of Greenville.

(B) *Basis for establishing the special flood hazard areas.*

(1) The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for Pitt County, dated July 7, 2014, and its accompanying Flood Insurance Rate Map (FIRM), including any digital data developed as part of the FIS, which are adopted by reference and declared to be a part of this ordinance. Future revisions to the FIS or FIRM panels that do not change flood hazard data within the jurisdictional authority of the City of Greenville are also adopted by reference and declared to be part of this ordinance. Subsequent revisions to the FIRM should be adopted within 6 months.

(2) The initial Flood Insurance Rate Map for the City of Greenville is dated July 3, 1978.

(C) *Establishment of development permit.* A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within the special flood hazard area to which this chapter applies.

(D) *Compliance.* No structure or land shall hereafter be located, extended, converted, altered or developed in any way without full compliance with the terms of this chapter and other applicable regulations.

(E) *Abrogation and greater restrictions.* This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(F) *Interpretation.* In the interpretation and application of this chapter all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(G) *Warning and disclaimer of liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Actual flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(H) *Penalties for violation.* Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 03-123, passed 12-15-2003; Ord. No. 13-015, § 1, passed 4-11-2013; Ord. No. 14-031, passed 5-8-2014)

**SEC. 9-6-4 ADMINISTRATION.**

(A) *Designation of Local Floodplain Administrator.* The City Engineer or a designee is hereby appointed to administer and implement the provisions of this chapter. For the purposes of this chapter, the City Engineer or designee shall hereafter be referred to as the Local Floodplain Administrator.

(B) *Floodplain development permit and certification requirements; plans and application requirements.* Application for a floodplain development permit shall be made to the Local Floodplain Administrator on forms furnished by him or her prior to any development activities within flood prone areas. The following items/information shall be presented to the Local Floodplain Administrator to apply for a floodplain development permit:

(1) A plot that shows the 100-year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the floodplain development permit applicant when the lot is or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either section 9-6-4(E)(11), section 9-6-5(D) and section 9-6-5(E). The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same;

(2) The plot plan required by subsection (B)(1) above must show the floodway or non-encroachment area(s), if any, as identified by the Federal Emergency Management Agency or the floodway/non-encroachment area identified pursuant to either section 9-6-4(E)(11) or section 9-6-5(E);

(3) Where base flood elevation data is provided in accordance with section 9-6-3(B) or section 9-6-4(E)(11), the application for a floodplain development permit within the Zone A on the Flood Insurance Rate Map shall show:

(a) The elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;

(b) If the structure has been floodproofed in accordance with section 9-6-5(B)(2), the elevation (in relation to mean sea level) to which the structure was floodproofed; and

(c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

(4) Where the base flood elevation data is not provided, the application for a development permit must show construction of the lowest floor at least two feet above the highest adjacent grade;

(5) Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include: a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation;

(6) When a structure is floodproofed, the applicant shall provide a floodproofing certificate and back-up plans from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in section 9-6-5(B)(2);

(7) An elevation certificate (FEMA Form 81-31) or floodproofing certificate (FEMA Form 81-65) is required after the reference level is completed. Within 21 calendar days of establishment of the reference level elevation, or floodproofing, by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Local Floodplain Administrator a certification of the elevation of the reference level, or floodproofed elevation, whichever is applicable in relation to mean sea level. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, the certification shall be prepared by or under

the direct supervision of a professional engineer or architect and certified by same. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Local Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the certification or failure to make the corrections required shall be cause to issue a stop-work order for the project;

(8) A final as-built elevation certificate (FEMA Form 81-31) or floodproofing certificate (FEMA Form 81-65) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Local Floodplain Administrator a certification of final as-built construction of the elevation or floodproofed elevation of the reference level and all attendant utilities. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Local Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make the corrections required shall be cause to withhold the issuance of a certificate of compliance/occupancy;

(9) If a manufactured home is placed within an A, AO, AE or A1-30 Zone and the elevation of the chassis is above 36 inches in height, an engineered foundation certification is required per section 9-6-3(B);

(10) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit;

(11) A foundation plan drawn to scale which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include but are not limited to:

(a) Proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/piers);

(b) Should solid foundation perimeter walls be used in floodplains, details of sufficient openings to facilitate the unimpeded movements of floodwaters in accordance with section 9-6-5(B)(5).

(12) Usage details of any enclosed space below the regulatory flood protection elevation;

(13) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical and water systems to be located and constructed to minimize flood damage;

(14) Copy of all other local, state and federal permits required prior to floodplain development permit issuance (i.e., wetlands, erosion and sedimentation control, riparian buffers, mining and the like); and

(15) If floodplain development permit is issued for placement of recreational vehicles and/or temporary structures, documentation to ensure section 9-6-5(B)(4) and (B)(6) of this Code are met.

(C) *Certification exemptions.* The following structures, if located within A, AO, AE or A1-30 Zones, are exempt from the elevation/floodproofing certification requirements specified in subsections (A) and (B) above:

- (1) Recreational vehicles meeting requirements of section 9-6-5(B)(4);
- (2) Temporary structures meeting requirements of section 9-6-5(B)(6); and
- (3) Accessory structures less than 150 square feet meeting requirements of section 9-6-5(B)(7).

(D) *Floodplain development permit data requirements.* The following information shall be provided at a minimum on the floodplain development permit to ensure compliance with this Code:

- (1) A description of the development to be permitted under the floodplain development permit issuance;
- (2) The special flood hazard area determination for the proposed development per available data specified in section 9-6-3(B);
- (3) The regulatory flood protection elevation required for the reference level and all attendant utilities;
- (4) The regulatory flood protection elevation required for the protection of all public utilities;
- (5) All certification submittal requirements with timelines;
- (6) State that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, if applicable;
- (7) If in an A, AO, AE or A1-30 Zone, specify the minimum foundation opening requirements; and
- (8) State limitations of below BFE enclosure uses (if applicable) (i.e., parking, building access and limited storage only).

(E) *Duties and responsibilities of the Local Floodplain Administrator.* Duties of the Local Floodplain Administrator shall include but not be limited to:

- (1) Review all floodplain development applications and issue permits for all proposed development within flood prone areas to assure that the permit requirements of this chapter have been satisfied;
- (2) Advise permittee that additional federal or state permits (i.e., wetlands, erosion and sedimentation control, riparian buffers, mining, and the like) may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the floodplain development permit;
- (3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
- (4) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished;
- (5) Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of section 9-6-5 are met;

(6) Obtain actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and all attendant utilities in accordance with subsection (B)(7) or (8) of this section;

(7) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures and all utilities have been floodproofed, in accordance with subsection (B)(7) or (8) of this section;

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities, in accordance with subsection (B) above;

(9) When floodproofing is utilized for a particular structure, the Local Floodplain Administrator shall obtain certification from a registered professional engineer or architect, in accordance with this section and section 9-6-5(B)(2);

(10) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Local Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter;

(11) When base flood elevation data has not been provided in accordance with section 9-6-3(B), then the Local Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation along with floodway data and/or non-encroachment area data available from a federal, state or other source, including data developed pursuant to section 9-6-5(E)(4) in order to administer the provisions of section 9-6-5;

(12) When base flood elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with section 9-6-3(B), obtain, review and reasonably utilize any floodway data, and/or non-encroachment area data available from a federal, state or other source in order to administer the provisions of this chapter;

(13) When the exact location of boundaries of the special flood hazard areas conflict with the current, natural topography information at the site, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the Local Floodplain Administrator in the permit file;

(14) Make on-site inspections of projects in accordance with subsection (F) below. As the work pursuant to a floodplain development permit progresses, the Local Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Local Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action;

(15) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with subsection (F) below. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this chapter, the Local Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor;

(16) All records pertaining to the provisions of this chapter shall be permanently maintained in the office of the Local Floodplain Administrator and shall be open for public inspection;

(17) Annexation: provide the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program with two copies of the maps delineating new corporate limits within six months from date of annexation or change in corporate boundaries;

(18) Revocation of floodplain development permits as required. The Local Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked;

(19) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The Local Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action; and

(20) Follow through with corrective procedures of subsection (F) below.

(F) *Administrative corrective procedures.*

(1) *Violations to be corrected.* When the Local Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law in the property he or she owns.

(2) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the Local Floodplain Administrator shall give the owner written notice, by certified or registered mail to his or her last known address or by personal service, stating that:

(a) The building or property is in violation of the Flood Damage Prevention Ordinance;

(b) A hearing will be held before the Local Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(c) Following the hearing, the Local Floodplain Administrator may issue an order to alter, vacate or demolish the building; or to remove fill as appears appropriate.

(3) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Local Floodplain Administrator finds that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within 60 days. The Local Floodplain Administrator may prescribe a period shorter than 60 days; provided that the Local Floodplain Administrator finds that there is imminent danger to life or other property.

(4) *Appeal.* Any owner who has received an order to take corrective action may appeal from the order to the Board of Adjustment by giving notice of appeal in writing to the Local Floodplain Administrator and the City Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Local Floodplain Administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(5) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Board of Adjustment following an appeal, he or she shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

(G) *Variances.*

(1) The Board of Adjustment as established by the city shall hear and decide requests for variances from the requirements of this chapter.

- (2) Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal the decision to the Superior Court as provided in G.S. Chapter 7A of the North Carolina General Statutes.
- (3) Variance may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (4) In passing upon such applications for variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter and:
- (a) The danger that materials may be swept onto other lands to the injury of others;
  - (b) The danger to life and property due to flooding or erosion damage;
  - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) The importance of the services provided by the proposed facility to the community;
  - (e) The necessity to the facility of a waterfront location, where applicable;
  - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (g) The compatibility of the proposed use with existing and anticipated development;
  - (h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
  - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) The findings listed above shall be submitted to the Board of Adjustment, in writing, and included in the application for a variance.
- (6) Upon consideration of the factors listed above, and the purposes of this chapter, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (7) Variances shall not be issued within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result.
- (8) Conditions for variances:
- (a) Variances may not be issued when the variance will make the structure in violation of other federal, state or local laws, regulations or ordinances.
  - (b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (c) Variances shall only be issued upon:

1. A showing of good and sufficient cause;
  2. A determination that failure to grant the variance would result in exceptional hardship; and
  3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or chapters.
- (d) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. Such notification shall be maintained with a record of all variance actions.
- (e) The Local Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (9) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas, provided that all of the following conditions are met. A floodplain development permit may be issued for such development only if a variance is granted:
- (a) The use serves a critical need in the community;
  - (b) No feasible location exists for the use outside the special flood hazard area;
  - (c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection level;
  - (d) The use complies with all other applicable federal, state and local law; and
  - (e) The City of Greenville has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 days prior to granting the variance.  
(Ord. No. 03-123, passed 12-15-2003)

#### **SEC. 9-6-5 PROVISIONS FOR FLOOD HAZARD REDUCTION.**

- (A) *General standards.* In all special flood hazard areas the following provisions are required:
- (1) All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure;
  - (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
  - (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
  - (4) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be elevated to the regulatory flood protection elevation and/or designed so as to prevent water from entering or accumulating within the components during conditions of flooding. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, duct work, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator and the like), hot water heaters, electric outlets/switches;

- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (8) Any alteration, repair, reconstruction or improvement to a structure which is in compliance with the provisions of this chapter shall meet the requirements of new construction as contained in this chapter;
- (9) Nonconforming structures or other development may not be enlarged, replaced or rebuilt unless the enlargement or reconstruction is accomplished in conformance with the provisions of this chapter. Provided, however, nothing in this chapter shall prevent the repair, reconstruction or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback provided that the bulk of the building or structure below regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback is not increased and provided that such repair, reconstruction or replacement meets all of the other requirements of this chapter; and

(10) New solid waste disposal facilities, hazardous waste management facilities, salvage yards and chemical storage facilities shall not be permitted in special flood hazard areas. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to section 9-6-4(B) of this chapter.

(B) *Specific standards.* In all special flood hazard areas where base flood elevation data have been provided as set forth in section 9-6-3(B) or section 9-6-4(E)(11) and (12), the following provisions are required:

(1) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation.

(Ord. No. 00-19, § 4, passed 2-10-2000)

(2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. Such structures may be floodproofed to the regulatory flood protection elevation in lieu of being elevated, provided that all areas of the structure below the required flood protection elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 9-6-4(B)(3).

(3) *Manufactured homes.*

(a) New or replacement manufactured homes shall be elevated on a foundation such that the reference level of the manufactured home is elevated no lower than the regulatory flood protection elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(b) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of subsection (B)(3)(a) above must be elevated so that the lowest floor of the manufactured home is elevated no lower than the regulatory flood protection elevation, and be securely anchored to an adequately anchored foundation to resist flotation,

collapse and lateral movement in accordance with the State of North Carolina *Regulations for Manufactured/Mobile Homes*, 1995 Edition and any revision thereto adopted by the Commissioner of Insurance pursuant to G.S. 143-143.15 or a certified engineered foundation. Additionally, all manufactured homes located in special flood hazard areas must be installed either on a pre-approved foundation design from the *Manual of Standard Designs and Details* or on a foundation design certified by a professional engineer registered in the State of North Carolina. Furthermore, all tanks, decks, porches and steps to the manufactured home must be sufficiently designed and anchored to prevent collapse and/or flotation off the site, except that porches and steps serving a manufactured home on a lot that is less than five feet below the lowest floor of the manufactured home at the location of the porch or steps shall not be required to be anchored.

(c) An evacuation plan must be developed for evacuation of all residents of all new substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Local Floodplain Administrator and the local Emergency Management Coordinator.

(d) When the elevation of the manufactured home would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength.

(e) If a manufactured home is placed with the elevation of the chassis above 36 inches in height, an engineered foundation certification is required per subsection (B)(3).

(f) All foundation enclosures or skirting shall be in accordance with subsection (B)(5) of this section.

(4) *Recreational vehicles.* Recreational vehicles placed on sites within a special flood hazard area shall either:

(a) Be on site for fewer than 180 consecutive days;

(b) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and has no permanently attached additions); or

(c) Meet all the requirements for new construction, including anchoring and elevation requirements of section 9-6-4(B) and subsections (A) and (B)(3) of this section.

(5) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas that are below the regulatory flood protection elevation shall not be designed for human habitation, but shall be designed to be usable solely for the parking of vehicles, building access or limited storage of maintenance equipment used in connection with the premises in an area other than a basement, be constructed entirely of flood resistant materials below the regulatory flood protection level and meet the following design criteria.

(a) Measures for complying with this requirement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. To meet this requirement, the foundation must either be certified by a professional engineer or architect or meet the following minimum criteria:

1. Provide a minimum of two openings on different sides of each enclosed area subject to flooding having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one foot above the adjacent grade;

3. Openings may be equipped with screens, louvers or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions;

4. If a building has more than one enclosed area, each area must have openings on exterior walls to allow floodwater to directly enter; and

5. Foundation enclosures:

a. Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore such skirting does not require hydrostatic openings as outlined above.

b. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this chapter.

(b) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and

(c) The interior portion of the enclosed area shall not be partitioned or finished into separate rooms except to enclose storage areas.

(6) *Temporary structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the following requirements must be met:

(a) All applicants must submit to the Local Floodplain Administrator prior to the issuance of the floodplain development permit a plan for the removal of the structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:

1. A specific time period for which the temporary use will be permitted;

2. The name, address and phone number of the individual responsible for the removal of the temporary structure;

3. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

4. A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and

5. Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.

(b) The above information shall be submitted in writing to the Local Administrator for review and written approval.

(7) *Accessory structures.* When accessory structures (sheds, detached garages and the like) are to be placed in the floodplain, the following criteria shall be met:

(a) Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);

(b) Accessory structures shall be designed to have low flood damage potential;

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistant to the flow of flood waters;

(d) Accessory structures shall be firmly anchored in accordance with subsection (A)(1) above;

(e) All service facilities such as electrical and heating equipment shall be elevated in accordance with subsection (A)(4) above; and

1. Openings to relieve hydrostatic pressure during a flood shall be provided below regulatory flood protection elevation in conformance with subsection (B)(5).

2. An accessory structure with a footprint less than 150 square feet does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with section 9-6-4(B).

(8) *Additions/improvements.*

(a) Additions and/or improvements to pre-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure:

1. Are not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure;

2. Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(b) Additions to post-FIRM structures with no modifications to the existing structure shall require only the addition to comply with the standards for new construction.

(c) Additions and/or improvements to post-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure:

1. Are not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction;

2. Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(d) Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

(C) *Floodways and non-encroachment areas.* Located within special flood hazard areas established in section 9-6-3(B) are areas designated as floodways or non-encroachment areas. Since the floodways and non-encroachment areas are extremely hazardous areas due to the velocity of flood waters which carry debris, potential projectiles and have erosion potential, the following provisions shall apply to all development within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during occurrence of the base flood. Such certification and technical data shall be presented to the Local Floodplain Administrator.

(2) If subsection (C)(1) is satisfied, all development and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter.

(3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured homes (mobile homes) park or subdivision, provided the anchoring and the elevation standards of subsection (B)(3), and the non-encroachment standards of subsection (B)(1) are met.

(4) Notwithstanding any other provisions of 44 C.F.R. § 60.3, a community may permit encroachments within the adopted regulatory floodway or non-encroachment area that would result in an increase in base flood elevations, provided that the community first applies for a conditional LOMR and floodway revision, fulfills the requirements for such revisions as established under the provisions of 44 C.F.R. § 65.12 of the National Flood Insurance Program and Related Regulations, and receives the approval of the Local Floodplain Administrator prior to commencement of the development.

(D) *Standards for floodplains without established base flood elevations.* Within the special flood hazard areas established in section 9-6-3(B) are floodplains where no base flood elevation data has been provided, the following provisions shall apply:

(1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of the stream bank equal to five times the width of the stream at the top of bank or 20 feet each side from top of bank, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If subsection (E)(1) is satisfied and base flood elevation is available from other source, all new construction and substantial improvements within such areas shall comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with elevations established in accordance with section 9-6-4(E)(11) and (12). When base flood elevation data is not available from a federal, state or other source, the reference level, including basement, shall be elevated at least two feet above the highest adjacent grade.

(E) *Standards for subdivision, manufactured home park and major development proposals.*

(1) All proposals shall be consistent with the need to minimize flood damage;

(2) All proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(3) All proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(4) Base flood elevation data shall be provided for all proposals and other proposed development, which is greater than the lesser of 50 lots/manufactured home sites or five acres. Such base flood elevation (BFE) data shall be adopted by reference per section 9-6-3(B) to be utilized in implementing this Code.

(F) *Standards for floodplains with BFE but without established floodways or non-encroachment areas.* Along rivers and streams where base flood elevation (BFE) data is provided but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided, demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(G) *Standards for areas of shallow flooding (AO Zones).* Located within the special flood hazard areas established in section 9-6-3(B) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply within such areas:

(1) All new construction and substantial improvements of all structures shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least to the regulatory flood protection elevation as defined for the special flood hazard areas where no BFE has been established.

(2) All new construction and substantial improvements of nonresidential structures shall have the option, in lieu of elevation, to be completely floodproofed together with attendant utilities and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per section 9-6-4(B)(3) and section 9-6-4(B)(2).

(Ord. No. 03-123, passed 12-15-2003)

#### **SEC. 9-6-6 LEGAL STATUTES AND PROVISIONS.**

(A) *Effect on rights and liabilities under the existing flood damage prevention ordinance.* This chapter in part is adopted due to re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted June 8, 1978, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the City of Greenville enacted on June 8, 1978, as amended, which are not re-enacted herein are repealed.

(B) *Effect upon outstanding building permits.* Nothing herein contained shall require any change in the plans, construction, size or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Local Floodplain Administrator or his or her authorized agents, before time of passage of this chapter; provided, however, that when construction is not begun under such outstanding permit within a period of 60 days subsequent to passage of this chapter or any revision thereto, construction or use shall be in conformity with the provisions of this chapter.

(Ord. No. 03-123, passed 12-15-2003)



## CHAPTER 7: HISTORIC PRESERVATION COMMISSION

### Section

- 9-7-1 Establishment
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### SEC. 9-7-1 ESTABLISHMENT.

There is hereby established a Historic Preservation Commission of Greenville which shall serve jointly as a historic district and a historic landmarks commission for the city under the authority of the North Carolina General Statutes [160D, Article 9, Part 4](#). The Preservation Commission, performing the duties of both a Historic Districts Commission and a historian, shall conform their actions to this chapter and the statutory directive when acting in either capacity.

(1971 Code, § 9-10-1) (Ord. No. 1925, § 1, passed 12-8-1988; Ord. No. 2186, § 1, passed 5-10-1990)

### SEC. 9-7-2 DEFINITIONS.

For the purpose of this chapter only, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Alteration.* Any change because of construction, repair, maintenance or otherwise to a building located within a historic district or designated as a historic landmark.

*Building.* Any structure, place or any other construction built for the shelter or enclosure of persons, animals or chattels, or any part of such structure when subdivided by division walls or party walls extending to or above the roof and without openings in the separate walls.

*Certificate of appropriateness.* A document evidencing approval of the Commission for work proposed in a historic district or to a historic landmark by an applicant.

*City.* The City of Greenville.

*Commission or Preservation Commission.* The Historic Preservation Commission of the city.

*Commissioners.* The members of the Historic Preservation Commission of the city.

*Construction.* The erection of any on-site improvements on any parcel of ground located within a historic district or on a historic site, whether the site is presently improved, unimproved or hereinafter becomes unimproved by demolition, destruction of the improvements located thereon by fire, windstorm or other casualty.

*Demolition.* The complete or constructive removal of a building on any site.

*Department.* The North Carolina Department of Cultural Resources.

*Design ~~guidelines or guidelines~~ **standards or standards**.* Criteria that is considered by the Historic Preservation Commission when considering and deciding the appropriateness of a proposed change in a historic district or to a historic landmark.

*Designation.* The creation of a historic district or a historic landmark through the passage of an ordinance by the City Council.

*Exterior architectural features.* Include the architectural style, general design and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material, and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor advertising signs, [exerior architectural features] shall be construed to mean the style, material, size and location of all such signs.

*Historic district.* An area containing buildings, structures or places which have a character and ambience being of special significance in terms of their history, prehistory, architecture, or cultural importance and possess integrity of design, setting, material, feeling and association; and is designated by an ordinance of the City Council.

*Historic landmark.* Any site, landmark, structure, or artifact which is found to be of special significance in terms of its historical, prehistorical architectural, or cultural importance and possess integrity of design, setting, workmanship, material, feeling and association; and is so designated by ordinance of the City Council.

*Ordinary repairs and maintenance.* Work done on a building to prevent it from deterioration or to replace any part thereof in order to correct any deterioration, decay or damage to a building or any part thereof in order to restore same as nearly as practical to its condition prior to such deterioration, decay or damage.

*Overlay zoning districts.* A district that is imposed in addition to those of the underlying district. Developments within overlying zoning districts must conform to the requirements of both zones or the more restrictive of the two.

*Rules of procedures.* Procedures for organizing the business of the Historic Preservation Commission, and the processing of applications for certificate of appropriateness.

*Separate use districts.* A section of the city designated in the Zoning Ordinance text and delineated on the zoning map, in which requirements for the use of land and building development standards are prescribed.

(1971 Code, [ 9-10-2) (Ord. No. 1925, [ 1, passed 12-8-1988; Ord. No. 2186, [ 2, passed 5-10-1990)

### **SEC. 9-7-3 QUALIFICATION OF MEMBERS; TERMS; APPOINTMENTS; GENERAL DUTIES.**

(A) Until January 31, 1997, the Commission shall consist of 11 members. Thereafter the Commission shall consist of ten members. All members shall reside within the planning and zoning jurisdiction of the city. In addition, a majority of the members of the Preservation Commission shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields.

(B) Commission members duly appointed and currently serving on the Commission as of the effective date of this chapter may continue to serve for the remainder of that member's current term, and the eligibility of any member for reappointment to a subsequent term shall not be affected. Commission members shall serve overlapping terms of three years, with appointment of replacements or reappointment as provided in subsection (C), below.

(C) (1) The terms of office shall be configured as follows:

(a) Three members shall be appointed or reappointed for three-year terms in January 1997.

(b) Three members shall be appointed or reappointed for three-year terms in January 1998.

(c) Four members shall be appointed or reappointed for three-year terms in January 1999.

(2) The appointments or reappointments for expiring terms shall occur every year thereafter for the terms expiring in that year.

(D) For purposes of taking action on any matter that the Commission is required by law or ordinance to act on, a quorum of the Commission shall consist of five members.

(E) The members of the Historic Preservation Commission shall be appointed by and will serve at the pleasure of the City Council.

(F) The Historic Preservation Commission shall select from among its members a Chairperson and Vice-Chairperson who shall be elected annually by the members.

(G) Upon its first formal meeting, and prior to performing any duties under this chapter or under the authority of the North Carolina General Statutes, the Historic Preservation Commission shall adopt rules of procedure governing the Commission's actions which are not governed by this chapter or the General Statutes.

(1971 Code, § 9-10-3) (Ord. No. 1925, § 1, passed 12-8-1988; Ord. No. 2186, § 3, passed 5-10-1990; Ord. No. 96-107, § 1, passed 11-14-1996)

**SEC. 9-7-4 MEETINGS; ATTENDANCE.**

Any member of the Historic Preservation Commission who misses three consecutive regularly scheduled meetings or fails to attend 75% of the regularly schedule meetings in a calendar year shall lose his or her status as a member of the Commission and shall be replaced by the City Council pursuant to section 9-7-3 of this chapter. Absence due to sickness, death in the family or other emergencies of like nature shall be recognized as excused absences, as approved by the Chairperson, and shall not affect the member's status on the Commission. In the event of a long illness or any other such cause for prolonged absence, the member shall be replaced.

(1971 Code, § 9-10-4) (Ord. No. 1925, § 1, passed 12-8-1988; Ord. No. 2186, § 4, passed 5-10-1990)

**SEC. 9-7-5 SAME; TIME AND DATE.**

The Historic Preservation Commission shall establish a meeting time, and shall meet at least quarterly and more often as it shall determine and require.

(1971 Code, § 9-10-5) (Ord. No. 1925, § 1, passed 12-8-1988)

**SEC. 9-7-6 SAME; MINUTES.**

The Commission shall keep permanent minutes of all its meetings, which shall be a public record. The minutes shall record attendance of its members, its resolutions, findings, recommendations and actions.

(1971 Code, § 9-10-6) (Ord. No. 1925, § 1, passed 12-8-1988)

**SEC. 9-7-7 MEMBERS; RIGHTS AND PRIVILEGES.**

All members of the Commission shall have equal rights, privileges and duties in all matters, whether they reside within the corporate limits of the city or in the extraterritorial jurisdiction of Greenville.

(1971 Code, § 9-10-7) (Ord. No. 1925, § 1, passed 12-8-1988)

**SEC. 9-7-8 SAME; COMPENSATION.**

All members of the Commission shall serve without compensation, except that they may be reimbursed for actual expenses incident to the performance of their duties within the limits of any fund available to the Commission.

(1971 Code, § 9-10-8) (Ord. No. 1925, § 1, passed 12-8-1988)

**SEC. 9-7-9 RULES OF PROCEDURE; PRINCIPLES AND GUIDELINES. STANDARDS.**

The Commission shall adopt rules of procedure for the conduct of its business; and principles and guidelines for new construction, alterations, additions, moving and demolition of designated historic properties and properties in historic districts.

(1971 Code, § 9-10-9) (Ord. No. 1925, § 1, passed 12-8-1988)

**A member of the Commission shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter than is not susceptible to change; undisclosed ex parte communications; a close familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection (NCGS 160D-109(d)).**

**SEC. 9-7-10 RECEIPT OF GIFTS.**

The City Council shall have the right to accept gifts and donations in the name of the city for historic preservation purposes.

(1971 Code, § 9-10-10) (Ord. No. 1925, § 1, passed 12-8-1988)

**SEC. 9-7-11 ROLE OF CITY COUNCIL.**

(A) The designation of a historic landmark or district shall be effective through an ordinance passed by the City Council.

(B) Upon compliance with the North Carolina General Statutes, the City Council may adopt and, from time to time, amend or repeal an ordinance designating one or more properties or districts.

(C) No landmark or district shall be recommended for designation unless it is deemed to be of special significance in terms of its history, prehistory, architecture and/or cultural importance. The landmark or district must lie within the planning and zoning jurisdiction of the city.

(1971 Code, § 9-10-14) (Ord. No. 1925, § 1, passed 12-8-1988; Ord. No. 2186, § 6, passed 5-10-1990)

**SEC. 9-7-12 POWERS OF PRESERVATION COMMISSION.**

The Commission shall be authorized within the planning and zoning jurisdiction of the city to:

(A) Undertake an inventory of landmarks of historical, prehistorical, architectural, and/or cultural significance;

(B) Recommend to the City Council areas to be designated by ordinance as a historic district; and individual structures, buildings, sites, areas, or objects to be designated by ordinance as a §historic landmark;

(C) Recommend to the City Council that the city acquire, by any lawful means, the fee or any lesser included interest, including options to purchase, of landmarks within designated districts or of any such designated landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the landmark by public or private sale, lease or

otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the landmark;

- (D) Restore, preserve and operate historic landmarks;
- (E) Recommend to the City Council that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area or object as a historic landmark, be revoked or removed;
- (F) Conduct an educational program with respect to historic landmarks and districts within its jurisdiction;
- (G) Cooperate with the federal, state and local governments in pursuance of the purposes of historic preservation, and to offer or request assistance, guidance or advice concerning matters under its purview or of mutual interest;
- (H) Enter, solely in performance of its official duties and only at reasonable times, upon private lands, following written notification, for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof;
- (I) Prepare and recommend the official adoption of a preservation element as part of the city's Comprehensive Plan;
- (J) Review and act upon proposals for alterations, demolitions or new construction within historic districts, or for the alteration or demolition of designated properties;
- (K) Recommend to City Council the negotiations with the owner of a building, structure, site, area or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate;
- (L) Propose changes to this chapter or any related ordinance and to propose new ordinances or laws relating to historic landmark districts, or to the total programs for the development of the historical resources of the city and its environs;
- (M) Give advice to property owners concerning the treatment of the historical and visual characteristics of their properties such as color schemes, garden and landscape features, and minor decorative elements;
- (N) Take steps, during the period of postponement of demolition or alteration of any historic landmark, to ascertain what the City Council can or may do to preserve such property, including consultation with private civic groups, interested private citizens and other public boards or agencies and including investigation of potential acquisition by the City Council when the preservation of a given historic landmark is clearly in the interest of the general welfare of the community and the property is of certain historic and architectural significance;
- (O) Establish ~~guidelines~~ **procedures** under which the Director of Planning and Development Services, or his or her designee, may approve minor works **in conformance with adopted standards** on behalf of the Commission. No application shall be denied without first being considered by the Commission;
- (P) Conduct ~~public~~ **evidentiary** hearings on applications for certificate of appropriateness where the Commission deems that such a hearing is necessary;
- (Q) Assist the city staff in obtaining the services of private consultants to aid in carrying out programs of research or analysis;
- (R) Publish information about, or otherwise inform the public of any matters pertinent to its purview, duties, organization, procedures, responsibilities, functions or requirements as its budget may allow; and
- (S) Report violations of this chapter or related ordinances with respect to historic properties to the Chief Building Inspector.

(T) Post on the site that is the subject of a public an evidentiary hearing, as authorized under ~~G.S. Chapter 160A, Article 19, Part 3C~~ **G.S. 160D, Article 9, Part 4** or this chapter, or on an adjacent street or highway right-of-way of the site that is the subject of a public hearing under ~~G.S. Chapter 160A, Article 19, Part 3C~~ **G.S. 160D, Article 9, Part 4** or this chapter, a notice of evidentiary hearing or a notice of the issuance of a certificate of appropriateness in accordance with the Historic Preservation Commission, Greenville, North Carolina Rules of Procedure.

(1971 Code, § 9-10-15) (Ord. No. 1925, § 1, passed 12-8-1988; Ord. No. 2186, § 7, passed 5-10-1990; Ord. No. 06-75, § 2, passed 8-10-2006; Ord. No. 19-014, § 1, passed 2-14-2019; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-7-13 CERTIFICATE OF APPROPRIATENESS; REQUIRED.**

(A) *Generally.*

(1) After the designation of a historic landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on the designated landmark or district until after an application for a certificate of appropriateness has been submitted to and approved by the Historic Preservation Commission. The Commission shall have no jurisdiction over the interior arrangement, except as provided in subsection (B) below, and shall take no action except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or other significant features which would be incongruous with the special character of the historic landmark or historic district.

(2) The certificate of appropriateness shall be issued prior to the issuance of a building or other permit, and shall be required whether or not a building or other permit is required.

(3) The discontinuance of work or the lack of progress toward achieving compliance with a certificate of appropriateness for a period of six months shall render the certificate null and void, and application shall be made for a new certificate before work can recommence.

(4) The issuance of a certificate of appropriateness does not run with the land and cannot be conveyed in the sale of property.

(B) *Interiors.* The Commission may have jurisdiction over the interior, but shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned historic landmarks, and in privately owned historic landmarks for which consent for interior review has been given by the owner. The consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the Register of Deeds of the county and indexed according to the name of the owner of the landmark in the grantee and grantor indexes. The ordinance designating such interior shall specify the interior features to be covered and the nature of the Commission's jurisdiction over the interior.

(C) *Public utilities.* The city and all public utility companies shall be required to obtain a certificate of appropriateness prior to initiating work in a historic district for any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures and buildings on property, easements or streets owned or franchised by the city or public utility companies.

(1971 Code, § 9-10-17) (Ord. No. 1925, § 1, passed 12-8-1988; Ord. No. 2186, § 9, passed 5-10-1990)

#### **SEC. 9-7-14 SAME; REQUIREMENTS FOR ISSUANCE.**

(A) *Application submitted to appropriate administrative official.* An application for a certificate of appropriateness shall be obtained from and, when completed, filed with the Director of Planning and Development Services or designee in the Community Development Department.

(B) *Contents of application.*

(1) The application shall, in accordance with the Historic Preservation Commission's rules of procedure, contain data that is reasonably necessary to determine the nature of the application. An application for a certificate of appropriateness shall not be considered complete until all required data has been submitted.

(2) Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.



(C) *Notification of affected property owners.* Prior to any action taken on a certificate of appropriateness, the owners of any landmark likely to be materially affected by the application shall be notified in writing, and the applicant and such owners shall be given an opportunity to be heard.

(D) ~~Public~~ **Evidentiary** hearing. When an application is presented to the Historic Preservation Commission a ~~public hearing~~ **an evidentiary hearing** may be held when deemed necessary.

(E) *Action on an application.*

(1) The action on an application shall be approval, approval with modifications, or denial.

(2) Prior to any action on an application, the review criteria in section 9-7-15 and the Commission's design ~~guidelines~~ **standards** shall be used to make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the designated landmark or district.

(3) All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time as defined by the rules of procedure. As part of this review procedure, the Commission may view the premises and seek advice from the Department of Cultural Resources or other such expert advice as it may deem necessary under the circumstances.

(F) *Appeal.*

(1) An appeal may be taken to the Board of Adjustment from the Commission's action in granting or denying any certificate **shall be in the nature of certiorari as provided by NCGS 160D-1402**, which appeal:

~~(2) —~~

~~(a) May be taken by any aggrieved party;~~

~~(b) Shall be taken within the time prescribed by the Commission's rules of procedure; and~~

~~(c) Shall be in the nature of certiorari.~~

(2) Any appeal from the Board of Adjustment's decision in any such case shall be heard by the Superior Court of Pitt County as provided by ~~applicable laws~~ **NCGS 160D-1402**.

(G) *Submission of new application.* If a certificate of appropriateness is not issued, a new application affecting the same landmark may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

(1971 Code, § 9-10-18) (Ord. No. 1925, § 1, passed 12-8-1988; Ord. No. 2186, § 10, passed 5-10-1990; Ord. 19-045, § 1, passed 9-12-2019)

**SEC. 9-7-15 SAME; REVIEW CRITERIA.**

(A) *Intent.*

(1) It is the intent of these criteria to ensure, insofar as possible, that changes to a designated landmark in a historic district shall be in harmony with the reasons for designation.

(2) When granting a certificate of appropriateness, the Commission shall take into account the historic or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure as well as the effect of such change or additions upon other structures in the vicinity. In a historic district it is not the intention of these ~~guidelines~~ **standards** to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of same or to impose architectural styles from particular historic periods. In considering new construction in a historic district, the Commission may encourage contemporary design which is harmonious with the character of the district.

(B) *Form and appearance.*

(1) The Historic Preservation Commission shall adopt detailed ~~guidelines~~ **standards** which will take into account the historic and architectural significance and visual and historic elements for each designated historic district.

(2) The following criteria shall be considered, when relevant, along with other appropriate ~~guidelines~~ **standards** including The Secretary of the Interior's Standards for Rehabilitating Historic Buildings, in reviewing applications for a certificate of appropriateness:

- (a) Lot coverage, defined as the percentage of lot area covered by primary structures;
- (b) Setback, defined as the distance from the lot lines to the building(s);
- (c) Building height;
- (d) Spacing of buildings, defined as the distance between adjacent buildings;
- (e) Building materials;
- (f) Proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;
- (g) Surface textures;
- (h) Roof shapes, forms and materials;
- (i) Use of local or regional architectural traditions;
- (j) General form and proportions of buildings and structures, and relationship of any additions to the main structure;
- (k) Expression of architectural detailing, such as lintels, cornices, brick bond, and foundation materials;
- (l) Orientation of the building to the street;
- (m) Scale, determined by the size of the units of construction and architectural details in relation to the human scale and also by the relationship of the building mass to adjoining open space and nearby buildings and structures;
- (n) Proportion of width to height of the total building facade;
- (o) Archaeological sites and resources association with standing structures;
- (p) Major landscaping efforts that would impact known archaeological sites;
- (q) Appurtenant fixtures and other features, such as lighting;
- (r) Structural condition and soundness;
- (s) Walls, physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses, building facades, or combinations of these;
- (t) Maintenance of pedestrian scale and orientation as well as provision for safe pedestrian movement; and
- (u) Other exterior construction, including surfaced areas and signs.

(C) *Conditions to certain approvals.* In the event that the Historic Preservation Commission, in reviewing an owner's proposed plans, shall find that a building or structure for which a building permit is required is to be an authentic restoration or reconstruction of a building or structure which existed at the same location but does not meet zoning requirements, the building or structure may be authorized to be restored or reconstructed at the same location where the original building or structure was located, provided the Board of Adjustment authorizes the restoration or reconstruction and no use other than that permitted in the district in which it is located is made of the property. Such conditions as may be set by the Historic Preservation Commission and the Zoning Board of Adjustment shall be conditions for the issuance of the building permit. (1971 Code, § 9-10-19) (Ord. No. 1925, § 1, passed 12-8-1988)

#### **SEC. 9-7-16 MINOR WORKS; ~~EXEMPT.~~**

A certificate of appropriateness application, when determined to involve a minor work, may be reviewed and approved by an administrative official according to review criteria and ~~guidelines~~ **standards**. Minor works will be specified in the design ~~guidelines~~ **standards**. (1971 Code, § 9-10-20) (Ord. No. 1925, § 1, passed 12-8-1988)

#### **SEC. 9-7-17 DEMOLITION OF BUILDINGS.**

(A) *Generally.* An application for a certificate of appropriateness authorizing the relocation, demolition or destruction of a designated landmark or a building, structure or site within a designated district may not be denied. However, the effective date of such certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Historic Preservation Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from the property by virtue of the delay. During this period the Historic Preservation Commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the Historic Preservation Commission finds that a building or site within a district has no special significance or value toward maintaining the character of the district, it shall waive all or part of the period and authorize earlier demolition, or removal.

(B) *Delay of demolition of properties or properties within district in process of being designated.* If the Historic Preservation Commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the City Council, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the Historic Preservation Commission for a period of up to 180 days or until the City Council takes final action on the designation, whichever occurs first.

(C) *Antidemolition by neglect ordinance.* The City Council may enact an ordinance to prevent the demolition of any designated landmark or any building, structure or site within a designated district due to neglect. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

(D) *Denial of demolition of statewide significant landmarks.* An application for a certificate of appropriateness authorizing the demolition or destruction of a building, structure or site determined by the State Historic Preservation Officer as having statewide significance, as defined in the criteria of the National Register of Historic Places, may be denied except where the Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial. (1971 Code, § 9-10-20.1) (Ord. No. 2186, § 11, passed 5-10-1990; Ord. No. 2454, § 1, passed 5-14-1992)

#### **SEC. 9-7-18 CERTAIN CHANGES NOT PROHIBITED.**

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of a historic landmark or in a historic district which does not involve a change in design, materials or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration or demolition of such feature which the Building Inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner from making the use of his or her property not prohibited by other

statutes, ordinances or regulations. Also, nothing herein shall prevent the maintenance or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure without the approval of the Preservation Commission. (1971 Code, § 9-10-21) (Ord. No. 1925, § 1, passed 12-8-1988; Ord. No. 2186, § 12, passed 5-10-1990)

#### **SEC 9-7-18.1 SOLAR COLLECTORS.**

(A) Except as provided under subsection (B), the Commission shall not prohibit the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property, and no person shall be denied permission to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property. As used in this section, the term *residential property* means property where the predominant use is for residential purposes.

(B) No solar collector described in subsection (A) shall be allowed that is visible by a person on the ground:

- (1) On the façade of a structure that faces areas open to common or public access;
- (2) On a roof surface that slopes downward toward the same areas open to common or public access that the façade of the structure faces; or
- (3) Within the area set off by a line running across the façade of the structure extending to the property boundaries on either side of the façade, and those areas of common or public access faced by the structure.

(C) Additional requirements, standards and restrictions concerning the installation and use of a solar collector shall be set forth in the Historic Preservation Commission's Design ~~Guidelines~~ Standards. (Ord. No. 10-50, § 1, 6-10-2010)

#### **SEC. 9-7-19 OWNERSHIP OF PROPERTY.**

All lands, buildings, structures, sites, areas or objects shall be acquired in the name of the city unless otherwise provided by the City Council. So long as owned by the city, historic landmarks may be maintained by or under the supervision and control of the city.

(1971 Code, § 9-10-22) (Ord. No. 1925, § 1, passed 12-8-1988)

#### **SEC. 9-7-20 PUBLICLY OWNED BUILDINGS AND STRUCTURES.**

All provisions of this chapter and the General Statutes are hereby made applicable to the construction, use, alteration, moving and demolition by the state, its political subdivisions, agencies, and instrumentalities, **provided, however,** they shall not apply to the interior of buildings or structures owned by the state. The **current edition of the** Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings shall be the sole guidelines used in reviewing applications of the state for certificate of appropriateness. **The State and its agencies may appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of the Historic Preservation Commission. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing applications of the State for certificates of appropriateness. The decision of the North Carolina Historical Commission is final and binding upon both the State and the historic preservation commission.**

(1971 Code, § 9-10-23) (Ord. No. 1925, § 1, passed 12-8-1988; Ord. No. 2186, § 13, passed 5-10-1990)

#### **SEC. 9-7-21 PUBLIC MEETINGS AND HEARINGS.**

All meetings and hearings of the Commission shall be in accordance with the rules of procedure and the North Carolina Open Meeting Law.

(1971 Code, § 9-10-24) (Ord. No. 1925, § 1, passed 12-8-1988; Ord. No. 2186, § 14, passed 5-10-1990)



**SEC. 9-7-22 ENFORCEMENT AND APPEALS.**

The Zoning Enforcement Officer shall be responsible for the enforcement of the chapter. The zoning enforcement officer may provide for the enforcement of this chapter by means of withholding permits and/or issuance of civil citation(s) in accordance with Title 9, Chapter 4, Article U, section 9-4-356 of the City Code. He or she may provide for enforcement by instituting injunction, mandamus or other appropriate action or proceeding to prevent unlawful erection, construction, reconstruction, alteration, conversion, moving, maintenance or use; to correct or abate the violation; or to prevent the occupancy of the building, structure or land. If a decision of the Zoning Enforcement Officer is questioned, the aggrieved person may appeal the decision to the Board of Adjustment in accordance with applicable procedure and law. (1971 Code, § 9-10-25) (Ord. No. 99-18, § 1, passed 2-11-1999)

**SEC. 9-7-23 PENALTIES FOR VIOLATIONS.**

Any violation of this chapter shall be considered a violation of the zoning regulations and shall subject the offender to a civil penalty and other appropriate equitable action in accordance with Title 9, Chapter 4, Article U, section 9-4-356 of the City Code. (1971 Code, § 9-10-26) (Ord. No. 99-18, § 2, passed 2-11-1999)

**SEC. 9-7-24 EXTRATERRITORIAL PROVISIONS.**

The provisions of this chapter shall be applicable only within the planning and zoning jurisdiction of the city. (1971 Code, § 9-10-27) (Ord. No. 1925, § 1, passed 12-8-1988)



## CHAPTER 8: SOIL EROSION AND SEDIMENTATION CONTROL

### Section

- 9-8-1 Title
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- 9-8-9 Stormwater outlet protection
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- 9-8-12 Operations in lakes or natural watercourses
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- 9-8-15 Existing uncovered areas
- 9-8-16 Permits
- 9-8-17 Erosion and sedimentation control plans
- 9-8-18 Appeals
- 9-8-19 Inspections and investigations
- 9-8-20 Penalties
- 9-8-21 Injunctive relief
- 9-8-22 Restoration of areas affected by failure to comply
- 9-8-23 Severability

### SEC. 9-8-1 TITLE.

This chapter may be cited as The City of Greenville Soil Erosion and Sedimentation Control Ordinance or this chapter. (Ord. No. 98-7, passed 1-8-1998)

### SEC. 9-8-2 **AUTHORITY AND PURPOSES.**

This chapter is adopted under **NCGS 113A; Part 6, Article 21 of Chapter 143 and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes** for the purpose of:

- (A) **Promoting the public health, safety, and general welfare; and**
- (B) Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation within the city limits of the City of Greenville and the extraterritorial jurisdiction of the city; and
- (B) Establishing procedures through which these purposes can be fulfilled. (Ord. No. 98-7, passed 1-8-1998; Ord. No. 06-50, § 1, passed 6-8-2006)

### SEC. 9-8-3 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Accelerated erosion.* Any increase over the rate of natural erosion as a result of land-disturbing activities.

*Act.* The North Carolina Sedimentation Pollution Control Act of 1973, being G.S. 113A-50 *et seq.*, and all rules and orders adopted pursuant to it.

*Active construction.* Activities which contribute directly to the building of facilities including land-disturbing activities for roads, parking lots, footings and the like.

*Adequate erosion and control measure, structure or device.* One which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

*Affiliate.* A person who directly, or indirectly through one or more intermediaries control, is controlled by or is under common control of another person.

*Being conducted.* A land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.

*Borrow.* Fill material which is required for on-site construction and is obtained from other locations.

*Buffer zone.* The strip of land adjacent to a lake or natural watercourse.

*Coastal counties.* The following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Care, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Tyrrell and Washington.

*Commission.* The City of Greenville Planning and Zoning Commission.

*Completion of construction or development.* No further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

*Denuded.* The removal of ground cover from, on or above the soil surface.

*Department.* The North Carolina Department of Environment, Health, and Natural Resources.

*Director.* The Director of the Division of Land Resources of the Department of Environment, Health, and Natural Resources.

*Discharge point.* That point at which runoff leaves a tract of land.

*District.* The Pitt County Soil and Water Conservation District created pursuant to G.S. Chapter 139 of the North Carolina General Statutes.

*Drainage easement.* A minimum strip of land reserved for conveyance of stormwater generally located along the rear or side lot lines but may cross lots at such points that will not pose a hazard to persons or property.

*Energy dissipator.* Any structure or a shaped channel section with mechanical armoring placed at the outlet or pipes or conduits to receive and break down the energy from high velocity flow.

*Erosion.* The wearing away of the land surface by the action of the wind, water, gravity or any combination thereof.

*Extraterritorial jurisdiction.* That territory surrounding the corporate limits of the city over which the city exercises its planning and zoning authorities as established by action of the City Council on June 26, 1972 and subsequently amended.

*Ground cover.* Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

*High quality water (HQW) zones.* Areas in the Coastal Counties that are within 575 feet of high quality waters and for the remainder of the state areas that are within one mile and drain to HQWs.

*High quality waters.* Those classified as such in 15A NCAC 2B.0101(e)(5), General Procedures, which is incorporated herein by reference to include further amendments pursuant to G.S. Chapter 150B, Article 2A.

*Lake or natural watercourse.* Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension and which could be damaged by accumulation of sediment.

*Land-disturbing activity.* Any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

*Land-disturbing permit.* The approval document allowing land-disturbing activities to be initiated. A project may be developed in phases with separate permits for each phase.

*Local government.* Any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns and cities, acting through a joint program pursuant to the provisions of the Act.

*Natural erosion.* Wearing away of the earth's surface by water, wind or other natural agents under natural environmental conditions undisturbed by mankind.

*Parent.* An affiliate that directly, or indirectly through one or more intermediaries, controls another person.

*Person.* Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body or other legal entity.

*Person conducting land-disturbing activity.* Any person who may be held responsible for a violation unless expressly provided otherwise by this chapter, the Act, or any order adopted pursuant to this chapter or the Act.

*Person responsible for the violation.* As used in this chapter and G.S. 113A-64, means:

(1) The developer or other person who has or holds himself or herself out as having financial or operational control over the land-disturbing activity; or

(2) The landowner or person in possession or control of the land when he or she has directly or indirectly allowed the land-disturbing activity or has benefitted from it, or he or she has failed to comply with any provision of this chapter, the Act or any order adopted pursuant to this chapter or the Act as imposes a duty upon him or her.

*Phase of grading.* One of two types of grading, rough or fine.

*Plan.* Erosion and Sedimentation Control Plan.

*Protective cover.* Natural or artificial ground cover of grass, trees, shrubs or mulch sufficient to reduce erosion potential.

*Receiving watercourse.* A lake, natural watercourse, or other natural or man-made area into which stormwater runoff flows from a land-disturbing activity.

*Sediment.* Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity or ice from its site of origin.

*Sedimentation.* The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

*Siltation.* Sediment resulting from accelerated erosion which is settleable or removable by properly designed, constricted and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited or is in suspension in water.

*Special flood hazard area.* The land located within the floodplain subject to a 1% or greater chance of flooding in any given year and subject to the conditions of Title 9, Chapter 6 of the City Code, Flood Damage Prevention.

*Storm drainage facilities.* The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

*Stormwater runoff.* The direct runoff of water resulting from precipitation in any form.

*Ten-year storm.* The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.

*Tract.* All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

*Twenty-five-year storm.* The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

*Uncovered.* The removal of ground cover from, on or above the soil surface.

*Undertaken.* The initiating of any activity or phase of activity which results or will result in a change in the ground cover or topography of a tract of land.

*Velocity.* The average velocity of flow through the cross-section of the main channel at the peak flow of the storm of interest. The cross-section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

*Wastes.* Surplus materials resulting from on-site construction and disposed of at other locations.

*Working days.* Days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

(Ord. No. 98-7, passed 1-8-1998; Ord. No. 99-119, § 1, passed 9-9-1999)

#### **SEC. 9-8-4 SCOPE; EXCLUSIONS.**

This chapter shall not apply to the following land-disturbing activities:

(A) Activities, including the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to mankind, including but not limited to:

- (1) Forages and sod crops, grains and feed crops, tobacco, cotton and peanuts;
- (2) Dairy animals and dairy products;
- (3) Poultry and poultry products;
- (4) Livestock, including beef cattle, sheep, swine, horses, ponies, mules and goats;
- (5) Bees and apiary products; and

(6) Fur-producing animals.

(B) Activities undertaken on forest land for the production and harvesting of timber and timber products and which are conducted in accordance with best management practices set out in *Forest Practice Guidelines Related to Water Quality* as adopted by the Department. If land-disturbing activity undertaken on forest land for the production and harvesting of timber and timber products is not conducted in accordance with *Forest Practice Guidelines Related to Water Quality*, the provisions of this chapter shall apply to such activity and any related land-disturbing activity on the tract; and

(C) Activities for which a permit is required under the Mining Act of 1971, being G.S. Chapter 74, Article 7 of the General Statutes;

(D) Land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a); and

(E) For the duration of an emergency, activities essential to protect human life.

(Ord. No. 98-7, passed 1-8-1998)

#### **SEC. 9-8-5 GENERAL REQUIREMENTS.**

(A) *Plan and permit required.* No person shall initiate any land-disturbing activity which uncovers more than one acre without having an erosion control plan and land-disturbing permit approved by the city. Additionally, no person shall initiate any land-disturbing activity greater than 5,000 square feet without having a land-disturbing permit approved by the city. Furthermore, no person shall initiate land-disturbing activity of any size within the special flood hazard area without first obtaining a land-disturbing permit and an approved sedimentation and erosion control plan meeting the requirements of this chapter and Chapter 6 entitled "Flood Damage Prevention.

(Ord. No. 99-119, § 2-6, passed 9-9-1999)

(B) *Protection of property.* Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by that activity.

(C) *More restrictive rules shall apply.* Whenever conflicts exist between federal, state or local laws, ordinances or rules, the more restrictive provision shall apply.

(Ord. No. 98-7, passed 1-8-1998)

#### **SEC. 9-8-6 BASIC CONTROL OBJECTIVES.**

(A) An erosion and sedimentation control plan may be disapproved pursuant to section 9-8-17 of this chapter if the plan fails to address the following control objectives:

(1) *Identify critical areas.* On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention;

(2) *Limit time of exposure.* All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time;

(3) *Limit exposed areas.* All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time;

(4) *Control surface water.* Surface water runoff originating upgrate of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure;

(5) *Control sedimentation.* All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage; and

(6) *Manage stormwater runoff.* When the increase in the velocity of stormwater runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

(B) When deemed necessary by the approving authority, a preconstruction conference may be required.

(Ord. No. 98-7, passed 1-8-1998; Ord. No. 00-155, ¶ 1, 2, passed 12-14-2000)

#### **SEC. 9-8-7 MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY.**

No land-disturbing activity subject to the control of this chapter shall be undertaken except in accordance with the following mandatory standards:

(A) *Buffer zone.*

(1) No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25% of the buffer zone nearest the land-disturbing activity, provided that this subsection shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over or under a lake or natural watercourse.

(2) Unless otherwise provided, the width of a buffer zone is measured from the edge of the water to the nearest edge of the disturbed area, with the 25% of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

(B) *Graded slopes and fills.* The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 21 calendar days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices or structures sufficient to restrain erosion.

(Ord. No. 99-119, ¶ 8, passed 9-9-1999; Ord. No. 11-018, ¶ 1, passed 4-11-2011)

(C) *Ground cover.* Whenever land-disturbing activity is undertaken on a tract in excess of 5,000 square feet, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of the tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in section 9-8-8(B)(5), provisions for ground cover sufficient to restrain erosion must be accomplished within 21 calendar days following completion of any phase of grading.

(Ord. No. 99-119, ¶ 10, passed 9-9-1999; Ord. No. 00-155, ¶ 3, 4, passed 12-14-2000; Ord. No. 06-50, ¶ 2, passed 6-8-2006)

(D) *Prior plan approval.* No person shall initiate any land-disturbing activity on a tract if more than one acre is to be uncovered unless, 30 or more days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with and approved by the city.

(Ord. No. 98-7, passed 1-8-1998)

#### **SEC. 9-8-8 DESIGN AND PERFORMANCE STANDARDS.**

(A) Except as provided in subsection (B)(2) of this section, erosion and sedimentation control measures, structures and devices shall be so planned, designed and constructed as to provide protection from the calculated maximum peak rate of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's *National Engineering Field Manual for Conservation Practices*, or other acceptable calculation procedures.

(B) In high quality water (HQW) zones the following design standards shall apply:

- (1) Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the tract of 20 acres. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director.
- (2) Erosion and sedimentation control measures, structures and devices within HQW zones shall be so planned, designed and constructed to provide protection from the runoff of the 25-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's *National Engineering Field Manual for Conservation Practices*, or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
- (3) Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70% for the 40 micron (0.04 mm) size soil particle transported into the basin by the runoff of that two-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's *National Engineering field Manual for Conservation Practices* or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
- (4) Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical (2:1) if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.
- (5) Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within 15 working days or 60 calendar days following completion of construction or development, whichever period is shorter. (Ord. No. 98-7, passed 1-8-1998)

#### **SEC. 9-8-9 STORMWATER OUTLET PROTECTION.**

- (A) (1) Persons shall conduct land-disturbing activity so that the post construction velocity of the ten-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:
  - (a) The velocity established by the table in subsection (D) of this section; or
  - (b) The velocity of the ten-year storm runoff in the receiving watercourse prior to development.
- (2) If conditions (1)(a) or (b) of this subsection (A) cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by 10%.
- (B) *Acceptable management measures.* Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Commission recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives are to:
  - (1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
  - (2) Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections;

- (3) Provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge (these may range from simple rip-rapped sections to complex structures); and
- (4) Protect watercourses subject to accelerated erosion by improving cross-sections and/or providing erosion resistant lining.

(C) *Exceptions.* This rule shall not apply where it can be demonstrated that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

(D) *Table.* The following is a table for maximum permissible velocity for stormwater discharges:

Maximum Permissible  
Velocities for

Material	F.P.S.	M.P.S.
Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (non colloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

(Source: Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.)

(Ord. No. 98-7, passed 1-8-1998)

#### **SEC. 9-8-10 BORROW AND WASTE AREAS.**

(A) When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the Department's Division of Solid Waste Management, shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated.

(B) When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

(Ord. No. 98-7, passed 1-8-1998)

***Statutory reference:***

*State Mining Act of 1971, see G.S. 74-46 through 74-68*

#### **SEC. 9-8-11 ACCESS AND HAUL ROADS.**

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity, shall be considered a part of that activity.

(Ord. No. 98-7, passed 1-8-1998)

**SEC. 9-8-12 OPERATIONS IN LAKES OR NATURAL WATERCOURSES.**

Land-disturbing activity in connection with construction in, on, over or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics, except when necessary justification for significant alteration to flow characteristic is provided.

(Ord. No. 06-50, § 3, passed 6-8-2006)

**SEC. 9-8-13 RESPONSIBILITY FOR MAINTENANCE.**

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this chapter, the Act, or any order adopted pursuant to this chapter or the Act. After site development, the landowner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

(Ord. No. 98-7, passed 1-8-1998)

**SEC. 9-8-14 ADDITIONAL MEASURES.**

Whenever the city determines that significant sedimentation is occurring as a result of a land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

(Ord. No. 98-7, passed 1-8-1998)

**SEC. 9-8-15 EXISTING UNCOVERED AREAS.**

(A) All uncovered areas existing on December 11, 1985, which resulted from land-disturbing activity, exceed one acre, are subject to continued accelerated erosion, and are causing off-site damage from sedimentation shall be provided with a ground cover or other protective measures, structures or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

(B) The city will serve upon the landowner or other person in possession or control of the land a written notice of violation by registered or certified mail, return receipt requested or other means authorized under G.S. 1A-1, Rule 4. The notice will set forth the measures needed to comply and will state the time within which the measures must be completed. In determining the measures required and time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits for compliance.

(Ord. No. 06-50, § 4, passed 6-8-2006)

(C) The city reserves the right to require preparation and approval of an erosion control plan in any instance wherein extensive control measures are required.

(D) This rule shall not require ground cover on cleared land forming the future basin of a planned reservoir.

(Ord. No. 98-7, passed 1-8-1998)

**SEC. 9-8-16 PERMITS.**

(A) *Required; exceptions.* No person shall undertake any land-disturbing activity subject to this chapter without first obtaining a permit therefor from the city, office of the City Engineer, except that no permit shall be required for any land-disturbing activity as identified in section 9-8-4.

(Ord. No. 06-50, § 5, passed 6-8-2006)

(B) *Fees.* A fee established in accordance with the *Manual of Fees* adopted by the City Council shall be submitted with each application for a land-disturbing permit.

(C) *Prerequisite to issue of building permit.* No building permit shall be issued for a structure until the Building Inspector has obtained evidence that a valid land-disturbing permit has been obtained.

(Ord. No. 98-7, passed 1-8-1998; Ord. No. 99-119, § 11-14, passed 9-9-1999)

**SEC. 9-8-17 EROSION AND SEDIMENTATION CONTROL PLANS.**

(A) An erosion control plan shall be prepared for all land-disturbing activities subject to this chapter whenever the proposed activity is to be undertaken on a tract comprising more than one acre, if more than one acre is to be uncovered. The plan shall be filed with the city, office of the City Engineer and the Pitt County Soil and Water Conservation District at least 30 days prior to the commencement of the proposed activity.

(B) Persons conducting land-disturbing activity on a tract which covers one or more acres shall file three copies of the erosion control plan with the office of the City Engineer at least three days prior to beginning the activity and shall keep another copy of the approved plan on file at the job site. After approving the plan, if the office of the City Engineer, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the office of the City Engineer will require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority.

(C) Erosion control plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his or her attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or noncompliance with the plan, the Act, this chapter or rules or orders adopted or issued pursuant to this chapter.

(D) The Pitt County Soil and Water Conservation District shall review the plan and submit any comments or recommendations to the office of the City Engineer within 20 days after the Soil and Water Conservation District received the erosion control plan, or within any shorter period of time as may be agreed upon by the Soil and Water Conservation District and the office of the City Engineer. Failure of the Soil and Water Conservation District to submit its comments and recommendations within 20 days or within any agreed-upon shorter period of time shall not delay final action on the plan.

(E) The office of the City Engineer will review each complete plan submitted to it and within 30 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. The office of the City Engineer shall condition approval of a draft erosion control plan upon the applicant's compliance with federal and state water quality laws, regulations and rules. Failure to approve, or disapprove, approve with performance reservations, or approve with modifications a complete erosion and sedimentation control plan within 30 days of receipt shall be deemed approval. Disapproval of a plan or a revised erosion control plan must specifically state in writing the reasons for the disapproval. The office of City Engineer must approve or deny a revised plan within 15 days of receipt, or it is deemed to be approved. If following commencement of a land-disturbing activity pursuant to an approved plan, the office of City Engineer determines that the plan is inadequate to meet the requirements of this chapter, the office of City Engineer may require any revisions as are necessary to comply with this chapter. Failure to approve, approve with modifications or disapprove a revised erosion control plan within 15 days of receipt shall be deemed approval of the plan.

(Ord. No. 00-155, §§ 5-6, passed 12-14-2000)

(F) Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. 113A-1 *et seq.*) shall be deemed incomplete until a complete environmental document is available for review. The city shall promptly notify the person submitting the plan that the 30-day time limit for review of the plan pursuant to subsection (E) of this section shall not begin until a complete environmental document is available for review.

(G) The plan required by this section shall contain architectural and engineering drawings, maps, assumptions, calculations and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this chapter. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the office of the City Engineer, on request.

(H) An erosion control plan may be disapproved upon a finding that an applicant, or a parent, subsidiary or other affiliate of the applicant:

(1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to the Act and has not complied with the notice within the time specified in the notice;

(2) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due;

(3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act;

(4) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to the Act. For purposes of this subsection (H) an applicant's record may be considered for only the two years prior to the application date; or

(5) If implementation would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters under G.S. 113A-61(b1).  
(Ord. No. 06-50, §§ 6-8, passed 6-8-2006)

(I) Applications for amendment of an erosion control plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as the amendment is approved by the office of City Engineer, the land-disturbing activity shall not proceed except in accordance with the erosion control plan as originally approved.

(J) Any person engaged in land-disturbing activity who fails to file a sedimentation and erosion control plan and obtain a land-disturbing permit in accordance with this chapter, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan, shall be deemed in violation of this chapter.  
(Ord. No. 99-119, § 15, passed 9-9-1999)

(K) An approved land-disturbing permit and/or erosion control plan shall be valid for a period of two years from the date of approval.  
(Ord. No. 99-119, § 16, passed 9-9-1999)

(L) A copy of the erosion control plan for any land-disturbing activity that involves the utilization of ditches for the purpose of dewatering or lowering the water table must be forwarded to the Director of the Division of Water Quality.  
(Ord. No. 00-155, § 7, passed 12-14-2000)

(M) No person may initiate a land-disturbing activity until notifying the office of the City Engineer of the date that the land-disturbing activity will begin.  
(Ord. No. 00-155, § 7, passed 12-14-2000)

(N) A plan issued under this article shall be prominently displayed until all construction is complete, all permanent sedimentation and erosion control measures are installed and the site has been stabilized. A copy of the approved plan should be kept on file at the job site.

(Ord. No. 06-50, § 9, passed 6-8-2006)

(O) The City Engineer shall only approve a plan upon determining that it complies with all applicable state and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and state water quality laws, regulations and rules. The City Engineer shall condition approval of plans upon the applicant's compliance with federal and state water quality laws, regulations and rules. The City Engineer may establish an expiration date, not to exceed three years, for plans approved under this chapter.

(Ord. No. 98-7, passed 1-8-1998; Ord. No. 06-50, § 9, passed 6-8-2006)

#### **SEC. 9-8-18 APPEALS.**

(A) The disapproval or modifications of any proposed plan by the office of City Engineer shall entitle the person submitting the plan to a public hearing, if the person submits written demand to the City Manager for a hearing within 15 days after receipt of written notice of disapproval or modification.

(B) Hearings held pursuant to this section shall be conducted by the Planning and Zoning Commission within 45 days after the date of the receipt of the written demand for a public hearing. The date of the public hearing shall be advertised once a week for two successive calendar weeks in a newspaper having general circulation. The notice shall be published the first time not less than 15 days nor more than 25 days before the date fixed for the hearing.

(C) The applicant requesting a public hearing under this section will be charged for the exact cost of the advertising charges plus \$5.

(D) The Planning and Zoning Commission will render its final decision on any erosion control plan upon which a hearing is requested within 45 days of conducting the hearings.

(E) If the Planning and Zoning Commission upholds the disapproval or modification of a proposed soil erosion and sedimentation control plan following the hearing, the person submitting the plan shall then be entitled to appeal the local government's decision to the North Carolina Sedimentation Control Commission as provided in G.S. 113A-61(c) of the General Statutes of North Carolina and Title 15A, NCAC 4B.0118(b).

(F) In the event that an erosion control plan is disapproved pursuant to section 9-8-17(H), the city shall notify the Director of Division of Land Resources of such disapproval within ten days. The city shall advise the applicant and the Director in writing as to the specific reasons that the plan was disapproved. The applicant may appeal the city's disapproval of the plan pursuant to section 9-8-17(H) directly to the Commission.

(Ord. No. 98-7, passed 1-8-1998)

#### **SEC. 9-8-19 INSPECTIONS AND INVESTIGATIONS.**

(A) The City Engineer and other appropriate officials of the city will periodically inspect land-disturbing activities to ensure compliance with the Act, this chapter, or rules or orders adopted or issued pursuant to this chapter, and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from land-disturbing activity. Notice of the right to inspect shall be included in the notification of plan approval.

(B) No person shall willfully resist, delay or obstruct an authorized representative, employee or agent of the city while that person is inspecting or attempting to inspect a land-disturbing activity under this section.

(C) If it is determined that a person engaged in land-disturbing activity has failed to comply with the Act, this chapter, or rules or orders adopted or issued pursuant to this chapter; a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. 1A-1, Rule 4. The notice shall specify a date by which the person must comply with this chapter, or rules or orders adopted pursuant to this chapter, and inform the person of the actions that need

to be taken to comply with this chapter, or rules, or orders adopted pursuant to this chapter. However, no time period for compliance need be given for failure to submit an erosion control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his or her official duties. Any person who fails to comply within the time specified is subject to the civil and criminal penalties provided in this chapter.

(D) The city shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this chapter 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 land-disturbing activity.

(E) The city shall also have the power to require written statements or the filing of reports under oath with respect to pertinent questions relating to land-disturbing activity.

(Ord. No. 98-7, passed 1-8-1998)

#### **SEC. 9-8-20 PENALTIES.**

(A) Any person who violates any of the provisions of this chapter, or rules or orders adopted or issued pursuant to this chapter, or who initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty for a violation, other than a stop-work order issued under G.S. 113A-65.1, is \$5,000 per day. The maximum civil penalty for a violation of a stop-work order is \$5,000. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation as provided in section 9-8-19(C). A civil penalty may be assessed from the date of the violation. Refusal to accept the notice or failure to notify the City Engineer of a change of address shall not relieve the violator's obligation to comply with this chapter or to pay such penalty. Each day of continuing violation shall constitute a separate violation. A person may also be assessed a one-time civil penalty of up to \$5,000 for the day the violation is first detected.

(Ord. No. 00-155, 8710, passed 12-14-2000)

(B) The person responsible for the violation of this chapter shall be subject to a civil penalty in the amount of \$100 to \$5,000 per day maximum for the first offense, \$250 to \$5,000 per day maximum for the second offense during the life of the project, and \$5,000 per day maximum for the third and subsequent offenses for the life of the project. The offenses shall be considered on a site-by-site basis. The penalty shall be established by the City Engineer, depending on the existence of aggravating and/or mitigating circumstances surrounding the violation. Violations of this type may include but are not limited to the following:

- (1) Grading without a permit issued by the city;
- (2) Grading beyond the limits of an existing grading permit without approval of an amended grading permit;
- (3) Failure to properly install or maintain erosion control measures in accordance with the approved plan so as to prevent off-site sedimentation;
- (4) Failure to retain sediment from leaving a land-disturbing activity, in accordance with the approved plan or other terms, as required by this chapter;
- (5) Failure to restore off-site areas affected by sedimentation during the time limitation established in a notice of violation;
- (6) Any other violation of this chapter which resulted in off-site sedimentation and, in the discretion of the City Engineer, warrants an assessment of a civil penalty;
- (7) Failure to provide an angle on graded slopes sufficient to retain vegetative cover or other adequate erosion control devices or structures or failure to plant or otherwise provide with ground cover, devices or structures sufficient to restrain erosion within 15 working days of completion of any phase of grading on slopes left exposed;

(8) Failure to provide a ground cover sufficient to prevent erosion within 30 working days or 120 calendar days, following completion of construction or development, whichever period is shorter;

(9) Failure to submit to the office of the City Engineer for approval an acceptable revised erosion and sedimentation control plan after being notified by the City Engineer of the need to do so;

(10) Failure to retain a buffer zone of sufficient width along a lake or natural watercourse to confine visible siltation within the 25% of the buffer zone nearest the land-disturbing activity;

(11) Failure to schedule and conduct a preconstruction meeting prior to any land-disturbing activity, as required on the approved plan; and/or

(12) Any other action that constituted a violation of this chapter.

(Ord. No. 00-155, § 11, passed 12-14-2000; Ord. No. 06-50, § 10, passed 6-8-2006)

(C) In determining the amount of the civil penalty, the City Engineer shall consider the following factors: the degree and extent of harm caused by the violation; the risk to receiving watercourses; the cost of rectifying the damage; whether the violator saved money by noncompliance; whether the violator took reasonable measures to comply with the notice of violation; whether the violation was committed willfully after being informed of the potential violation; and the prior record of the violator in complying or failing to comply with this chapter. The City Engineer is authorized to reduce the amount of the per diem penalty set out in subsection (B) above to take into account any relevant mitigating factors.

(Ord. No. 06-50, § 11, passed 6-8-2006)

(D) Notwithstanding any other provision of this chapter, no required time period need be given for compliance for failure to submit an erosion control plan and land-disturbing permit for greater than one acre before a land-disturbing activity occurs and the penalty for the commencement of the land-disturbing activity without submittal of such plan and permit shall be a minimum of \$500 and a maximum of \$5,000, if warranted, for the land-disturbing activity in question.

(Ord. No. 06-50, § 12, passed 6-8-2006)

(E) Any person who fails to protect adjacent properties from pollutants shall be subject to a civil action as provided in section 9-8-21. Civil penalties for pollutants leaving the construction site may be assessed based on those factors listed in subsection (C) of this section.

(Ord. No. 06-50, § 13, passed 6-8-2006)

(F) The City Engineer shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4 and shall direct the violator to either pay the assessment or contest the assessment as specified in subsection (G). If a violator does not pay a civil penalty assessed by the City Engineer within 45 days after it is due or does not request a hearing as provided in subsection (G), the City Engineer shall request the City Attorney to institute a civil action to recover the amount of the assessment. The civil action may be brought in Pitt County Superior Court or in the Superior Court for the county where the violator's residence or principal place of business is located.

(G) A violator may contest the assessment of a civil penalty by submitting a written request for a review of the assessment by the Director of Public Works to the City Engineer within 15 days after receipt of the notice of assessment. Upon receipt of the written request, the City Engineer shall confer with the Director of Public Works concerning the civil penalty; and after the conference, the Director of Public Works shall notify the violator within ten days after receipt of the written request for a review whether the penalty has been upheld or modified. If the violator is not satisfied with the action of the Director of Public Works, the violator may further contest the assessment by submitting a written demand for a public hearing before the Board of Adjustment to the City Engineer and the Planning and Development Services Director within 45 days after receipt of the initial notice of assessment from the City Engineer. A hearing on a civil penalty shall be conducted by the Board of Adjustment within 45 days after receipt of the written demand for the hearing. The Board of Adjustment shall make its decision to uphold or modify the civil penalty within 30 days after the date of the hearing. An appeal from the decision of the Board of Adjustment shall be to the Superior Court of Pitt County.

(H) A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

(I) Civil penalties collected pursuant to this chapter shall be credited to the Civil Penalty and Forfeiture Fund.  
(Ord. No. 06-50, § 14, passed 6-8-2006)

(J) Any person who knowingly or willfully violates any provisions of this chapter or who knowingly or willfully initiates or continues a land-disturbing activity for which a plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor and may be subject to a fine not to exceed \$5,000.

(K) A violation of this chapter that is not knowing or not willful shall not constitute a misdemeanor or infraction punishable under North Carolina G.S. 14-4, but instead shall be subject to the civil penalties provided in this section.  
(Ord. No. 98-7, passed 1-8-1998; Ord. No. 99-119, § 17, passed 9-9-1999; Ord. 19-045, § 1, passed 9-12-2019)

#### **SEC. 9-8-21 INJUNCTIVE RELIEF.**

(A) Whenever the City Engineer has reasonable cause to believe that any person is violating or threatening to violate this chapter or any rule or order adopted or issued pursuant to this chapter or any term, condition or provision of an approved erosion control plan, it may, either before or after institution of any other action or proceeding authorized by this chapter, institute a civil action in the name of the city for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Pitt County.

(B) Upon determination by a court that an alleged violation is occurring or is threatened the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this chapter.  
(Ord. No. 98-7, passed 1-8-1998; Ord. No. 99-119, §§ 19, 20, passed 9-9-1999)

#### **SEC. 9-8-22 RESTORATION OF AREAS AFFECTED BY FAILURE TO COMPLY.**

The City Engineer may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57(3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this chapter.  
(Ord. No. 98-7, passed 1-8-1998; Ord. No. 99-119, §§ 21, 22, passed 9-9-1999)

#### **SEC. 9-8-23 SEVERABILITY.**

If any section or sections of this chapter is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.  
(Ord. No. 98-7, § 1, passed 1-8-1998)



## CHAPTER 9: STORMWATER MANAGEMENT AND CONTROL

### Section

- 9-9-1 Title
- 9-9-2 [Authority and](#) Purposes
- 9-9-3 Definitions
- 9-9-4 Scope; exclusions
- 9-9-5 Objectives
- 9-9-6 Protection of riparian areas
- 9-9-7 Calculating nitrogen and phosphorus export
- 9-9-8 Best management practices (BMPs) and maintenance
- 9-9-9 Off-site partial offset option
- 9-9-10 Attenuation requirements
- 9-9-11 Exceptions to peak flow requirement
- 9-9-12 New subdivisions
- 9-9-13 Drainage projects located outside of city-owned rights-of-way
- 9-9-14 Acceptance of responsibility for certain stormwater conveyances by city
- 9-9-15 Duty of City Engineer to make decisions on application of policy
- 9-9-16 Illicit discharges and connections
- 9-9-17 Enforcement
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### SEC. 9-9-1 TITLE.

This chapter shall be known and may be cited as the City of Greenville's Stormwater Management and Control Ordinance or this chapter.  
(Ord. No. 04-112, passed 9-9-2004)

### SEC. 9-9-2 **AUTHORITY AND** PURPOSES.

**The City of Greenville is authorized to adopt this chapter pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; North Carolina General Statutes Chapter 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Chapter 143-215.6A; Chapter 160D-922; Chapter 160A-459; Chapter 160A-174; Chapter 160A-185.;**

(A) This chapter is adopted for the purposes of:

- (1) Protecting the public health, safety and welfare by controlling the discharge of pollutants into the stormwater conveyance system;
- (2) Promoting the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by regulations designed to control the rate of release of stormwater runoff of certain developments where the rate of runoff has been significantly increased;
- (3) Promoting activities directed toward the maintenance and improvement of surface and ground water quality;
- (4) To protect the riparian buffer along all intermittent and perennial streams;
- (5) Limiting the nitrogen and phosphorus load from new development;
- (6) Satisfying the requirements imposed upon the City of Greenville under the Tar-Pamlico Stormwater Rule (15A NCAC 2B .0258) and the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) discharge permit issued by the state; and
- (7) Establishing administration and enforcement procedures through which these purposes can be fulfilled.

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(B) The provisions of this chapter are supplemental to regulations administered by federal and state governments. (Ord. No. 04-112, passed 9-9-2004; Ord. No. 11-006, § 1, passed 1-13-2011)

### SEC. 9-9-3 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Best management practices (BMPs).* Structural and/or non-structural controls that temporarily store or treat stormwater runoff, which act to reduce flooding, remove pollutants, and provide other amenities.

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

*City.* The City of Greenville, North Carolina.

*Detention facility (dry).* A facility, constructed for the purpose of detaining stormwater runoff from a developed site to control the peak discharge rates, that is normally maintained as a dry basin.

*Detention facility (wet).* A facility, constructed for the purpose of detaining stormwater runoff from a developed site to control the peak discharge rates, that is normally maintained with a permanent pool of water.

**Development approval. An administrative or quasi-judicial approval made pursuant to N.C.G.S. 160D-102 that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to N.C.G.S. 160D-102, including plat approvals, permits issued, development agreements entered into, and building permits issued.**

*Ditch.* An open channel constructed to transfer stormwater from one area to another. This does not include any open channel that is classified as a perennial or intermittent stream.

*Drainage easement.* The land required for the installation of stormwater drainage facilities and/or along a natural stream or watercourse for preserving the channel and providing access for maintenance and operation.

*Drainage facilities.* All ditches, channels, conduits, retention-detention systems, tiles, swales, sewers, and other natural or artificial means of draining stormwater from land.

*Drainage requirements.*

- (1) Minimum drainage standards as established by this chapter;
- (2) Regulations promulgated by the Public Works Department of the city;
- (3) Obligations and requirements relating to drainage established under the Subdivision Control Ordinance of the city, as set forth in Title 9, Chapter 5;
- (4) Requirements stated under the Zoning Ordinance of the city as set forth in Title 9, Chapter 4, including floodway zoning requirements; and
- (5) Conditions relating to drainage attached to a grant of variance by the Board of Adjustment of the city.

*Drainage (subsurface).* A system of pipes, tile, conduit or tubing installed beneath the ground surface used to collect underground water from individual parcels, lots, building footings or pavements.

*Drainage (surface).* A system by which the stormwater runoff is conducted to an outlet. This would include the proper grading of parking lots, streets, driveways and yards so that stormwater runoff is removed without ponding and flows to a drainage swale, open ditch or a storm sewer.

*Drainage (swale).* A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field, diversion or other site feature.

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*Drainage system.* Any combination of surface and/or subsurface drainage components fulfilling the drainage requirements of this chapter.

*Easement.* A grant by the property owner of the use of a strip of land by the public, a corporation, or persons, for specified purposes.

*Engineer.* The City Engineer of the City of Greenville, North Carolina.

*Extraterritorial jurisdiction.* The area beyond the city limits within which the planning, zoning and building regulations of the city apply in accordance with state law. The area is delineated on the official zoning map for the city.

*Impervious surfaces.* Those areas within developed land that prevent or significantly impede the infiltration of stormwater into the soil. Common "impervious surfaces" include but are not limited to roof tops, sidewalks, walkways, patio areas, roads, driveways, parking lots, storage areas, brick or concrete pavers, compacted gravel surfaces (roads, driveways, parking and storage areas), and other surfaces which prevent or significantly impede the natural infiltration of stormwater into the soil.

*Illicit connection.* Any unlawful connection that allows the discharge of non-stormwater to the stormwater conveyance system or waters of the state in violation of this chapter.

*Illicit discharge.* Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission or other discharge of any substance other than stormwater, unless associated with permitted activity as identified in section 9-9-16(A), into a stormwater conveyance, the waters of the state, or upon the land in such proximity to the same, such that the substance is likely to reach a stormwater conveyance or the waters of the state.

*Jurisdictional stream.* A stream that has been determined to be either permanent or intermittent by North Carolina Division of Environment and Natural Resources. These features have flora and fauna that are characteristic of streams in undeveloped areas.

*Land-disturbing activity.* Any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

*Land preservation.* The permanent dedication of development rights for conservation purposes to a third party on currently undeveloped property contained wholly within one parcel as registered with Pitt County or a portion of a developed parcel that is permanently dedication to a third party for conservation purposes.

*Maintenance.* Cleaning, spraying, removing obstructions from and making minor repairs to a drainage facility so that it will perform the function for which it was designed and constructed.

*Municipal separate storm sewer system (MS4).* A stormwater conveyance or unified stormwater conveyance system (including without limitation: roads with drainage systems, municipal streets, catch basins, stormwater detention facilities, curbs, gutters, ditches, natural or man-made channels, or storm drains), that:

- (1) Is located within the corporate limits of Greenville, North Carolina;
- (2) Is owned or operated by the state, county, the city or other public body; and
- (3) Discharges to waters of the state, excluding publicly owned treatment works, and lawful connections thereto, which in turn discharge into the waters of the state.

*New development.* The following:

- (1) Any activity including grubbing, stump removal and/or grading that disturbs greater than one acre of land to establish, expand or replace a single-family or duplex residential development or recreational facility. For

individual single-family residential lots of record that are not part of a larger common plan of development or sale, the activity must also result in greater than 10% built-upon area.

(2) Any activity including grubbing, stump removal and/or grading that disturbs greater than one-half an acre of land to establish, expand or replace a multi-family residential development or a commercial, industrial or institutional facility.

(3) Projects meeting subsection (1) or (2) above that replace or expand existing structures or improvements and that do not result in a net increase in built-upon area shall not be required to meet the basinwide average non-urban loading levels.

(4) Projects meeting subsection (1) or (2) above that replace or expand existing structures or improvements and that result in a net increase in built-upon area shall achieve a 30% reduction in nitrogen loading and no increase in phosphorus loading relative to the previous development. Such projects may achieve these loads through onsite or offsite measures or some combination thereof.

(5) New development shall not include agriculture, mining, or forestry activities.

*Non-jurisdictional stream.* A stream that has been determined to be neither permanent nor intermittent by North Carolina Division of Environment and Natural Resources. These features do not have the flora and fauna that are characteristic of streams in undeveloped areas.

*NPDES or National Pollutant Discharge Elimination System.* A Federal Environmental Protection Agency program initiated to reduce and eliminate pollutants reaching water bodies of all types.

*Open channel.* A drainage channel, which may or may not have a continuous water flow. Intended to convey surface, subsurface and stormwater runoff.

*Pollution.* A man-made or man-induced alteration of the chemical, physical, biological, thermal, and/or radiological integrity of water.

*Qualified professional.* An individual who both: has received a baccalaureate or postgraduate degree in the natural sciences or engineering; and is trained and experienced in stormwater treatment techniques and related fields as may be demonstrated by state registration, professional certification, or completion of coursework that enable the individual to make sound, professional judgments regarding stormwater control/treatment and drainage planning.

*Redevelopment.* Any rebuilding activity other than a rebuilding activity that:

- (1) Results in no net increase in built-upon area; and
- (2) Provides equal or greater stormwater control than the previous development.

*Registered professional.* An individual who is registered in the State of North Carolina as a professional engineer.

*Riparian buffer.* The 50-foot wide area directly adjacent to surface waters in the Tar-Pamlico and Neuse River Basins (intermittent streams, perennial streams, lakes, ponds and estuaries), excluding wetlands. For the purpose of this definition, a surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS).

*Stormwater.* The runoff from precipitation that travels over natural or developed surfaces to the nearest stream, other conduit, or impoundment and appears in lakes, rivers, ponds, or other bodies of water.

*Stormwater and drainage systems.* Natural and structural channels, swales, ditches, swamps, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, head walls, storm sewers, lakes, and other physical works, properties, and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff.

*Stormwater management programs.* Programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater.

*Waters of the state.* Any stream, river, brook, swamp, lake, sound, tidal estuary, bay, creek, reservoir, waterway, or other body or accumulation of water, whether surface or underground, public or private, or natural or artificial, that is contained in, flows through, or borders upon any portion of this state, including any portion of the Atlantic Ocean over which the state has jurisdiction. Treatment systems, consisting of man-made bodies of water, which were not originally created in waters of the state and which are not the result of impoundment of waters of the state, are not "waters of the state."

(Ord. No. 04-112, passed 9-9-2004; Ord. No. 11-006, § 2, passed 1-13-2011)

#### **SEC. 9-9-4 SCOPE; EXCLUSIONS.**

This chapter shall apply within the city limits of the city and within the extraterritorial jurisdiction of the city, with the following exclusions:

- (A) Any area or subject matter where federal, state or local government, including their agencies, have jurisdiction preempting the city unless intergovernmental agreements have been established giving the city enforcement authority.
- (B) All new development projects that have received approval from the city for a site-specific or phased development plan before September 10, 2004, and that have implemented the development project in accordance with the vesting provisions of the Greenville City Code shall be exempt from the requirements of the Tar-Pamlico stormwater rule. Any preliminary plats associated with such development approved before September 10, 2004 must be recorded no later than five years from the date of approval in accordance with section 9-5-43. Any building permit related to a site plan associated with such development approved before September 10, 2004 must be applied for no later than two years from the approval of the site plan in accordance with section 9-4-34. Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities shall be considered exempt if a state permit was issued prior to September 10, 2004.

(Ord. No. 04-112, passed 9-9-2004)

- (C) **Development or expansion of development with a vested right per the standards of N.C.G.S. 160D-108.**

#### **SEC. 9-9-5 OBJECTIVES.**

The objectives of this chapter are to:

- (A) Regulate the discharge of substances, which may contaminate or cause pollution of stormwater, stormwater conveyances or waters of the state;
- (B) Reduce impacts on the city's MS4 and receiving waters from increased runoff from new development and redevelopment;
- (C) Regulate connections to the stormwater conveyance system;
- (D) Provide for the proper handling of spills; and
- (E) Provide for the enforcement of same.

(Ord. No. 04-112, passed 9-9-2004; Ord. No. 13-054, § 1, passed 10-10-2013)

**SEC. 9-9-6 PROTECTION OF RIPARIAN AREAS.**

(A) The Tar-Pamlico riparian buffer protection rule, 15A NCAC 2B .0259 requires that 50-foot riparian buffers be maintained on all sides of intermittent and perennial streams, ponds, lakes and estuarine waters in the basin. The buffer rule provides for certain "allowable" uses within the buffer with Division of Water Quality approval, such as road and utility crossings.

(B) The city shall disapprove any new development activity proposed within the first 50 feet adjacent to a waterbody that is shown on either the USGS 7.5 minute topographic map or the NRCS soil survey map unless the owner can show that the activity has been approved by Division of Water Quality. Division of Water Quality approval may consist of the following:

- (1) An on-site determination that surface waters are not present;
- (2) An authorization certificate from Division of Water Quality for an "allowable" use such as a road crossing or utility line, or for a use that is "allowable with mitigation" along with a Division-approved mitigation plan. A table delineating such uses is included in the buffer rule;
- (3) An opinion from Division of Water Quality that vested rights have been established for the proposed development activity; and/or
- (4) A letter from Division of Water Quality documenting that a variance has been approved for the proposed development activity.

(C) After site development, it shall be the responsibility of the landowner or person in possession or control of the land to properly maintain all necessary permanent erosion and sediment control measures installed for the protection of the riparian buffers.

(Ord. No. 04-112, passed 9-9-2004)

**SEC. 9-9-7 CALCULATING NITROGEN AND PHOSPHORUS EXPORT.**

(A) The nitrogen and phosphorus export from each new development within the Tar-Pamlico River Basin must be calculated. The nitrogen export from each new development outside the Tar-Pamlico River Basin must be calculated. These exports will be calculated in pounds per acre per year (lbs/ac/yr). Worksheets to carry out this method are provided in the city's Stormwater Management Program and shall be provided along with a description of the development. It is the responsibility of the person proposing the development to calculate and submit this information to the city.

(B) For a given project, the methodology calculates a weighted annual load export for both nitrogen and phosphorus based on event mean concentrations of runoff from different urban land covers and user-supplied acreages for those land covers. All new developments must achieve a nitrogen export of less than or equal to 4.0 lbs/ac/yr and a phosphorus export of less than or equal to 0.4 lbs/ac/yr. The applicant chooses BMPs that reduce the export to required levels.

(C) All plans shall be prepared by and sealed by a registered professional who certifies under seal that the plan, including engineering detail, conforms to the minimum requirements established by this chapter.

(D) The review of all plans and applications submitted to the city will be overseen by the City Engineer.

(Ord. No. 04-112, passed 9-9-2004)

**SEC. 9-9-8 BEST MANAGEMENT PRACTICES (BMPS) AND MAINTENANCE.**

(A) Best management practices in any new development shall be the entire and sole responsibility of the landowner except those natural streams, channels, ditches, branches and drainage outfall lines for which the city has accepted the responsibility for continuous maintenance.

(B) For residential (or commercial or industrial) development:

(1) If the computed nitrogen export is greater than 6.0 (or 10.0) lbs/ac/yr, then the landowner must either use on-site BMPs or take part in an approved regional or jurisdiction-wide stormwater strategy or some combination of these to lower the nitrogen export to at least 6.0 (or 10.0) lbs/ac/yr. The owner may then use one of the following two options to reduce nitrogen from 6.0 (or 10.0) to 4.0 lbs/ac/yr.

(2) If the computed nitrogen export is greater than 4.0 lbs/ac/yr but less than 6.0 (or 10.0) lbs/ac/yr, then the owner may either:

(a) Install BMPs on-site or take part in an approved regional or jurisdiction-wide stormwater strategy or some combination of these to remove nitrogen down to 4.0 lbs/ac/yr; or

(b) Provide treatment of an off-site developed area that drains to the same stream to achieve the same nitrogen mass loading reduction that would have occurred on-site.

(3) The landowner must install BMPs that also achieve a phosphorus export of less than or equal to 0.4 lbs/ac/yr, but may do so through any combination of on-site and off-site measures.

(C) Each BMP shall be constructed to meet the requirements of the city's Stormwater Management Program and shall have a maintenance plan.

(D) Each maintenance plan shall be on file in the office of the City Engineer. Maintenance plans must be on file prior to construction and shall contain the following information:

(1) Owner's name or names;

(2) Owner's mailing address;

(3) Deed book, page number or other recording information for the land containing the BMP(s);

(4) Any easements for maintenance, ingress, egress and regress to the BMP(s);

(5) A description of the BMP(s);

(6) Maintenance recommended for the BMP(s) to achieve the maximum effect; and

(7) Notarized signature of the owner of the BMP(s) and statement that the owner understands the requirements of the rules and regulations for the BMP(s).

(E) Each BMP shall be maintained as required in the maintenance plan as to allow the BMP to achieve its maximum effect. Maintenance is to be performed as needed.

(F) Maintenance of the BMP includes maintaining access for the stormwater to reach and leave the BMP, maintenance of the BMP structure itself, and maintaining access to the BMP for the purpose of inspections, maintenance and repairs.

(G) An annual maintenance and inspection report completed by a qualified professional shall be maintained by the owner for each BMP in accordance with the operation and maintenance agreement submitted in the initial plan submittal. The annual report will describe the maintenance and repair activities of the subject year, including copies of inspection and repair logs, and note any needed modifications to the repair plan for the following year. Annual reports shall be kept on record for a minimum of five years and shall be made available to the city upon request.

(H) All BMP(s) shall be inspected annually by the city. If repairs or maintenance to the BMP is required, the city will notify the property owner in writing that maintenance is required. The owner will have 90 days from the receipt of such written notice to bring the BMP into proper working order.

(I) If any person, having been ordered to perform such maintenance, fails, neglects or refuses to perform the maintenance within 90 days from receipt of the order, the Public Works Director shall, at his or her own discretion, have employees of the city or other designated persons go upon said premises and perform the necessary maintenance.

(J) The cost of repairs and work completed by the city shall be the responsibility of the owner. The city will submit a statement of charges to be reimbursed by the owner. The owner shall have 30 days to remit payment.  
(Ord. No. 04-112, passed 9-9-2004)

#### **SEC. 9-9-9 OFF-SITE PARTIAL OFFSET OPTION.**

Landowners shall have the option of partially offsetting their nitrogen and phosphorus loads by providing treatment of off-site developed areas. The off-site area must drain to the same classified surface water, as defined in the Schedule of Classifications, 15A NCAC 2B .0316, that the development site drains to most directly. The developer must provide legal assurance of the dedicated use of the off-site area for the purposes described here, including achievement of specified nutrient load reductions and provision for regular operation and maintenance activities, in perpetuity. The legal assurance shall include an instrument, such as a conservation easement, that maintains this restriction upon change of ownership or modification of the off-site property. Before using off-site treatment, the new development must attain a maximum nitrogen export of six pounds/acre/year for residential development and ten pounds/acre/year for commercial or industrial development.  
(Ord. No. 04-112, passed 9-9-2004)

#### **SEC. 9-9-10 ATTENUATION REQUIREMENTS.**

(A) At a minimum, new development and redevelopment as described in section 9-9-3 shall not result in a net increase in peak flow leaving the site from pre-development conditions for the one-year, five-year and ten-year, 24-hour storm events.

(B) New development and redevelopment, as described in § 9-9-3, in areas at special risk with well documented water quantity problems as determined by the City Engineer, shall not result in a net increase in peak flow leaving the site from pre-development conditions for the 25-year, 24-hour storm event.

(C) Peak flow leaving the site from pre-development conditions for the one-year, five-year, ten-year and 25-year, 24-hour storm events shall be calculated, and the plan shall be prepared and approved using the standards of the City Engineer, as set forth in the city's *Manual of Standard Designs and Details* and stormwater management program.

(D) The drainage plan as required by this section shall include but not be limited to a site plan showing existing proposed buildings, storm drainage facilities, ground cover, site construction plans with grading plan, and drainage system; drainage facility design data including area map, engineering calculations, area of impervious cover and total land area.

(E) In the event that literal interpretation of this section creates an undue hardship, the applicant may appeal to the Board of Adjustment for a variance in whole or in part from this section.

(F) No part of this section shall be applied to structures existing prior to the effective date of this section nor shall existing impervious ground cover be used in the calculation of runoff.

(Ord. No. 04-112, passed 9-9-2004; Ord. No. 13-054, § 2, passed 10-10-2013)

#### **SEC. 9-9-11 EXCEPTIONS TO PEAK FLOW REQUIREMENT.**

Peak flow control is not required for developments that meet one or more of the following requirements:

(A) The increase in peak flow between pre- and post-development conditions does not exceed 10% (note that this exemption makes it easier to conduct redevelopment activities); or

(B) The development occurs in a part of a drainage basin where stormwater detention can aggravate local flooding problems as determined by the city.  
(Ord. No. 04-112, passed 9-9-2004)

**SEC. 9-9-12 NEW SUBDIVISIONS.**

Storm drainage systems in any new subdivision shall be the entire and sole responsibility of the developer except those natural streams, channels, ditches, branches and drainage outfall lines for which the city has accepted the responsibility for



continuous maintenance. All new subdivisions shall have drainage systems installed by the developer in accordance with Title 9, Chapter 5 of this Code. Any drainage ditch in a new subdivision that will require a 48-inch diameter or smaller pipe must be piped. Larger ditches may be left open. The required pipe size shall be as determined by the engineer for the developer and approved by the City Engineering Division.

(Ord. No. 04-112, passed 9-9-2004; Ord. No. 11-006, § 3, passed 1-13-2011)

#### **SEC. 9-9-13 DRAINAGE PROJECTS LOCATED OUTSIDE OF CITY-OWNED RIGHTS-OF-WAY.**

(A) *Drainage projects on ditches or non-jurisdictional streams; piping.* The city will participate with property owners in the installation of storm drains crossing private property in other than new subdivisions within the city's corporate limits under the following conditions:

(1) The storm drain to be installed will carry stormwater discharged from an existing city or state street or streets dedicated for public street purposes, including alleys, and accepted for maintenance by the city or state. Storm drainage systems not meeting this requirement are the responsibility of the property owner(s) and the city will not participate in the installation of such storm drains.

(2) An application for the installation of storm drains must be signed by 100% of the owners of the affected property within the limits of the proposed project and submitted to the City Engineering Division.

(3) The property owners must dedicate a drainage easement of a width, length, and type as specified by the Director of Public Works. The dedication of such easement will be at no cost to the city.

(4) The shortest distance in which the city will participate in the installation of storm drainage will be 300 linear feet; any shorter distances than 300 linear feet must be deemed feasible by the City Engineering Division before city participation.

(5) All pipe sizes, structural accessories, discharge points and other specifications shall be as determined by the City Engineering Division.

(6) The city will furnish all labor and equipment and the adjoining property owners will pay for all materials for construction. These materials shall be as determined necessary by the City Engineering Division and shall include headwalls, manholes, catch basins and all other structures normal to a complete storm drainage system. All monies for materials must be deposited by property owners before construction is started.

(7) All authorized work shall be performed by the city, its agents and/or contractors. The city will direct all necessary activities including but not limited to design, engineering, contracting, and construction.

(8) Nothing in this subsection (A) shall be construed, interpreted or applied in a manner to mean that the city will participate in any way in the construction of any box culvert or other structure to be built or constructed in place. The piping of streams shall be restricted in all instances to that drainage where pre-cast or preassembled pipe will be of sufficient capacity, as calculated by the City Engineering Department, for the piping and enclosing herein mentioned and contemplated.

(9) Cost for each property owner shall be determined by dividing the total cost of materials by the total footage of property owners adjoining the proposed pipe locations directly and multiplying the result by the footage of each individual owner to determine his share of the cost.

(10) All storm drainage construction on private property shall be done on a scheduled basis so as not to interfere with other city projects and then only as budgeted funds of the city are available.

(11) The city will not participate in the construction of any storm drainage systems which will require a pipe size larger than 48 inches due to the greatly increased cost of labor, equipment and engineering required due to the use of box culverts, paved channels and other types of solutions.

(B) *Drainage projects on ditches or non-jurisdictional streams; erosion.* The city will stabilize banks on ditches or non-jurisdictional streams crossing private property in other than new subdivisions within the city's corporate limits under the following conditions:

- (1) The ditch or non-jurisdictional stream carries stormwater discharged from an existing city or state street or streets dedicated for public street purposes, including alleys, and accepted for maintenance by the city or state. Storm drainage systems not meeting this requirement are the responsibility of the property owner(s) and the city will not participate in such drainage projects.
- (2) An application for bank stabilization must be signed by 100% of the owners of the affected property within the limits of the proposed project and submitted to the City Engineering Division.
- (3) The property owners must dedicate a drainage easement of a width, length, and type as specified by the Director of Public Works. The dedication of such easement will be at no cost to the city.
- (4) Materials and construction methods shall be as determined necessary by the City Engineering Division. All authorized work shall be performed by the city, its agents and/or contractors. The city will direct all necessary activities including but not limited to design, engineering, contracting, and construction.
- (5) All drainage projects on private property shall be done on a scheduled basis so as not to interfere with other city projects and then only as budgeted funds of the city are available.

(C) *Drainage projects on jurisdictional streams; piping.* The city will not participate in the piping of jurisdictional streams.

(D) *Drainage projects on jurisdictional streams; erosion.* The city will stabilize or restore banks crossing private property in other than new subdivisions within the city's corporate limits under the following conditions:

- (1) The jurisdictional stream carries stormwater discharged from an existing city or state street or streets dedicated for public street purposes, including alleys, and accepted for maintenance by the city or state. Storm drainage systems not meeting this requirement are the responsibility of the property owner(s) and the city will not participate in such drainage projects.
- (2) An application for bank stabilization or stream restoration must be signed by 100% of the owners of the affected property within the limits of the proposed project.
- (3) The property owners must dedicate a drainage easement of a width, length, and type as specified by the Director of Public Works. The dedication of such easement will be at no cost to the city.
- (4) Materials and construction methods shall be as determined necessary by the City Engineering Division. All authorized work shall be performed by the city, its agents and/or contractors. The city will direct all necessary activities including but not limited to design, engineering, contracting, and construction.
- (5) All drainage projects on private property shall be done on a scheduled basis so as not to interfere with other city projects and then only as budgeted funds of the city are available.

(E) Drainage assistance projects listed in subsections (A), (B) and (D) above may be funded with stormwater utility funds or other funds provided that all of the following eligibility criteria are met:

- (1) The drainage system is not part of a water quality treatment facility or water quantity control device that was required to be constructed and maintained as part of an approved development.
- (2) The drainage system is not located on property which is undergoing development or redevelopment unless the development/redevelopment project is funded in part by other city funds.

(3) The project shall be the most cost effective, reasonable and practical alternative to correct the existing problem, as determined by the Director of Public Works. Any excess costs above the determined most cost effective, reasonable and practical alternative shall be borne entirely by the property owner. Design criteria shall meet, but are not limited to, the following criteria:

- (a) The proposed project shall meet current city stormwater design standards to the maximum extent practical;
- (b) Existing ditches or non-jurisdictional streams shall not be piped unless engineering reasons require such work or significant cost savings would be realized; and
- (c) Jurisdictional streams and their associated buffers shall be protected to the maximum extent practical.

(4) The application of the above factors and the determination as to eligibility for stormwater utility funding or other funding shall be made by the Director of Public Works. Property owners may appeal any decision by the Director of Public Works to the City Manager. If property owners are not satisfied with the decision of the City Manager, property owners may appeal any decision by the City Manager to City Council.

(F) Storm drainage crossing private property, which does not carry storm drainage from existing city or state system streets, dedicated for public street purposes and accepted for maintenance by the city or state, is the responsibility of the property owners and the city will not participate in the installation of storm drains therefore.

(G) No action or inaction of the city pursuant to the policy established by this section shall impose upon the city, its agents, officers or employees any responsibility of liability of any kind, past or future, relating to any person or property. The petitioners shall agree to covenant to and hold the city harmless from any death, personal injury or property damage resulting from the work. No such action by the city shall be considered as a taking or appropriation of any stream, drain or ditch as a part of the city's drainage system.

(H) The conditions set forth in this section shall be binding on the heirs, successors, assigns and grantees of the property owners.

(I) Nothing in this section shall be construed, interpreted or applied in such manner as to aid or assist in the subdivision or development of property in the city. The policy set out herein shall be applicable only to those properties for which no new subdivision or development is anticipated or planned.

(J) The intent of this section is not to transfer responsibility or liability to the city for drainage system components on property not owned by the city that carry stormwater. Rather, it is to establish criteria and priorities to be used when making available funds for work on drainage system components located outside of city-owned rights-of-way.

(K) City participation in work on drainage system components outside of the right-of-way is limited to the extent to which funds are available for such purpose and no entitlement to receive funds for such work arises from this section.

(Ord. No. 11-006, § 4, passed 1-13-2011)

#### **SEC. 9-9-14 ACCEPTANCE OF RESPONSIBILITY FOR CERTAIN STORMWATER CONVEYANCES BY CITY.**

(A) The city accepts the responsibility for the maintenance, upkeep and installation of necessary structures, located within a city right-of-way within the city's corporate limits and not within a state right-of-way, in the following natural streams as listed below:

- (1) Greens Mill Run, Tar River westerly to city limits west of Memorial Drive;
- (2) Fornes Branch, from Greens Mill Run to NC 43;

- (3) Reedy Branch, from Greens Mill Run to Greenville Boulevard; and
  - (4) Any other jurisdictional stream located within the city's corporate limits in which the city has participated in a drainage project pursuant to the provisions of this chapter only within the limits of such project.
- (B) The responsibility of the city for the maintenance of streams, located within the city's corporate limits and not within a state right-of-way, includes only the removal of trees that block the flow of the stream. The city will only remove that portion of a tree that is blocking or is an imminent threat to block stream flow. Property owners are responsible for maintaining the vegetation to the standards established by the state (riparian buffer rule). Removal of trash in a stream is the property owner's responsibility including in any adjoining right-of-way.  
(Ord. No. 11-006, § 5, passed 1-13-2011)

#### **SEC. 9-9-15 DUTY OF CITY ENGINEER TO MAKE DECISIONS ON APPLICATION OF POLICY.**

All decisions concerning application of the stormwater management and control policy and any matters related to the policy shall be the responsibility of the City Engineer.  
(Ord. No. 04-112, passed 9-9-2004)

#### **SEC. 9-9-16 ILLICIT DISCHARGES AND CONNECTIONS.**

(A) *Illicit discharges.*

- (1) No person shall cause or allow the discharge, emission, disposal, pouring or pumping directly or indirectly to any stormwater conveyance, the waters of the state, or upon the land in such proximity to the same (such that the substance is likely to reach a stormwater conveyance or the waters of the state), of any fluid, solid, gas or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:
  - (a) Filter backwash and draining associated with swimming pools;
  - (b) Filter backwash and draining associated with raw water intake screening and filtering devices;
  - (c) Condensate from residential or commercial air conditioning;
  - (d) Residential vehicle washing;
  - (e) Flushing and hydrostatic testing water associated with utility distribution systems;
  - (f) Discharges associated with emergency removal and treatment activities, for hazardous materials, authorized by the federal, state or local government on-scene coordinator;

- (g) Uncontaminated ground water (including the collection or pumping of springs, wells, or rising ground water and ground water generated by well construction or other construction activities);
  - (h) Collected infiltrated stormwater from foundation or footing drains;
  - (i) Collected ground water and infiltrated stormwater from basement or crawl space pumps;
  - (j) Irrigation water;
  - (k) Street wash water;
  - (l) Flows from fire fighting;
  - (m) Discharges from the pumping or draining of natural watercourses or waterbodies;
  - (n) Flushing and cleaning of stormwater conveyances with unmodified potable water;
  - (o) Wash water from the cleaning of the exterior of buildings, including gutters, provided that the discharge does not pose an environmental or health threat; and
  - (p) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by Department of Environmental Management, and provided that any such discharges to the Municipal Separate Storm Sewer System shall be authorized by the city.
- (2) Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage and litter.
- (B) *Illicit connections.*
- (1) Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in subsection (A) above, are unlawful. Prohibited connections include but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.
- (2) Where such connections exist in violation of this section and the connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using the connection shall remove the connection within one year following application of this regulation; provided that this grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife or habitat.
- (3) Where it is determined that the connection:
- (a) May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife or habitat; or
  - (b) Was made in violation of any applicable regulation or ordinance, the City Engineer or his or her designee shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the city shall take into consideration:
    - 1. The quantity and complexity of the work;
    - 2. The consequences of delay;

3. The potential harm to the environment, to the public health, and to public and private property; and
4. The cost of remedying the damage.

(C) *Spills.*

(1) Spills or leaks of polluting substances discharged to, or having the potential to be indirectly transported to the stormwater conveyance system, shall be contained, controlled, collected and removed promptly. All affected areas shall be restored to their preexisting condition.

(2) Persons associated with the spill or leak shall immediately notify the City Fire Chief or his or her designee of all spills or leaks of polluting substances. Notification shall not relieve any person of any expenses related to the restoration, loss, damage or any other liability which may be incurred as a result of the spill or leak, nor shall such notification relieve any person from other liability which may be imposed by state or other law.

(D) *Nuisance.* Illicit discharges and illicit connections which exist within the city limits or within one mile thereof are hereby found, deemed and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed and declared to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in section 12-3-4.

(Ord. No. 04-112, passed 9-9-2004)

**SEC. 9-9-17 ENFORCEMENT.**

(A) *Authority to enter.*

(1) Any authorized city personnel shall be permitted to enter upon public or private property for the purposes of observation, inspection, sampling, monitoring, testing, surveying and measuring for compliance. Should the owner or occupant of any property refuse to permit such reasonable access, the City Engineer or his or her designee shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor.

(2) No person shall obstruct, hamper or interfere with any such representative while carrying out his or her official duties. For the purpose of enforcing this chapter, the City Engineer or any employee so designated by him or her may at any time enter upon a property to inspect or repair any part of the stormwater system.

(B) *Civil penalties.*

(1) *Illicit discharges.* Any designer, engineer, contractor, agent or any other person who allows, acts in concert, participates, directs or assists directly or indirectly in an illicit discharge in violation of this chapter shall be subject to civil penalties as follows.

(a) For first-time offenders, if the quantity of the discharge is equal to or less than five gallons and consists of domestic or household products in quantities considered ordinary for household purposes, the person shall be assessed a civil penalty not to exceed \$100 per violation or per day for any continuing violation, and if the quantity of the discharge is greater than five gallons or contains non-domestic substances, including but not limited to process waste water, or if the person cannot provide clear and convincing evidence of the volume and nature of the substance discharged, the person shall be assessed a civil penalty not to exceed \$1,000 per violation or per day for any continuing violation.

(b) For repeat offenders, the amount of the penalty shall be double the amount assessed for the previous penalty, not to exceed \$10,000 per violation or per day for any continuing violation.

(c) In determining the amount of the penalty, the City Engineer or his or her designee shall consider:

1. The degree and extent of harm to the environment, the public health, and public and private property;

2. The cost of remedying the damage;
3. The duration of the violation;
4. Whether the violation was willful;
5. The prior record of the person responsible for the violation in complying or failing to comply with this chapter;
6. The costs of enforcement to the public; and
7. The amount of money saved by the violator through his, her or its noncompliance.

(2) *Illicit connections.* Any person found with an illicit connection in violation of this chapter and any designer, engineer, contractor, agent or any other person who allows, acts in concert, participates, directs or assists directly or indirectly in the establishment of an illicit connection in violation of this chapter, shall be subject to civil penalties as follows:

- (a) First-time offenders shall be subject to a civil penalty not to exceed \$500 per day of continuing violation.
- (b) Repeat violators shall be subject to a civil penalty not to exceed \$1,000 per day of continuing violation.
- (c) In determining the amount of the penalty, the City Engineer or his or her designee shall consider:
  1. The degree and extent of harm to the environment, the public health, and public and private property;
  2. The cost of remedying the damage;
  3. The duration of the violation;
  4. Whether the violation was willful;
  5. The prior record of the person responsible for the violation in complying or failing to comply with this chapter;
  6. The costs of enforcement to the public; and
  7. The amount of money saved by the violator through his, her or its noncompliance.
- (d) Procedures for assessing penalties pursuant to illicit connections.
  1. The penalties shall be assessed by the City Engineer or his or her designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered mail, certified mail-return receipt requested, or personal service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The notice shall describe the violation with particularity and specify the measures needed to come into compliance. The notice shall designate the time within which the measures must be completed. In setting the time limit for compliance, the city shall take into consideration:
    - a. The quantity and complexity of the work;
    - b. The consequences of delay;
    - c. The potential harm to the environment, the public health, and public and private property; and

d. The cost of remedying the damage.

2. The notice shall warn that failure to correct the violation within the specified time period will result in the assessment of a civil penalty and/or other enforcement action. If after the allotted time period has expired, and the violation has not been corrected, the penalty shall be assessed from the date of receipt of notice of violation and each day of continuing violation thereafter shall constitute a separate violation under this section.

(3) *Other violations.* Any person found in violation of other provisions of this chapter, not specifically enumerated elsewhere, shall be subject to a civil penalty not to exceed \$250 per violation or per day for any continuing violation.

(4) *Payment/collection procedures.* Penalties shall be assessed by the City Engineer or his or her designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered mail, certified mail-return receipt requested, or personal service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The City Engineer or his or her designee shall make written demand for payment upon the person in violation. If the payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to the City Attorney for institution of a civil action in the name of the city, in the appropriate division of the general court of justice in Pitt County for recovering the penalty.

(C) *Injunctive relief.*

(1) Whenever the City Engineer has a reasonable cause to believe that any person is violating or threatening to violate this chapter, rule, regulation, order duly adopted or issued pursuant to this chapter or making a connection to a stormwater conveyance or stormwater conveyance system other than in accordance with the terms, conditions, and provisions of approval, the city may, either before or after the institution of any other action or proceeding authorized by the code, institute a civil action in the name of the city for injunctive relief to restrain and abate the violation or threatened violation.

(2) The institution of an action for injunctive relief under subsection (C) shall not relieve any party to such proceeding from any further civil or criminal penalty prescribed for violations of this Code.

(D) *Criminal penalties.* Any person who knowingly or willfully violates any provision of this chapter, rule, regulation, order duly adopted or issued pursuant to this chapter shall be guilty of a misdemeanor, punishable by a fine not to exceed \$500 or imprisonment for not longer than 30 days. Each violation shall be a separate offense.

(Ord. No. 04-112, passed 9-9-2004)

#### **SEC. 9-9-18 VARIANCES.**

**Pursuant to 160D-406** the Board of Adjustment as established by the city shall hear and decide requests for variances from the requirements of this chapter. When practical difficulties or unnecessary hardships would result from carrying out the strict letter of this chapter, the Board of Adjustment may vary or modify any provision of this chapter so that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done.

(Ord. No. 04-112, passed 9-9-2004)

**Excerpt from the draft Planning & Zoning Commission Minutes (5/18/2021 and 5/20/2021)**

ORDINANCE REQUESTED BY THE PLANNING AND ZONING COMMISSION TO ADOPT TITLE 9 OF THE CITY CODE TO BE IN COMPLIANCE WITH NORTH CAROLINA GENERAL STATUTES CHAPTER 160D.

Chantae Gooby presented for staff. This amendment is due to an update to the North Carolina General Statutes. The purpose of this update is to consolidate, reorganize and adopt consensus reforms. Under the old codes, municipalities and counties were located in two different sections. One of the biggest functions of 160D is to lay out the process and procedure for rezonings, text amendments and special use permits so that counties and municipalities all following the same rules. It also helps clarify the language to make it more straight forward. The required plan consistency statements related to comprehensive plan for rezonings and text amendments have been simplified and the vested rights timelines have been codified. This update broadens the conflict of interest statements for elected and/or appointed members that deal with rezonings and text amendments to allow more transparency. The bulk of the changes in 160D are updates to citations in the City Code This amendment is to get the city into compliance with the new state law.

No one spoke in favor.

No one spoke in opposition.

**Excerpt from the draft Planning & Zoning Commission Minutes (5/20/2021)**

**Motion made by Mr. Overton, seconded by Mr. Maxwell, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.**



# City of Greenville, North Carolina

Meeting Date: 06/21/2021

**Title of Item:** Ordinance to annex Allen Ridge Section 3, Phase 1 & 2 involving 27.54 acres located at the current terminus of Allen Ridge Road

**Explanation:**

A. SCHEDULE

1. Advertising date: June 10, 2021
2. City Council public hearing date: June 21, 2021
3. Effective date: June 23, 2021

B. CHARACTERISTICS

1. Relation to primary city limits: Contiguous
2. Relation to recognized industrial area: Outside
3. Acres: 27.54
4. Voting District: 2
5. Township: Arthur
6. Zoning: OR (Office-Residential) and R6A-RU (Residential)
7. Existing land use: Vacant
8. Anticipated land use: 76 duplex lots (152 units)
9. Population estimate

	Formula	Number of people
Total current:	0	0
Estimated at full development	152 x 2.18*	331
Current minority	0	0
Estimated minority at full development	331 x 43.4%	144
Current white	0	0
Estimated white at full development	331 - 144	187

\* average household size in Greenville (Source: Census.gov)

10. Rural fire tax district: Red Oak
11. Greenville fire district: Station 5 (2.2 miles)
12. Present tax value: \$633,420
13. Estimated tax value: \$22,800,000

**Fiscal Note:** The total estimated tax value at full development is \$22,800,000.

**Recommendation:** Approve the attached ordinance to annex Allen Ridge Section 3, Phase 1 & 2

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ATTACHMENTS

-  [Ordinance\\_-\\_Allen\\_Ridge\\_Sect\\_3\\_Ph\\_1\\_and\\_2.pdf](#)
-  [Allen Ridge Survey.pdf](#)

ORDINANCE NO. 21-  
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF  
THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville has been petitioned under G.S. 160D-31, as amended, to annex the area described herein; and

WHEREAS, the City Council has directed the City Clerk to investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a virtual public hearing on the question of this annexation was held electronically at 6:00 p.m. on the 21st day of June, 2021, after due notice by publication in The Daily Reflector on the 10<sup>th</sup> day of June, 2021; and

WHEREAS, the City Council does hereby find as a fact that said petition meets the requirements of G.S. 160D-31, as amended.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DOES ORDAIN:

Section 1. That by virtue of the authority vested in the City Council of the City of Greenville, North Carolina, under G. S. 160D-31, as amended, the following described contiguous territory is annexed:

TO WIT: Being all of that certain property as shown on the annexation map entitled "Allen Ridge, Section 3, Phase 1 & 2", involving 27.54 acres prepared by James L. Edwards Land Surveying.

LOCATION: Situate in Arthur Township, Pitt County, North Carolina, located at the current terminus of Allen Ridge Road.

GENERAL DESCRIPTION:

Beginning at an existing iron pipe, being the Northwestern Property Corner for existing Lot 80 and the Northeastern Property Corner for existing Lot 79 of Allen Ridge Subdivision Section 2, recorded in Map Book 68, Pages 153, and thence running N 88-02-55 W 740.00 to an existing iron pipe located at the Northwestern Property Corner for existing Lot 71 of Allen Ridge Subdivision, Section 2 and the Northeastern Corner of the existing 60' Public Right of Way of Ethan Lane; thence N 88-02-55 W 60.00' to another existing iron pipe, being the Northwestern Corner of the existing 60' Public Right of Way of Ethan Lane and the Northeastern Property Corner of Lot 70; thence N 88-02-55 W 100.00' along the Northern Property Line of existing Lot 70 to an existing iron pipe, being the Northwestern Property Corner for existing Lot 70 and the Northeastern Property Corner for existing Lot 69, Allen

Ridge Subdivision, Section 2; thence N 74-00-44 W 7.73' along the Northern Property Line of lot 69 to an existing iron pipe; thence N 06-59-13 W 309.15' to an existing iron pipe; thence N 83-00-47 E 15.57' to an existing iron pipe; thence N 06-59-13 W 110.00' to an existing iron pipe; thence N 04-24-16 E 119.19' to an existing iron pipe, thence N 44-52-38 E 149.31' to an existing iron pipe; thence S 89-07-21 E 912.59' to an existing iron pipe; thence S 02-31-55 W 153.00' to an existing iron pipe; thence S 87-41-27 E 1053.74' to an existing iron pipe, also being the Northwest Corner of KLA Holdings, LLC. Property recorded in Map Book 84, Page 181; thence with said Common Property Line S 02-18-43 W 345.99' to an existing iron pipe located in the Northern Right of Way of Allen Ridge Road; thence N 87-41-17 W 47.52' with the Northern Right of Way of Allen Ridge Road to an existing iron pipe; thence running with a 970.00' radius with a chord of N 85-31-30 W 73.21' with the Northern Right of Way of Allen Ridge Road to an existing iron pipe; thence S 06-38-16 W 60.00' with the Western Right of Way of Allen Ridge Road to an existing iron pipe; thence running with a 1030.00' radius with a chord of S 85-31-30 E 77.74' with the Southern Right of Way of Allen Ridge Road to an existing iron pipe; thence with the Southern Right of Way of Allen Ridge Road S 87-41-17 E 2.31' to an existing iron pipe; thence S 02-18-43 W 128.60' with the Western line of KLA Holdings, LLC. Property recorded in Map Book 84, Page 181 to an existing iron pipe located in the Northern Property Line of Lot 16 Allen Ridge Subdivision Section 2; thence along the Northern Property Line of Allen Ridge Subdivision Section 2 recorded in Map Book 68, Page 153 N 88-02-55 W 579.08' to an existing iron pipe which is also the Northwest Property Corner for Lot 85 Allen Ridge Section 2 and the Eastern Right of Way of Emerson Drive; thence N 01-57-05 E 4.87' with the Eastern Right of Way of Emerson Drive to an existing iron pipe; thence N 88-02-55 W 60.00' with the Northern Right of Way of Emerson Drive at the Northeastern Property Corner of Lot 84 Allen Ridge Section 2 to an existing iron pipe; thence N 88-02-55 W 181.63' along the Northern Property Line of Allen Ridge Subdivision Section 2 to an existing iron pipe which is also the Northwestern Property Corner for Lot 83 and the Northeastern Property Corner for Lot 82; thence N 82-11-23 W 246.16' to the Point of Beginning previously described as an existing iron pipe which is also known as the Northwestern Property Corner of Lot 80 and the Northeastern Property Corner of Lot 79; and also being shown as the 27.536 acre parcel shown on the map recorded in Map Book 85, Page 102.

Section 2. Territory annexed to the City of Greenville by this ordinance shall, pursuant to the terms of G.S. 160D-23, be annexed into Greenville municipal election district two. The City Clerk, City Engineer, representatives of the Board of Elections, and any other person having responsibility or charge of official maps or documents shall amend those maps or documents to reflect the annexation of this territory into municipal election district two.

Section 3. The territory annexed and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Greenville and shall be entitled to the same privileges and benefits as other territory now within the City of Greenville. Said territory shall be subject to municipal taxes according to G.S. 160D-58.10.

Section 4. The Mayor of the City of Greenville, North Carolina, shall cause a copy of the map of the territory annexed by this ordinance and a certified copy of this ordinance to be recorded in the office of the Register of Deeds of Pitt County and in the Office of the Secretary of State in Raleigh, North Carolina. Such a map shall also be delivered to the Pitt County Board of Elections as required by G.S. 163-288.1.

Section 5. This annexation shall take effect from and after the 23<sup>rd</sup> day of June, 2021.

ADOPTED this 23<sup>rd</sup> day of June, 2021.

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P. J. Connelly, Mayor

ATTEST:

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Valerie Shiuwegar, City Clerk

NORTH CAROLINA  
PITT COUNTY

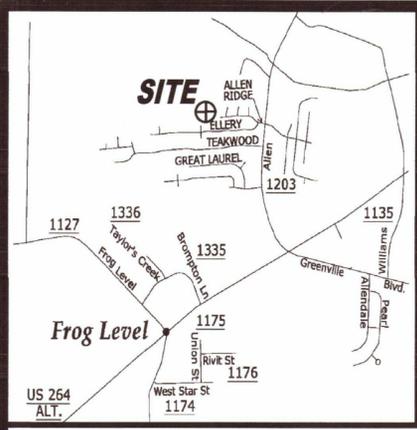
I, Camillia P. Smith, a Notary Public for said County and State, certify that Valerie Shiuwegar personally came before me this day and acknowledged that she is the City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality, the foregoing instrument was signed in its name by its Mayor, sealed with the corporate seal, and attested by herself as its City Clerk.

WITNESS my hand and official seal this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

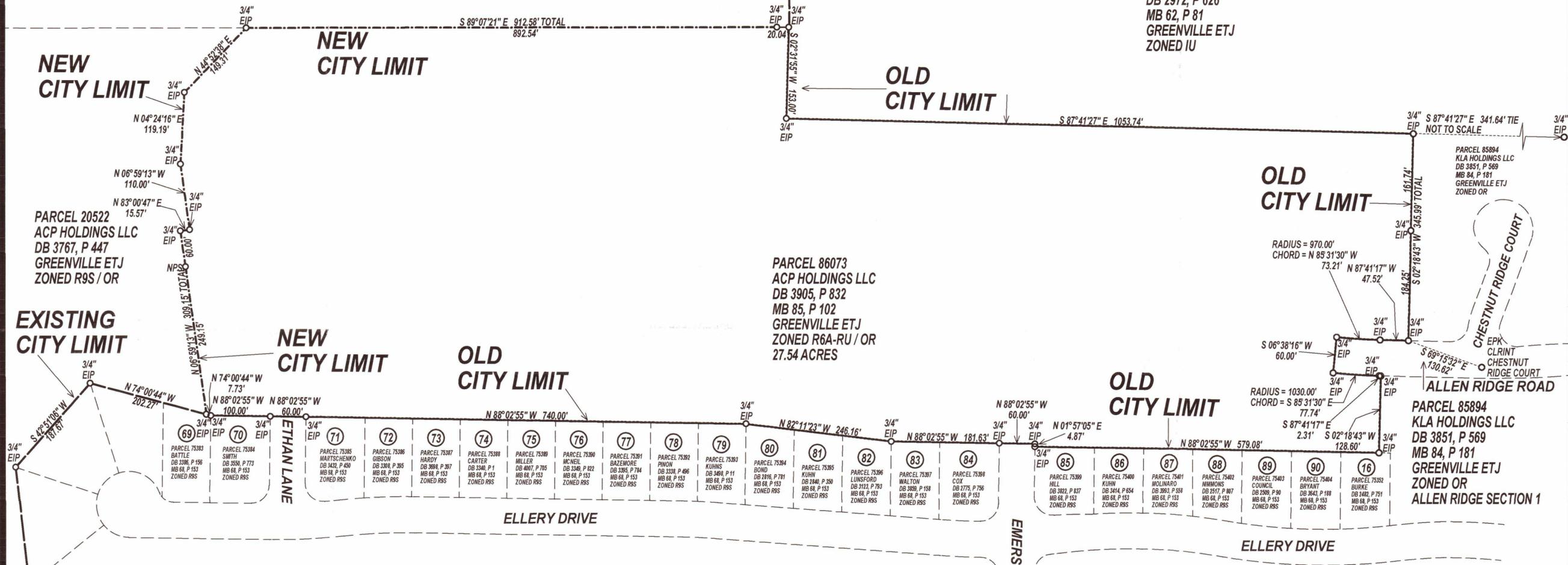
1148489



PARCEL 52999  
HARDEE FAMILY  
HOLDINGS LLC  
DB 2972, P 626  
GREENVILLE ETJ  
ZONED IU

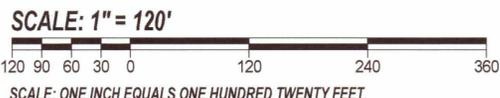
EXISTING  
CITY LIMIT

PARCEL 52999  
HARDEE FAMILY  
HOLDINGS LLC  
DB 2972, P 626  
MB 62, P 81  
GREENVILLE ETJ  
ZONED IU



EIP = EXISTING IRON PIPE  
NPS = NO POINT SET  
AREA BY COORDINATE GEOMETRY.  
ALL DISTANCES ARE GROUND UNLESS OTHERWISE NOTED.  
SUBJECT PROPERTY NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA PER FIRM 3720466700K, DATED JULY 7, 2014.  
SUBJECT PROPERTY NOT LOCATED WITHIN 2000' OF A NCGS MONUMENT.

**LEGEND**  
NEW CITY LIMIT ---  
EXISTING CITY LIMIT - - -  
OLD CITY LIMIT - - -



**SURVEYOR'S CERTIFICATION**  
I, JAMES L. EDWARDS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY PERFORMED UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 3767, PAGE 447, OR FROM BOOKS REFERENCED HEREON); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK N/A, PAGE N/A, OR AS A REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED IS 1: 10,000.  
WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS THE 28th DAY OF APRIL, 2021.  
SIGNED: [Signature] PROFESSIONAL LAND SURVEYOR NO. L-4867

**ALLEN RIDGE SUBDIVISION**  
SECTION 3, PHASE 1 & 2  
ARTHUR TOWNSHIP, PITT COUNTY, NORTH CAROLINA

JAMES L. EDWARDS  
LAND SURVEYING  
502 SECOND ST.  
AYDEN, NC, 28513  
252-714-7374

L-4867

MAP NO.	PLATS RECORDED	BOOK	PAGE

**MAP SHOWING AREA ANNEXED BY THE CITY OF GREENVILLE, N.C.**

DATE: \_\_\_\_\_ ORDINANCE NO. \_\_\_\_\_

ARTHUR TOWNSHIP, PITT COUNTY, N.C. **27.54 ACRES**

**REVIEW OFFICER'S CERTIFICATION**  
I, \_\_\_\_\_, A REVIEW OFFICER OF PITT COUNTY, NC, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.  
BY: \_\_\_\_\_ REVIEW OFFICER  
DATE: \_\_\_\_\_