

TOWN OF WATHA



ZONING ORDINANCE

Adopted by the Town of Watha Board of Commissioners:
June 23, 1994, includes amendments through May 2, 2022

Prepared by:



TOWN OF WATHA
ZONING ORDINANCE

Scope of the Ordinance

An ordinance establishing comprehensive zoning regulations for the Town of Watha, North Carolina, and providing for the administration, enforcement, and amendment thereof, in accordance with the provisions of North Carolina General Statutes, Chapter 160D.

Title

This ordinance shall be known and may be cited as "The Zoning Ordinance of the Town of Watha, North Carolina" and may be cited as the "Zoning Ordinance."

Preamble and Enactment Clause

Pursuant to the authority conferred by Article 7 Zoning, Chapter 160D of the General Statutes of North Carolina, and for the purposes of lessening congestion in the streets; to secure from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements, in accordance with a comprehensive plan, the Board of Commissioners of the Town of Watha does ordain and enact into law the following articles and sections:

Effective Date

THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER THE 23rd DAY OF JUNE 1994.

DULY ADOPTED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF WATHA ON THIS 23rd DAY OF JUNE 1994, AND INCLUDES AMENDMENTS THROUGH MAY 2, 2022.

ATTEST:



Town Clerk



Mayor

APPROVED AS TO FORM:



Town Attorney

INTRODUCING COMMISSIONERS Samuel Stadsvold

SECONDING COMMISSIONERS Joseph Craig

The following Commissioners voting in the affirmative:

Samuel Stadsvold _____

Joseph Craig _____

The following Commissioners voting in the negative:

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ARTICLE 1

General Regulations

Section 1.01 Affected Territory:

1.01.01: This Ordinance shall apply to all territory within the corporate limits of the Town of Watha and its extraterritorial jurisdiction as designated on the Official Zoning Map. Such planning jurisdiction may be modified from time to time in accordance with NCGS 160D-202.

1.01.02 Exemptions:

1. These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site-specific plan as required by the requirements previously adopted or previously approved vested rights in accordance with NCGS 160D-108. Any preliminary or final subdivision plat approvals required for such approved or exempted site-specific plans shall be conducted in accordance with the requirements of the previous Subdivision Regulations.
2. In accordance with NCGS 160D-913, this Zoning Ordinance is applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions. Notwithstanding the provisions of any general or local law or ordinance, except as provided in Article 9, Part 4 of NCGS 160D, no land owned by the State of North Carolina may be included within an overlay district or a conditional zoning district without approval of the Council of State or its delegee.
3. The provisions of this Ordinance shall not apply to existing bona fide farms. A bona fide farm is any tract of land containing at least three acres which is used for the production of, or activities relating to, or incidental to, the production of crops, fruit, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural or forest products having a domestic or foreign market.

Section 1.02 Zoning Affects Every Building and Use:

No building shall be erected, reconstructed, or structurally altered nor shall any building or land be used, except in compliance with all the regulations established by this Ordinance for the district in which the building or land is located.

Section 1.03 Open Space Not to be Encroached Upon:

The minimum yards, and off-street parking and loading space required by this Ordinance, shall not be encroached upon. This applies to each and every building hereafter erected or structurally altered. These open spaces shall also not be considered as meeting the open space requirements for any other building.

Section 1.04 One Principal Building Per Lot:

Not more than one principal building shall be constructed on any one lot.

Section 1.05 Locations of Building Lines on Irregularly Shaped Lots:

These locations shall be determined by the Building Inspector of the Town of Watha. Such determinations shall be based on the spirit and intent of the district regulations to achieve spacing and location of buildings on individual lots.

Section 1.06 Non-Conformances May Continue:

Residential dwellings may be built on any lot which was recorded prior to the enactment of this Ordinance even though it may not meet the lot width and area requirements established by this Ordinance. Any lot or structure being used lawfully before this Ordinance was enacted may continue to be used in the same manner after the date of adoption of this Ordinance even though such use is not now permitted under the terms of this Ordinance. Special regulations concerning nonconformances are given in Article 9 of this Ordinance.

Section 1.07 Development Approvals Run with the Land:

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approval made pursuant to this Ordinance attach to and run with the land.

Section 1.08 Refund of Illegal Fees:

If the Town of Watha is found to have illegally imposed a tax, fee, or monetary contribution for development or a development approval not specifically authorized by law, the Town shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum to the person who made the payment or as directed by a court if the person making the payment is no longer in existence.

Section 1.09 North Carolina State Building Code:

The Town of Watha Building Code and the North Carolina State Building Code are incorporated herein by reference, and serve as the basis for Building Inspector authority to regulate building construction. This Ordinance is not intended to conflict with or supersede the North Carolina State Building Code regulations. All quasi-judicial procedures prescribed in Article 3, Part VI apply to these codes.

Section 1.10 Relationship to Comprehensive Plan:

1.10.01: As a condition of adopting and applying zoning regulations, the Town of Watha shall adopt and reasonably maintain a comprehensive plan as established in NCGS 160D-501 that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction.

1.10.02: Plans shall be adopted by the Board of Commissioners with the advice and consultation of the Planning Board. Adoption and amendment of the comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by Article 3, Part I. An adopted comprehensive plan shall be considered by the Planning Board and Board of Commissioners when considering proposed amendments to zoning regulations as required by Sections 3.04 and 3.05.

1.10.03: If a plan is deemed amended by Section 3.05 by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan. However, if the plan is one that requires review and approval subject to NCGS 113A-110, the plan amendment shall not be effective until that review and approval is completed.

Section 1.11 Split Jurisdiction:

If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the Town of Watha and Pender County may by mutual agreement and with the written consent of the landowner assign exclusive planning and development regulation jurisdiction for the entire parcel to either the Town or the County. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the Pender County Register of Deeds within 14 days of the adoption of the last required resolution.

Section 1.12 Pending Jurisdiction:

After consideration of a change in local government jurisdiction has been formally proposed, the local government that is potentially receiving jurisdiction may receive and process proposals to adopt development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date.

Section 1.13 Computation of Time:

1.13.01: Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.

1.13.02: Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

Section 1.14 Fees:

1.14.01: Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, stormwater permits, subdivision plat approval, site plan approval, zoning amendments, variances, changes to Ordinance text and map, and other administrative relief. The amount of the fees charged shall be as set forth in the Town's fee schedule as established by the Board of Commissioners and filed in the office of the Town Clerk.

1.14.02: Fees established in accordance with subsection 1.14.01 shall be paid upon submission of a signed application or notice of appeal.

ARTICLE 2

Administrative Mechanisms

PART I. ADMINISTRATIVE STAFF

Section 2.01 Authorization:

In accordance with NCGS Section 160D-402, the Town may appoint administrators, inspectors, enforcement officers, planners, technicians, and other staff to develop, administer, and enforce this Ordinance. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the Zoning Administrator.

Section 2.02 Duties:

Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to NCGS Chapter 160D; determining whether applications for development approvals are complete; receipt and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order to adequately enforce the laws and development regulations under the Town's jurisdiction. A development regulation may require that designated staff members take an oath of office. The Town of Watha shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this Ordinance. The administrative and enforcement provisions related to building permits set forth in Article 11 of NCGS Chapter 160D shall be followed for those permits.

Section 2.03 Alternative Staff Arrangements:

The Town may enter into contracts with another city, county, or combination thereof under which the parties agree to create a joint staff for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties may make any necessary appropriations for this purchase.

In lieu of joint staff, the Board of Commissioners may designate staff from any other city or county to serve as a member of its staff with the approval of the Board of the other city or county. A staff member, if designated from another city or county under this section, shall, while exercising the duties of the position, be considered an agent of the Town. The Board of Commissioners may request the governing board of the second local government to direct one or more of the second local government's staff members to exercise their powers within part or all of the Town's jurisdiction, and they shall thereupon be empowered to do so until the Town officially withdraws its request in the manner provided in NCGS 160D-202.

The Town may contract with an individual, company, council of governments, regional planning agency, metropolitan planning organization, or rural planning agency to designate an individual who is not a city or county employee to work under the supervision of the local government to exercise the functions authorized by this section. The Town shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the Town as it does for an individual who is an employee of the Town. The company or individual with whom the Town contracts shall have errors and omissions and other insurance coverage acceptable to the Town.

Section 2.04 Financial Support:

The Town may appropriate for the support of the staff for any funds that it deems necessary. It shall have the power to fix reasonable fees for support, administration, and implementation of programs authorized by this Ordinance and all such fees shall be used for no other purposes. When an inspection, for which the permit holder has paid a fee to the Town, is performed by a marketplace pool Code-enforcement official upon request of the Insurance Commissioner under NCGS 143-151.12(9)a, the Town shall promptly return to the permit holder the fee collected by the Town for such inspection. This applies to the following inspections: plumbing, electrical systems, general building restrictions and regulations, heating and air-conditioning, and the general construction of buildings.

Section 2.05 through 2.10 Reserved.

PART II. PLANNING AND ZONING BOARD

Section 2.11 Creation of Planning and Zoning Board and Membership:

2.11.1: A town planning and zoning board is hereby created under the authority of the North Carolina General Statute Section 160D-301.

2.11.2: The Board shall be comprised of five (5) members, of which two (2) members shall be representatives of the extraterritorial jurisdiction. Three members of the Board shall be citizens and residents of the Town of Watha and shall be appointed by the Watha Town Board of Commissioners. Two members of the Board shall be citizens and residents of the extraterritorial jurisdiction of the town as described pursuant to NCGS 160D-307, and shall be appointed by the County Board of Commissioners. The county representation must be proportional based on the population for residents of the ETJ area. The population estimates for this calculation must be updated following each decennial census. The Board shall elect, by majority vote of the entire membership at its first scheduled meeting during the calendar year, the following officers: Chairperson and Vice-Chairperson. The duties and responsibilities shall be as follow:

- (A) Chairperson: The Chairperson shall preside at all meetings of the Board when present, appoint special or standing committees, and decide all points of procedure unless otherwise directed by a majority vote of the Board members present.
- (B) Vice-Chairperson: The Vice-Chairperson shall preside as Chairperson at all meetings where the Chairperson is not present, or the Chairperson temporarily vacates the position for cause and at such times shall have the same powers and duties as the Chairperson.

2.11.3: Each member to the Board shall be appointed for a term of (3) years.

2.11.4: Any vacancy occurring for reasons other than expiration of a term shall be filled by the Board of Commissioners for the remainder of the unexpired term.

2.11.5: The Town Clerk shall perform such tasks as may be assigned by the Chairperson including the preparation of all correspondence for the Board, prepare and mail all notices required, and prepare and keep all minutes and records of the Board's proceedings and records of attendance. The Town of Watha Building Inspector and Town Clerk shall be ex officio, non-voting members of the Board.

2.11.6: All appointed members shall, before entering their duties, qualify by taking an oath of office.

Section 2.12 Compensation:

The Board of Town Commissioners for the Town of Watha, North Carolina may from time to time pay such compensation as the Board deems appropriate to the active members of the Planning and Zoning Board.

Section 2.13 Rules of Conduct:

Members of the Planning and Zoning Board may be removed for cause, including violation of any rule state below:

- (A) Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite of continuing membership on the Board, inclusive of attendance at each scheduled meeting.
- (B) No Board member shall discuss any case with any parties thereto prior to the meeting on that case; provided however, that members may receive and/or seek information pertaining to the case from any other member of the Board, or staff prior to the meeting. Board members shall disclose publicly any contact made by any party to a matter before the Board.
- (C) Members of the Board shall not express individual opinions on the proper judgment of any case with any parties thereto prior to the Board's determination of that case. Violation of this rule shall be cause for dismissal from the Board.

Section 2.14 Meetings:

2.14.1: Meetings of the Planning and Zoning Board will be called by the Chairperson to the Board or Vice Chairperson in the absence of the Chairperson, after proper notice is given to each Board member by the Town Clerk or upon the Town of Watha Board of Commissioners establishing a schedule of meeting dates to be held during a calendar year. All meetings of the Planning and Zoning Board shall be open to the public. A quorum shall consist of three (3) members of the Board.

2.14.2: All members to the Board must vote on any issue unless they have disqualified themselves for one or more of the reasons listed in Part IV of this section or have been excused from voting. A vote of a majority of the members present and voting shall decide issued before the Board.

2.14.3: Special meetings may be called by the Chairperson or Vice Chairperson in the absence of the Chairperson. It shall be the duty of the Chairperson to call such a meeting upon a recommendation of the Board. During a special meeting, no other business may be considered except that which was specified by advance notice give to the public. The Clerk shall notify all members of the Board in writing not less than five (5) days in advance of such special meeting. Notice of time, place, and subject of such meeting shall be published in a newspaper having general circulation in the Town of Watha when possible in accordance with G.S. 143-128.129(b).

2.14.4: The order of business at regular meetings shall be as follows:

- (A) Call to Order;
- (B) Approval of Minutes of Previous Meetings;
- (C) Approval of the Agenda;
- (D) Public Input;
- (E) Unfinished Business;
- (F) New Business;
- (G) Announcements;
- (H) Adjournment.

2.14.5: The petitioner or applicant may withdraw the petition or application at any time; but if a motion is pending to make a recommendation to grant or deny, such motion shall have precedence. Withdrawal shall not entitle the petitioner or applicant to return of the filing fee.

2.14.6: The Board shall render its decisions in the form of a recommendation on any properly filed petition or application within sixty (60) days after its introduction and shall transmit a signed copy of the decision to the Watha Town Clerk for subsequent submittal to the Watha Town Board of Commissioners for consideration. The decision shall be in the form of a letter signed by the Chairperson and Clerk and attached to the minutes. Such letter shall indicate the reasons for the Board's determination and its findings.

Section 2.15 Powers and Duties:

The Planning and Zoning Board shall have the following powers and duties:

- (A) STUDIES: The Board shall review and make recommendations regarding studies of the present conditions and the probable future development of the Town and its extraterritorial jurisdiction. Such studies may include but not to be limited to: land-use surveys, population studies, economic base studies, park and recreation studies, and traffic and parking studies.
- (B) PLANS: The Board shall recommend a comprehensive plan of the town and its extraterritorial jurisdiction for the purpose of achieving a coordinated, adjusted and harmonious development of the municipality which would promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity and general welfare of its citizens; efficiency and economy in the process of development; convenience of traffic; safety from fire and other dangers; adequate light and air; healthful and convenient distribution of population; provision of adequate open spaces; good civic design and arrangement; wise and efficient expenditures of public funds; adequate provision for public utilities and for other matters pertaining to the public requirements. The comprehensive plan shall consist of a number of parts which may include but not be limited to the following: a land-use plan, a major thoroughfare plan, a utilities plan, a plan for economic development, recreation plan, and a community facilities plan.
- (C) ZONING REGULATIONS: The Board shall review and make recommendations regarding any change, alteration or amendment of the zoning chapter and ordinances, as well as any proposed new or replacement zoning ordinance before enactment by the Board of Commissioners. Failure of the Board to act within two successive regular meetings shall constitute approval of the proposed change, alteration, amendment, or new ordinance.
- (D) SUBDIVISION REGULATIONS: The Board shall recommend subdivision regulations governing the subdivision of land within the Town of Watha and its extraterritorial jurisdiction to be submitted to the Town Board of Commissioners for its consideration and possible adoption.

Section 2.16 through 2.20 Reserved.

PART III. BOARD OF ADJUSTMENT

Section 2.21 Board of Adjustment Created:

A Board of Adjustment is hereby created. The word "Board" when used in this Article shall be construed to mean the Board of Adjustment.

Section 2.22 Number of Members; Appointments:

The Board shall consist of five members. The members shall be citizens and residents of the Town of Watha or its territorial jurisdiction. Three members shall be citizens and residents of the Town and shall be appointed by the Town Board of Commissioners. Two members shall be citizens and residents of the extraterritorial jurisdiction of the Town and shall be appointed by the County Board of Commissioners. The county representation must be proportional based on the population for residents of the ETJ area. The population estimates for this calculation must be updated following each decennial census. All appointed members shall, before entering their duties, qualify by taking an oath of office.

Section 2.23 Length of Terms:

Each member shall be appointed for a term of three years.

Section 2.24 Vacancies:

Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

Section 2.25 Compensation:

The Board of Town Commissioners for the Town of Watha, North Carolina may from time to time pay such compensation as the Board deems appropriate to active members of the Board of Adjustment of the Town of Watha, North Carolina.

Section 2.26 Officers, Rules and Regulations:

The Board shall elect such officers, and adopt such rules and regulations for its own government as it deems necessary to carry out the provisions of this article. A complete listing of all officers, term of office, rules and regulations shall be maintained for public record by the Secretary of the Board and a copy of which shall be kept on file.

Section 2.27 Conduct of Meetings:

All hearings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and the absence or failure of any member to vote, and a copy of the minutes shall be maintained on file for public record.

Section 2.28 Disposition of Appeals:

The final disposition of each appeal shall be by recorded resolution indicating the reasons of the Board therefore based on findings of fact and conclusions of law, all of which shall be a public record.

Section 2.29 Appeals from Decisions of the Building Inspector:

An appeal from the decisions of the Building Inspector may be taken to the Board of Adjustment by any person aggrieved, or by any officer, department, board or bureau of the Town affected by such decision. Such

appeal shall be taken within a reasonable time as provided by the rules of the Board by filing with the Building Inspector and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Building Inspector shall transmit to the Board all the papers constituting the record upon which the appeal was based on.

Section 2.30 Powers of the Board of Adjustment:

The Board shall have the following powers:

2.30.01 To Hear Appeals: To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Building Inspector. A unanimous vote of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Building Inspector.

2.30.02 To Authorize Variances: To authorize upon appeal in specific cases such as variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in undue hardship, and so that the spirit of this Ordinance shall be observed, and substantial justice done.

In considering all proposed variances to this Ordinance, the Board shall, before making any finding on a specific case, first determine that the proposed variance will not allow the establishment of a use not otherwise permitted in a district by this Ordinance; extend in area or expand a nonconforming use of land; change the district boundaries shown on the zoning map; impair any adequate supply of light and air to adjacent property; materially increase the public danger of fire; materially diminish or impair established property values within the surrounding area; or in any other respect impair the public health, safety, morals, and general welfare.

In granting a variance the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this Ordinance.

Before a variance is granted, it shall be shown that special circumstances attach to the property which do not generally apply to other property in the neighborhood. A variance may be granted only when the practical difficulty or undue hardship complained of is due to the particular characteristics of the property and not to the general conditions of the neighborhood which may reflect an undue stringency of the Ordinance itself. A hardship peculiar to the applicant, as distinguished from others affected by the general rule, must be shown. The fact that property may be utilized more profitably will not be considered adequate to justify the Board in granting a variance.

2.30.03: The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances. The Board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development. If any board other than the Board of Adjustment is assigned decision-making authority for any quasi-judicial matter, that board shall comply with all of the procedures and the process applicable to a Board of Adjustment in making quasi-judicial decisions.

2.30.04: The concurring vote of four-fifths of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of the subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are not qualified alternates available to take the place of such members.

Section 2.31 Rehearing:

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

Section 2.32 through 2.35 Reserved.

PART IV. CONFLICTS OF INTEREST

Section 2.36 Governing Board:

A Town of Watha Board of Commissioners member shall not vote on any legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have direct, substantial, or readily identifiable financial impact on the member. A Board of Commissioners member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

Section 2.37 Appointed Boards:

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

Section 2.38 Administrative Staff:

2.38.01: No staff member shall make a final decision on an administrative decision required by this Ordinance if the outcome of that decision would have direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person, or such other staff person as may be designated by this Ordinance.

2.38.02: No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town.

Section 2.39 Quasi-Judicial Decisions:

A member of any board exercising quasi-judicial functions pursuant to this Ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed *ex parte* communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

Section 2.40 Resolution of Objection:

If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter, and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

Section 2.41 Familial Relationship:

For purposes of this Part, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

ARTICLE 3

Administrative/Legislative Procedures

PART I. PROCESS FOR ADOPTION OF DEVELOPMENT REGULATIONS

Section 3.01 Adopting/Amending Development Regulations:

3.01.01 Hearing with Published Notice: Before adopting, amending, or repealing any ordinance or development regulation authorized by NCGS Chapter 160D, the Board of Commissioners shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

3.01.02: A development regulation adopted pursuant to NCGS Chapter 160D shall be adopted by ordinance.

3.01.03: No amendment to zoning regulations or a zoning map that down-zones property shall be initiated, nor shall it 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 Town.

Section 3.02 Notice of Hearing on Proposed Zoning Map Amendments:

3.02.01 Mailed Notice: This Ordinance provides for the manner in which zoning regulations and the boundaries of zoning districts are determined, established, and enforced, and from time to time may be amended, or changed, in accordance with the requirements of this Part. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addressed listed for such owners on the county tax abstracts. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion of the Town’s ETJ, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

3.02.02 Optional Notice for Large Scale Zoning Amendments: The first-class mail notice required under subsection 3.02.01 of this section shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to make the mailed notice provided for in subsection 3.02.01 of this section or, as an alternative, elect to publish notice of the hearing as required by Section 3.01, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection 3.02.01 of this section.

3.02.03 Posted Notice: When a zoning map amendment is proposed, the Town shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-

of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the Town shall post sufficient notices to provide reasonable notice to interested persons.

3.02.04 Actual Notice: Except for Town-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the landowner or authorized agent, the applicant shall certify to the Town that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of the hearing. Actual notice shall be provided in any manner permitted under NCGS 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, or by a designated delivery authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with NCGS 1A-1, Rule 4(j1). The person or persons required to provide notice shall certify to the Town that actual notice has been provided, and such certificate shall be deemed conclusive in the absence of fraud.

Section 3.03 Citizen Comments:

Subject to the limitations of this Ordinance, zoning regulations may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment, to the Clerk to the Board at least two business days prior to the proposed vote on such change, the Clerk to the Board shall deliver such written statement to the Board of Commissioners. If the proposed change is the subject of a quasi-judicial proceeding under NCGS Chapter 160D-705 or any other statute, the Clerk to the Board shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the Board shall not disqualify any member of the Board from voting.

Section 3.04 Planning Board Review and Comment:

3.04.01 Zoning Amendments: Subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulations or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that Board, the Board of Commissioners may act on the amendment without the Planning Board report. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.

3.04.02 Review of Other Ordinances and Actions: Any development regulations other than a zoning regulation that is proposed to be adopted pursuant to NCGS Chapter 160D may be referred to the Planning Board for review and comment. Any development regulation other than a zoning regulation may provide that future proposed amendments of that ordinance be submitted to the Planning Board for review and comment. Any other action proposed to be taken pursuant to NCGS Chapter 160D may be referred to the Planning Board for review and comment.

3.04.03 Plan Consistency: When conducting a review of proposed zoning text or map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. If a zoning map amendment qualifies as a "large-scale rezoning" under NCGS 160D-602(b), the Planning Board statement

describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendations made.

3.04.04 Separate Board Required: Notwithstanding the authority to assign duties of the Planning Board to the Board of Commissioners as provided by this Ordinance, the review and comment required by this section shall not be assigned to the Board of Commissioners and must be performed by a separate board.

Section 3.05 Board of Commissioners Statement:

3.05.01 Plan Consistency: When adopting or rejecting any zoning text or map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board of Commissioners that at the time of action on the amendment the Council was aware of and considered the Planning Board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan, and no additional application or fee for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency amendment is not subject to judicial review. If a zoning map amendment qualifies as a "large scale rezoning" under Section 3.02.02, the Board of Commissioners statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

3.05.02 Additional Reasonableness Statement for Rezoning: When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Board of Commissioners. This statement of reasonableness may consider, among other factors, (i) the size, physical condition, 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. If a zoning map amendment qualifies as a "large-scale rezoning" under Section 3.02.02, the Board of Commissioners statement on reasonableness may address the overall rezoning.

3.05.03 Single Statement Permissible: The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

Section 3.06 through 3.10 Reserved.

PART II. VESTED RIGHTS AND PERMIT CHOICE

Section 3.11 Findings:

Town approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. Therefore, it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, secure reasonable expectations of landowners, and foster cooperation between the public and private sectors in land-use planning and development regulation.

Section 3.12 Permit Choice:

If an application made in accordance with local regulation is submitted for a development approval required pursuant to this Ordinance and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. This section applies to all development approvals issued by the State and by local governments. The duration of vested rights created by development approvals are as set forth in Section 3.14.

Section 3.13 Process to Claim Vested Right:

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the Zoning Administrator, who shall make an initial determination as to the existence of the vested right. The Zoning Administrator's determination may be appealed under G.S. 160D-405. On appeal the existence of a vested right shall be reviewed *de novo*. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided in G.S. 160D-405(c).

Section 3.14 Types and Duration of Statutory Vested Right:

Except as provided by this section and subject to Section 3.12, amendments to this Ordinance shall not be applicable or enforceable with regard to development that has been permitted or approved pursuant to this Ordinance so long as one of the approvals listed in this subsection remains valid and unexpired. Each type of vested right listed below is defined by and is subject to the limitations provided in this section and the cited statutes. Vested rights established under this section are not mutually exclusive. The establishment of vested right under one subsection does not preclude vesting under one or more other subsections or by common law principles.

3.14.01 Six Months – Building Permits: Pursuant to NCGS 160D-1110, a building permit expires six (6) months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of twelve (12) months after work has commenced.

3.14.02 One Year – Other Local Development Approvals: Pursuant to NCGS 160D-403(c), unless otherwise specified by this section, statute, or local ordinance, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site-specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law.

3.14.03 Two to Five Years – Site Specific Vesting Plans:

3.14.03.1 Duration. A vested right for a site-specific vesting plan shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the Town. The Town may provide that rights regarding a site-specific vesting plan shall be vested for a period exceeding two years, but not exceeding five years if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. This determination shall be made in the discretion of the Town and shall be made following the process specified by subsection 3.14.3.3 below for the particular form of a site-specific vesting plan involved.

3.14.03.2 Relationship to Building Permits. A right vested as provided in this subsection shall terminate at the end of the applicable vesting period which respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of NCGS 160D-1110 and 160D-1113 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this section exists.

3.14.03.3 Requirements for Site-Specific Vesting Plans. For the purposes of this section, a “site-specific vesting plan” means a plan submitted to the Town describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a site plan, a preliminary or general development plan, a conditional zoning, or any other development approval as may be used by the Town. Unless otherwise expressly provided by the Town, the plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. The Town of Watha uses existing development approvals, such as a preliminary plat or a conditional zoning, to approve a site-specific vesting plan. A variance shall not constitute a “site specific vesting plan,” and approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

3.14.03.4 Process for Approval and Amendment of Site-Specific Vesting Plans. If a site-specific vesting plan is based on an approval required by a local development regulation, the Town shall provide whatever notice and hearing is required for that underlying approval. If the duration of the underlying approval is less than two years, that shall not affect the duration of the site-specific vesting established by this subsection. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by NCGS 160D-602 shall be held. The Town may approve a site-specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested, although failure to abide by such terms and conditions will result in a forfeiture of vested rights. The Town shall not require a landowner to waive vested rights as a condition of developmental approval. A site-specific vesting plan shall be deemed approved upon the effective date of the Town’s decision approving the plan or such other date as determined by the Board of Commissioners upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the Town as follows: Any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

3.14.04 Seven Years – Multi-Phase Developments: A multi-phased development shall be vested for the entire development with the Zoning Ordinance in place at the time a site plan approval is granted for the initial phase of the multi-phased development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development. For the purposes of this subsection, “multi-phased development” means a development containing 100 acres of more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

3.14.05 Indefinite – Development Agreements: A vested right of reasonable duration may be specified in a development agreement approved under Part III of this Article.

Section 3.15 Continuing Review:

Following approval or conditional approval of a statutory vested right, the Town may make subsequent reviews and require approvals by the Town to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The Town may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

Section 3.16 Exceptions:

3.16.01: A vested right, once established as provided for by subsections 3.14.03 and 3.14.04, precludes any zoning action by a local government that would change, alter, impair prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except:

3.16.01.1 With the written consent of the affected landowner;

3.16.01.2 Upon findings, after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, and safety, and welfare if the project were to proceed as contemplated in the approved vested right;

3.16.01.3 To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approved by the Town, together with interest as is provided in Section 1.14. Compensation shall not include any diminution in the value of the property that is caused by such action;

3.16.01.4 Upon findings, after notice and an evidentiary hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the Town of the vested right; or

3.16.01.5 Upon the enactment or promulgation of a State or Federal law or regulation that precludes development as contemplated in the approved vested right, in which case the Town may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the plan, after notice and an evidentiary hearing.

3.16.02: The establishment of a vested right under subsections 3.14.03 and 3.14.04, shall not preclude the application of overlay zoning or other development regulation that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to development regulation by the Town including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new regulations shall become effective with respect to property that is subject to a vested right established under this section upon the expiration or termination of the vested rights period provided for in this section.

3.16.03: Notwithstanding any provision of this section, the establishment of a vested right under this section shall not preclude, change or impair the authority of the Town to adopt and enforce development regulation provisions governing nonconforming situations or uses.

Section 3.17 Miscellaneous Provisions:

3.17.01: 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 vested right under this section, all successors to the original landowner shall be entitled to exercise such rights.

3.17.02: Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

Sections 3.18 through 3.20 Reserved.

PART III. DEVELOPMENT AGREEMENTS

Section 3.21 Authorization:

3.21.01 In accordance with NCGS 160D-1002, the Town of Watha finds:

3.21.01.1 Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources.

3.21.01.2 Such developments often create community impacts and opportunities that are difficult to accommodate within traditional zoning processes.

3.21.01.3 Because of their scale and duration, such projects often require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development.

3.21.01.4 Such projects involve substantial commitments of private capital which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.

3.21.01.5 Such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas.

3.21.01.6 To better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs, the Town needs flexibility to negotiate such developments.

3.21.02 The Town may enter into development agreements with developers, subject to the procedures of this Part. In entering into such agreements, the Town may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.

3.21.03 This Part is supplemental to the powers conferred upon the Town and does not preclude or supersede rights and obligations established pursuant to other law regarding development approvals, site-specific vesting plans, phased vesting plans, or other provisions of law. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the Town's development regulations. When the Board of Commissioners approves the

rezoning of any property associated with a development agreement executed and recorded pursuant to this Part, the provisions of Section 3.05 apply.

3.21.04 Development authorized by a development agreement shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of property, including laws governing permitted uses of the property, density, intensity, design, and improvements.

Section 3.22 Definitions:

3.22.01 Development: The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. When appropriate to the context, “development” refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.

3.22.02 Public Facilities: Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

Section 3.23 Approval of Board of Commissioners Required:

3.23.01: The Town of Watha may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the Board of Commissioners following the procedures specified in Section 3.25.

3.23.02: The development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the Town. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

Section 3.24 Size and Duration:

The Town of Watha may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size. Development agreements shall be of a reasonable term specified in the agreement.

Section 3.25 Public Hearing:

Before entering into a development agreement, the Town shall conduct a legislative hearing on the proposed agreement. The notice provisions of Section 3.02 applicable to zoning map amendments shall be followed for this hearing. The notice for the public hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

Section 3.26 Content and Modification:

3.26.01: A development agreement shall, at a minimum, include all of the following:

3.26.01.1 A description of the property subject to the agreement and the names of its legal and equitable property owners.

3.26.01.2 The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.

3.26.01.3 The development uses permitted on the property, including population densities, and building types, intensities, placement on the site, and design.

3.26.01.4 A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the Town shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.

3.26.01.5 A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.

3.26.01.6 A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.

3.26.01.7 A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

3.26.02: A development agreement may also provide that the entire development or any phase of it be commenced or completed within a specified period of time. If required by ordinance or in the agreement, the development agreement shall provide a development schedule, including commencement dates and interim completion dates at no greater than five-year intervals; provided, however, the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the development agreement pursuant to Section 3.28 but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as set forth in the agreement.

3.26.03: If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.

3.26.04: The development agreement also may cover any other matter, including defined performance standards, not inconsistent with this Ordinance. The development agreement may include mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by the local government pursuant to G.S. 160D-804 shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

3.26.05: Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. What changes constitute a major

modification may be determined by ordinance adopted pursuant to Section 3.23 or as provided for in the development agreement.

3.26.06: Any performance guarantees under the development agreement shall comply with the Town of Watha Subdivision Regulations.

Section 3.27 Vesting:

3.27.01: Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement.

3.27.02: Except for grounds specified in Section 3.28.05, the Town may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.

3.27.03: In the event State or Federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the Town may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the development agreement.

3.27.04: This section does not abrogate any vested rights otherwise preserved by law.

Section 3.28 Breach and Cure:

3.28.01: Procedures established pursuant to Section 3.23 may require periodic review by the Zoning Administrator or other appropriate officer of the Town, at which time the developer shall demonstrate good-faith compliance with the terms of the development agreement.

3.28.02: If the Town finds and determines that the developer has committed a material breach of the agreement, the Town shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach.

3.28.03: If the developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the development agreement, provided the notice of termination or modification may be appealed to the Board of Adjustment in the manner provided by Section 3.41.

3.28.04: An ordinance adopted pursuant to Section 3.23 or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation. Nothing in this Article shall be construed to abrogate or impair the power of the Town to enforce applicable law.

3.28.05: A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement.

Section 3.29 Amendment or Termination:

Subject to the provisions of Section 3.26.5, a development agreement may be amended or terminated by mutual consent of the parties.

Section 3.30 Change of Jurisdiction:

3.30.01: Except as otherwise provided by this Article, any development agreement entered into by the Town before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the Town assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction.

3.30.02: The Town, in assuming jurisdiction, may modify or suspend the provisions of the development agreement if the Town determines that the failure of the Town to do so would place the residents of the territory subject to the development agreement or the residents of the Town, or both, in a condition dangerous to their health or safety, or both.

Section 3.31 Recordation:

The developer shall record the agreement with the Pender County Register of Deeds within 14 days after the Town and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

Section 3.32 Applicability of Procedures to Approve Debt:

In the event that any of the obligations of the Town in the development agreement constitute debt, the Town shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the Town, with any applicable constitutional and statutory procedures for the approval of this debt.

Section 3.31 through 3.35 Reserved.

PART IV. MORATORIA

Section 3.36 Authority:

In accordance with NCGS 160D-107, the Town of Watha may adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

Section 3.37 through 3.40 Reserved.

PART V. APPEALS, VARIANCES, AND INTERPRETATIONS

Section 3.41 Appeals:

3.41.01 Standing: Any person who has standing under as defined in Article 10 or the Town may appeal an administrative decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Clerk to the Board. The notice of appeal shall state the grounds for the appeal. A notice of appeal shall be

considered filed with the Clerk to the Board when delivered to the Town offices, and the date and time of filing shall be entered on the notice by the Town staff.

3.41.02 Judicial Challenge: A person with standing may bring a separate and original civil action to challenge the constitutionality of the Ordinance or that it is ultra vires, preempted, or otherwise in excess of statutory authority without filing an appeal under Section 3.41.

3.41.03 Notice of Decision: The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

3.41.04 Time to Appeal: The owner or other party shall have thirty (30) days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice pursuant to NCGS Chapter 160D-403(b) given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

3.41.05 Record of Decision: The official who made the decision shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

3.41.06 Stays: An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed, unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause immediate peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting development approvals or otherwise affirming that a proposed use of property is consistent with the Ordinance shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or Town may request and the Board of Adjustment may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

3.41.07 Alternative Dispute Resolution: The parties of an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The Ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

Section 3.42 Variances:

3.42.01: An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Zoning Administrator. Applications shall be handled in the same manner as applications for development approvals.

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

3.42.02.1 Unnecessary hardship would result from the strict application of the Ordinance regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

3.42.02.2 The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

3.42.02.3 The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

3.42.02.4 The requested variance is consistent with the spirit, purpose, and intent of the Ordinance regulation, such that public safety is secured and substantial justice is achieved.

3.42.03: No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.

3.42.04: The nature of the variance and any conditions attached to it shall be entered on the face of the development permit, or the development permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

Section 3.43 Interpretations:

3.43.01: The Board of Adjustment is authorized to interpret the zoning map and to act upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Zoning Administrator, they shall be handled as provided in Section 3.41.

3.43.02: An application for a map interpretation shall be submitted to the Board of Adjustment by filing an appeal form with Zoning Administrator. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

3.43.03: Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the rules of interpretation as specified in Section 4.02 shall be applied. Where uncertainties continue to exist after application of the above rules, appeal may be taken to the Board of Adjustment as provided in Section 3.41 of this Ordinance.

3.43.04: Interpretations of the location of floodway and floodplain boundary lines may be made by the Zoning Administrator as provided in the Town's Flood Damage Prevention Ordinance.

Section 3.44 Requests to be Heard Expeditiously:

As provided in Article 2, the Planning Board, Board of Commissioners, and Board of Adjustment (as applicable) shall hear and decide all applications, appeals, variance requests, and requests for interpretations, including map boundaries, as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Section 3.51, and obtain the necessary information to make sound decisions.

Section 3.45 Burden of Proof in Appeals and Variances:

3.45.01: When an appeal is taken to the Board of Adjustment in accordance with Section 3.41, the Zoning Administrator shall have the initial burden of presenting to the Board of Adjustment sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

3.45.02: The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 3.42.02, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

Section 3.46 through 3.50 Reserved.

PART VI. QUASI-JUDICIAL PROCEDURES

Section 3.51 Hearing Required on Appeals and Applications:

3.51.01: Before making a decision on an appeal or an application for a variance or interpretation, the Board of Adjustment or Board of Commissioners, as the case may be, shall hold a hearing on the appeal or application within thirty (30) days of the submittal of a completed appeal or application.

3.51.02: Subject to subsection 3.51.03, the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments. All persons presenting evidence or arguments shall be sworn in prior to the presentation of any evidence or arguments. The oath may be administered by the Chairperson, any member acting as Chairperson, or the Clerk to the Board.

3.51.03: The Board of Adjustment or Board of Commissioners may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.

3.51.04: Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, certificates of appropriateness, variances, or any other quasi-judicial decision.

3.51.05: The required application fee and all supporting materials must be received by the Zoning Administrator before an application is considered complete and a hearing scheduled.

Section 3.52 Notice of Hearing:

The Zoning Administrator shall give notice of any hearing required by Section 3.51 as follows:

3.52.01: Notice of evidentiary hearings conducted pursuant to this Article 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; to the owners of all parcels within 150' of the subject parcel; and to any other persons entitled to receive notice as provided by this Ordinance. In the absence of evidence to the contrary, the Town 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 ten (10) days, but not more than twenty-five (25) days, prior to the date of the hearing. Within that same time period, the Town 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.

3.52.02: 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.

3.52.03: The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

Section 3.53 Administrative Materials:

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

Section 3.54 Presentation of Evidence:

The applicant, the Town, and any person who would have standing to appeal the decision as defined in Article 10 shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board. Objections regarding jurisdictional and evidentiary hearing issues, including but not limited to, the timeliness of an appeal or the standing of a party, may be made to the Board. The Board Chair shall rule on any objections and the Chair's ruling may be appealed to the full Board. These rulings are also subject to judicial review pursuant to NCGS 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

Section 3.55 Appearance of Official; New Issues:

The official who made the decision or the person currently occupying that position if the decisionmaker is no longer employed by the Town, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing.

Section 3.56 Oaths:

All persons who intend to present evidence to the decision-making board, rather than arguments only, shall be sworn in. The Chairperson of the Board or any member acting as Chairperson and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor (refer to Article 8 Enforcement).

Section 3.57 Subpoenas:

The decision-making Board making a quasi-judicial decision under this article, through the Chairperson, or in the Chairperson's absence, anyone acting as the Chairperson may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the Town, and any persons with standing as defined under Article 10 may make a written request to the Chairperson explaining why it is necessary for certain witnesses or evidence to be compelled. The Chairperson shall issue requested subpoenas

he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chairperson shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chairperson may be immediately appealed to the full decision-making board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the decision-making board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all property parties.

Section 3.58 Modification of Application at Hearing:

3.58.01: In response to questions or comments made in sworn testimony by persons appearing at the hearing or recommendations by the Board of Commissioners or Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.

3.58.02: Unless such modifications are so substantial or extensive that the decision-making board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the decision-making board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Zoning Administrator.

Section 3.59 Record:

3.59.01: A record shall be made of all hearings required by Section 3.51 and such recordings shall be kept as provided by state law. Minutes shall also be kept of all such proceedings. A transcript may be made, but is not required.

3.59.02: Whenever practicable, all documentary evidence, including any exhibits, presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Town in accordance with NCGS 160D-1402.

Section 3.60 Appeals in Nature of Certiorari:

When hearing an appeal pursuant to NCGS 160D-947 or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in 160D-1402(k).

Section 3.61 Voting:

The concurring vote of four-fifths of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

Section 3.62 Decision:

The Board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the Board may reverse or affirm (wholly or partly) or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards, and be approved by the Board and signed by the Chairperson or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board or such other office or official as this Ordinance specifies. The decision of the Board shall be delivered by personal

delivery, electronic mail, or by first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify to the Town that proper notice has been made. and the certificate shall be deemed conclusive in the absence of fraud.

Section 3.63 Rehearings:

When an application involving a quasi-judicial procedure/petition is denied by the Board of Commissioners or Board of Adjustment, reapplication involving the same property, or portions of the same property, may not be submitted unless the petitioner can demonstrate a substantial change in the proposed use, conditions governing the use of the property, or conditions surrounding the property itself.

Section 3.64 Judicial Review:

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. Appeals shall be filed within the times specified in NCGS 160D-1405(d).

Article 4

Zoning Districts

Section 4.01 Classes and Purposes of Zoning Districts:

4.01.01 RA Rural Agricultural District: The RA Rural Agricultural District is established as a district in which the principal use of land is for low density single-family residential purposes. The regulations of this district encourage rural farming activities and the preservation of open space. The district is designed to promote exurban, low density residential development not requiring urban services while maintaining prime farmland and a rural lifestyle.

4.01.02 R-15 Residential District: This District is intended as a single-family and two-family residential area with a low population density. Certain structures and uses of governmental, educational, religious, and non-commercial recreational natures are either permitted outright or are subject to special conditions intended to preserve and protect the residential character of this district.

4.01.03 RM-15 Residential: The purpose of this district is to provide for the proper location of apartments or multi-family housing. This district would be most appropriate between commercial and office uses and single-family residential areas.

4.01.04 C-1 Office and Related Commercial District: This district is intended to be applied to areas undergoing transition from residential to commercial uses. It is designed to preserve the basic residential character of these areas and to guide transition by permitting commercial uses of low intensity nature. These uses can be provided for in the form of either existing or new structures.

4.01.05 C-2 General Commercial: This district is intended to include areas along streets carrying relatively large volumes of traffic where commercial development has displaced residential development or has grown up on vacant lands. Regulations are designed to guide future change, to minimize the formulation of commercial slums, to preserve the carrying capacity of streets and to encourage adequate off-street parking and loading space. It is not the intent of these regulations to encourage the growth of commercial strips.

Section 4.02 Boundaries of Districts/Official Zoning Map:

The boundaries of each zoning district are established as shown on the map entitled "Official Zoning Map of the Town of Watha and Territorial Jurisdictions," which accompanies and is hereby declared to be a part of this Ordinance. Unless otherwise shown on said map, the boundaries of the districts are street centerlines or lot lines as they existed at the time of the establishment of the boundary in question. Where uncertainty exists as to the boundaries of any district shown on said map, the following rules shall apply:

4.02.01: Where a district boundary appears to divide a lot, the location of such boundary, unless the boundary is indicated by dimensions, shall be determined by the use of the scale appearing on the map. In the event that a district boundary line on the zoning map divides a platted lot held in one ownership on the date of passage of this Ordinance, each part of the lot so divided shall be used in conformity with the zoning district in which the part is located.

4.02.02: Regardless of the existence of copies of the Official Zoning Map which may from time to time be published, the Official Zoning Map shall be the final authority as to the current zoning status of land, buildings or other structures within the corporate limits of Territorial Jurisdictions of the Town of Watha.

4.02.03: Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.

4.02.04: Duly adopted zoning district maps shall be maintained for public inspection at the Town Hall. Current and prior zoning maps may be maintained in paper or a digital format approved by the Town.

4.02.05: This Ordinance may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by state and federal agencies. Where zoning district boundaries are based on these maps, said boundaries are automatically amended to remain consistent with changes in the officially promulgated state or federal maps. A copy of the currently effective version of any incorporated maps shall be maintained for public inspection as provided in subsection 4.02.04.

Section 4.03 Permitted Uses in Zoning Districts:

To determine the zoning district in which a particular use is permitted:

1. Find the use in the left column.
2. Read across the chart until either a P or P* appears in one of the columns.
3. If the P* appears, the use is permitted in the Zone represented by that column, but only if special conditions are met (see Section 4.04).
4. If P appears in the column, the use is permitted in the zone represented by that column without being subject to any of the special conditions listed.
5. A blank space means that the use is not permitted in the zone represented by the column.

USE	ZONING DISTRICT					SPECIAL CONDITIONS (SECT. 4.04)
	RA	R-15	RM-15	C-1	C-2	
A. <u>Residential</u>						
Accessory Uses and Structures	P*	P*	P*			Item 1
Single-Family Dwelling	P	P	P			
Two-Family Dwelling (Duplex)		P	P			
Rooming House (Max. 2 apts.)			P			
Apartments (Multi-Family)			P			
Modular Dwelling	P	P	P			
Mobile Home	P*	P*	P*			Item 2
Family Care Home	P*	P*	P*			Item 3
Family Foster Home	P*	P*	P*			Item 3
Halfway Houses	P*	P*	P*			Item 3

USE	ZONING DISTRICT					SPECIAL CONDITIONS (SECT. 4.04)
	RA	R-15	RM-15	C-1	C-2	
Therapeutic Foster Home	P*	P*	P*			Item 3
Temporary Health Care Structures	P*	P*	P*			Item 4
B. <u>Commercial</u>						
Accessory Uses and Structures				P*	P*	Item 5
Retail Trade Establishments					P*	Item 6
Business Services				P	P	
Finance, Insurance, and Real Estate Services				P	P	
Personal Service				P*	P*	Item 7
Eating and Drinking Establishments					P	
Drive-In Restaurants					P	
Service Stations and Repair Garages					P*	Item 8
Hotels, Motels					P	
Motels with Eating Facilities					P*	Item 9
Indoor Commercial Recreation					P	
Professional and Business Offices				P	P	
Studios and Clinics				P	P	
Sales or Service of Office Equipment				P	P	
Nursery for Flowers and Plants, Green Houses		P*	P*	P	P	Item 10
C. <u>Industrial</u>						
Light Manufacturing and Processing				P*	P*	Item 18
Warehouses				P	P	
Water Storage Tanks		P	P	P	P	
D. <u>Miscellaneous</u>						
Public Utility Stations and Substations		P*	P*	P*	P*	Item 11
Public Utility Transmission Lines		P*	P*	P*	P*	Item 12
Churches		P	P	P	P	

USE	ZONING DISTRICT					SPECIAL CONDITIONS (SECT. 4.04)
	RA	R-15	RM-15	C-1	C-2	
Private Clubs and Lodges		P*	P*	P*	P*	Item 13
Public Buildings and Grounds		P	P	P	P	
Business and Professional Schools				P	P	
Nursing Homes		P*	P*			Item 14
Day Care Centers/Day Care Homes		P*	P*	P*	P*	Item 15
Public and Private Elementary and High Schools	P	P	P			
Flammable and Combustible Liquids Storage		P*	P*	P*	P*	Item 16
Agricultural Uses (Farms may conduct retail sales of products produced on the premises)	P	P	P			
Home Occupation		P*	P*			Item 17
Adult Care Home	P*	P*	P*			Item 3
Assisted Living Residence	P*	P*	P*			Item 3
Multi-Unit Assisted Housing with Services	P*	P*	P*			Item 3
Residential Child-Care Facility	P*	P*	P*			Item 3

Section 4.04 Special Conditions:

The following special conditions shall be met by the designated uses listed above according to their particular numerical codes:

1. Accessory structures shall not exceed 22 feet in height and shall not be permitted within any required front yard or side yard nor within 15 feet of any lot line.
2. Mobile homes shall adhere to the following conditions: (a) the foundation shall be double blocked, each double block consisting of four concrete blocks; (b) over-the-top ties shall be provided at each corner of the mobile home two additional ties per side for homes more than fifty feet long; (c) frame ties are required in conjunction with each over-the-top tie; (d) ground anchors for the tie downs shall be provided; (e) underpinning shall be provided, or as provided for by the N.C. Build-Code.
3. As defined by NCGS 131E-256, all health care facilities must be licensed by the State of North Carolina. Health care facilities are subject to all local and federal regulations and the regulations of the North Carolina Administrative Code. Family care homes must be located no closer than one-half (½) mile from any other family care home. Where permitted in a residential district, the location, design, and operation of the health care facility must not alter the residential character of the neighborhood. The facility must retain a residential character, which must be compatible with the surrounding neighborhood. New buildings must be non-institutional in design and appearance and physically harmonious with the neighborhood in which they are located considering such issues as scale, appearance, density, and population.
4. Temporary Health Care Structures:
 - (a) Placing a temporary health care structure on a permanent foundation shall not be required or permitted.
 - (b) The Town shall consider a temporary health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.
 - (c) The Town shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.
 - (d) Only one temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under subsection (b) and (c) of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.

- (e) Any person proposing to install a temporary family health care structure shall first obtain a permit from the Town. The Town may charge a fee in accordance with the Town's fee schedule. The Town may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The Town may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the Town of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation and annual renewal of the doctor's certification.
 - (f) Notwithstanding subsection (i) of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Article 11 of the NCGS, as if the temporary family health care structure were permanent real property.
 - (g) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
 - (h) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within 60 days of its removal, as applicable.
 - (i) The Town may revoke the permit granted pursuant to subsection (e) of this section if the permit holder violates any provision of this section or G.S. 160A-202. The local government may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. 160A-202.
 - (j) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.
5. Accessory structures shall not exceed 22 feet in height and shall not be permitted within any required front, side, or rear yard setback, nor within 15 feet of any lot line.
 6. Retail trade establishments with incidental manufacturing or processing of goods for sale only at retail on the premises are permitted providing that not more than five persons shall be employed in such manufacturing or processing on the premises.
 7. Personal service establishments are permitted including funeral homes, barber and beauty shops, shoe repair shops, dry cleaning, laundering, etc., with processing on the premises providing that not more than five persons shall be employed in processing on the premises.
 8. Service stations and repair garages may be permitted only if the building is limited in size to two single-car service bays, plus office, sales room, restrooms and storage.
 9. Motels with eating facilities are permitted provided the eating facilities are intended primarily for the convenience of the motel patrons, are located in the principal structure of the motel with the

entrances to such facilities oriented toward the interior of the lot, and the seating capacity shall not exceed two seats for each motel unit.

10. Greenhouses must be accessory to the residential use of the property and shall be located at least 15 feet from any side lot line.
11. Public utility stations or substations shall be permitted only if the use is surrounded by suitable fencing to protect the public. Utility transmitting or relay stations or towers are permitted provided that no such station or tower shall be permitted on a site less than one acre in area and that no site shall have a horizontal dimension less than twice the height of the tower. In addition, no radio or other transmission tower which would cause interference to local radio or television reception, or which would endanger the public or neighboring property, shall be permitted. In residential districts, all buildings shall be permitted. In residential districts, all buildings shall be in character with surrounding residences. Minor structures, such as hydrants, telephone or light poles, pole transmitters or transformers, or similar equipment, shall not be subject to these regulations.
12. Public utility transmission lines shall be permitted only if a right-of-way of sufficient width shall permit the safe construction and maintenance of the line and prevent any hazard to surrounding property. On a one- or two-circuit transmission line, the distance from the tower base to the nearest boundary of the transmission line right-of-way shall be no less than 25 feet. On a three- or four-circuit transmission line, the distance shall be no less than 50 feet. The Board of Commissioners may require suitable fencing or landscaping of a tower base when, in the opinion of the Board, it is necessary to protect the public or conserve the values of the surrounding property. Telephone, electric light and power lines carrying less than 33,000 volts and usually located along public highways, or to local underground conduits, cables, gas, sewer and water mains or pipes are not subject to these special conditions.
13. Private clubs:
 - (a) No building shall be located closer than 15 feet from any side lot line.
 - (b) A sexually oriented business shall be located at least 1,000 feet from any:
 - (1) Residential district;
 - (2) Historic district;
 - (3) Single-dwelling uses within a mixed-use district;
 - (4) School;
 - (5) Place of religious assembly (including accessory uses not located on the same lot, but contiguous to the principal place of worship);
 - (6) Park or recreation facility (private or neighborhood);
 - (7) Any child daycare; and
 - (8) Any another sexually-oriented business.
 - (c) Such uses shall not include massage.
 - (d) There shall be no visible obscene, explicit, or sexually-oriented materials, advertisements, or signage on the outside of a building.

- (e) No employee or patron of such a business shall be younger than 18 years of age.
14. These uses are permitted only if such facilities have a minimum site area of one acre and no building is located closer than 15 feet to any property line.
15. Day care centers and day care homes are permitted provided that a fenced play area of not less than 3,000 sq. ft. shall be provided for 15 children or less with 200 sq. ft. for each additional child. No play equipment shall be closer than 15 feet to any residential lot line.
16. Overground storage of any flammable or combustible liquid in excess of 500 gallons will be permitted in Commercial zone only. Tanks must be in compliance with State and Federal regulations or guidelines.
17. Home occupations are permitted in the RA and R-15 Residential zones only they adhere to all of the following restrictions:
- (a) the use shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling;
 - (b) use of the dwelling for the home occupation shall be limited to twenty-five percent (25%) of one floor of the principal building;
 - (c) no more than one person that is not a resident of the premises shall be employed in connection with the home occupation;
 - (d) no display of products shall be visible from the street other than farm products produced on the land in the RA zone.
18. Junk Yards
- (a) The minimum front setback shall be 100 feet from any street right-of-way.
 - (b) All open storage shall be screened using plantings, fences, or other appropriate means as not to be visible from streets or adjacent properties.
 - (c) No junk yard shall be established within 500 feet of any residentially zoned or used areas.

Section 4.05 Conditional Zoning District:

The conditional zoning district (CZD) allows a site to be developed with a mixture of land uses according to an approved overall site plan. For example, a large tract may be developed with a mix of single-family and multi-family housing, with part of the site also devoted to commercial and office uses. The CZD allows for greater flexibility in dimensional standards (such as lot sizes and setbacks) upon approval of an overall master plan for the entire development. The district does not require a rigid separation of different land uses. Uses are limited to the uses identified in Section 4.03 Permitted Uses in Zoning Districts. All of the site-specific standards and conditions, including a site plan, are incorporated into the zoning district regulations for the CZD. Approval of the site plan will establish all zoning requirements for the subject property. A CZD district shall not be less than three (3) acres in area.

This negotiated approach to a legislative decision allows maximum flexibility to tailor regulations to a particular site and project. Conditional Zoning Districts may only occur at the owner's request and cannot be imposed without the owner's agreement. The individual conditions and site-specific standards that can be imposed are limited to those that are needed to bring a project into compliance with Town ordinances and

adopted plans and to those addressing the impacts reasonably expected to be generated by use of the site. The Town must assure that all of the factors defining reasonable spot zoning are fully considered and that the public hearing record reflects that consideration.

The Town may use conditional zoning when it concludes that a particular project should be approved but that the standards in the comparable conventional zoning district(s) are insufficient to protect neighbors or public interests (perhaps because the conventional zoning allows other uses not suitable for the site or dimensional standards inadequate to preserve the neighborhood). Conditional zoning often allows a developer to proceed with a project in a way that addresses site-specific concerns of neighbors and the Town of Watha. The petitioner must consent in writing to all conditions imposed by the conditional zoning. Requests for conditional zoning districts shall be processed/approved in concert with issuance of the building permit.

Section 4.06 Classification of New or Unlisted Uses:

The Town recognizes that new types of land uses will develop, and applicants may seek to locate land uses not anticipated in this zoning ordinance. When a use is proposed that is not specifically listed, the Zoning Administrator or his designee shall make a determination as to the appropriate classification of any new or unlisted form of land use based on the criteria listed below.

The Zoning Administrator or his designee is authorized to classify uses on the basis of the use category, subcategory, or use type, or if the use appears to fit into multiple categories, subcategories, or use types; the Zoning Administrator or his designee is authorized to determine the most similar, and thus most appropriate, use category, subcategory, or use type based on the characteristics of the use. In making such determination, the Zoning Administrator or his designee shall consider:

- a. The types of activities that will occur in conjunction with the use.
- b. The types of equipment and processes to be used.
- c. The existence, number and frequency of residents, customers, or employees.
- d. Parking demands associated with the use.
- e. Any utility requirements for serving the proposed use.
- f. The potential impacts on adjacent structures, uses, or lands created by the proposed use type.
- g. Other factors deemed relevant to a use determination.

If a use can reasonably be classified in multiple categories, subcategories, or specific use types, the Zoning Administrator or his designee, shall categorize the use in the category, subcategory, or use type that most closely matches the number of factors met and identify the key reasons for that determination.

ARTICLE 5

Schedule of Area, Height, and Placement Regulations

ZONING DISTRICT	MINIMUM LOT AREA PER PRINCIPAL USE IN SQ. FT.	REQUIRED SETBACK LINE MINIMUM DIMENSIONS IN FEET				MAXIMUM HEIGHT		MINIMUM LOT SIZE	
		Front	Side (one only)	Side (total of 2)	Rear	In Feet	In Stories	Area in Sq. Ft.	Width In Ft.
R-15 (Same as RM-15)	22,000	20	15	30	20	35	2 ½	22,000	100
C-1	22,000	20	15	30	20	35	2 ½	22,000	100
C-2	22,000	20	15	30	20	35	2 ½	22,000	100
RA	22,000	20	15	30	20	35	2 ½	22,000	100

Note: In the case of a corner lot's side lot line adjoining a street, the side yard on the street side of the corner lot shall be at least 15 feet.

No more than 15 feet for each side yard need be provided on an interior lot.

ARTICLE 6
Sign Regulations

Section 6.01 Signs, General:

The regulations contained in this section shall pertain to signs in all zoning districts.

6.01.01: No signs shall overhang or be erected in any public right-of-way. Traffic regulation, information or warning signs erected by the State Department of Transportation or signs erected by the Town of Watha are exempt.

6.01.02: No sign shall be permitted in the vertical area between 2 ½ feet and 10 feet above the adjacent crown of the road unless the sign is set back 20 feet or more from the adjacent right-of-way line.

6.01.03: Blinking or flashing incandescent bulbs, spotlights, floodlights, or similar lights that are in current use by emergency or law enforcement vehicles are prohibited. Exempt are neon or other tubular lights. Also exempt are traffic regulation & information, and warning signs erected by the State Department of Transportation or by the Town of Watha.

6.01.04: Floodlights for signs must be directed away from any residential structure and oncoming vehicular traffic on any road, street, or alley.

6.01.05: Off-premises signs are prohibited.

6.01.06: No sign shall be within 15 feet of an adjacent residential lot line.

Section 6.02 Signs in R-15 and RM-15 Zones:

6.02.01: Permitted Signs

Identification signs: Not more than 2 signs per principal use and a combined maximum area of 20 sq. ft.

Home occupation signs: 1 sign and a maximum of 2 sq. ft.; sign must be mounted flat against a wall of the principal use structure.

Temporary real estate signs: Any number of signs with a combined area of not more than 4 sq. ft.; with each 150 ft. of lot line fronting on a public thoroughfare an additional 4 sq. ft. of sign area is permitted.

6.02.02: Prohibited Signs

Advertising signs

Roof signs

Section 6.03 Signs in C-1 Zones:

6.03.01: Permitted Signs

Identification signs: Not more than 2 signs per principal use not exceeding a total combined area of 30 sq. ft.

Temporary real estate: 1 or more signs with a total combined surface area not exceeding 10 sq. ft.

6.03.02 Prohibited Signs

Advertising Signs

Section 6.04 Signs in C-2 Zones:

6.04.01: Permitted Signs

Identification signs: 1 or more signs with a combined surface area not exceeding 30 sq. ft.

Temporary real estate signs: 1 or more signs with a total combined surface area not exceeding 10 sq. ft.

Advertising signs: 1 or more signs with a total combined surface area not exceeding 50 sq. ft.

ARTICLE 7

Off-Street Parking and Loading

Section 7.01 Purpose:

The purpose of these requirements is to relieve traffic congestion in the streets, to minimize any detrimental effects of off-street parking and loading areas on adjacent properties, and to assume a proper and adequate development of off-street parking and loading areas throughout the Town and its environs. These standards are minimum standards and should not be regarded as optimum standards.

7.01.01: There shall be provided at the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area, or before conversion from one type of use or occupancy to another, permanent off-street space in the amount specified by this ordinance. No off-street parking or loading shall be permitted in a required yard or open space.

Section 7.02 Schedule of Minimum Off-Street Parking Requirements:

<u>USES</u>	<u>MINIMUM REQUIRED OFF-STREET PARKING</u>
Any residential use consisting of one or more dwelling units	2 parking spaces on the same lot for each dwelling unit
Retail and personal service not otherwise listed	1 space per 300 sq. ft. of gross floor area
Professional and business offices	1 space per 300 sq. ft. of gross floor area
Eating and drink establishments	1 space for each 3 seats plus 1 space for each employee
Drive-in restaurant	1 space for each 3 seats plus a minimum of 15 spaces for drive-in service plus 1 space for each employee
Hotels and motels	1 space for each unit plus 1 space for each employee
Theaters	1 space for each 4 seats plus 1 space for each employee
Bowling allies	3 spaces per alley plus requirements for any other use associated with the establishment, such as a restaurant
Automobile service station	1 space per gasoline pump plus 1 space per service bay
Automobile repair garage	1 space for each 200 sq. ft. of floor space plus 1 space for each employee
Auto wash	1 space for each 2 employees on shift of greatest employment plus 1 space for the manager and space equal to 3 times the capacity of the car wash
Financial institutes	1 space for each 300 sq. ft. of floor space plus 1 space for each employee

<u>USES</u>	<u>MINIMUM REQUIRED OFF-STREET PARKING</u>
Clinics	4 spaces per each doctor, plus 1 space for each employee
Funeral Homes	1 space for each 40 sq. ft. of floor space available for seating accommodations
Churches	1 space for each 4 seats
Nursing homes, rest homes, convalescent homes, and homes for the aged	1 per employee on largest shift
Day care centers and kindergartens	1.5 spaces for each 5 pupils or children
Senior high schools, business and professional schools	5 spaces for each room used for administrative offices or class instruction, or 1 space for every 5 seats in auditoriums and other places of assembly or facilities available to the public, whichever is greater
Fire stations	1 space per each person on duty on a normal shift
Public or private clubs and lodges	1 space for each 100 sq. ft. of gross floor area
Home occupations (medical doctors, dentists, beauty and barber shops)	3 spaces in addition to the residence requirements
Home occupations (other)	2 spaces in addition to the residence requirements

*One parking space equals 300 sq. ft. (200 sq. ft. for parking and 100 sq. ft. for maneuvering)

Section 7.03 General Provision for Off-Street Parking:

7.03.01: Required parking spaces for any number of separate buildings or uses may be combined in one lot, but the required spaces assigned to one use may not be assigned to another use at the same time. However, the required parking spaces for places of assembly may be assigned to parking spaces that are otherwise assigned to the other uses, provided that these parking spaces are normally used at different times.

7.03.02: Where possible, required parking space shall be located on the same lot on which the principal use is located. Where the required parking space cannot be located on the same lot on which the principal use is located, the parking area may be located on a separate lot provided that: 1) no required parking space shall be more than three hundred (300) feet from the principal use which it serves; 2) if the principal use is of a commercial nature the parking space shall not be located in an RM-15 or R-15 Residential District; and 3) the parking space shall be in the same ownership as the principal use.

7.03.03: Each application for a Building Permit or Certificate of Occupancy shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress between such space and a street or alley.

Section 7.04 Schedule of Minimum Off-Street Loading Requirements:

<u>USES</u>	<u>MINIMUM REQUIRED OFF-STREET LOADING</u>
Retail stores, all types, service business establishments, restaurants and other places serving food and beverages	One space for the first 4,000 sq. ft. of floor area used for business purposes, and 1 additional space for each 30,000 sq. ft. in excess of 4,000 sq. ft.
Wholesaling Establishments	One space for the first 10,000 sq. ft. of floor area used for such purposes and 1 additional space for each 30,000 sq. ft. in excess of 10,000 sq. ft.

Section 7.05 General Provisions for Off-Street Loading:

Off-street loading space shall be located on the same lot on which the principal use is located.

ARTICLE 8

Enforcement

Section 8.01 Administrative Development Approvals and Determinations:

8.01.01 Development Approvals: To the extent consistent with the scope of regulatory authority granted by NCGS Chapter 160D, no person shall commence or proceed with development without first securing any required development approval from the Town of Watha. A development approval shall be in writing and may contain a provision that the development shall comply with all applicable State and local laws. The Town may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

8.01.02 Determinations and Notices of Determination: The Zoning Administrator or his designee is designated as the staff member charged with making determinations under this Zoning Ordinance. The Zoning Administrator shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, providing the sign remains on the property for at least ten days. The sign shall contain the words "Zoning Decision" or similar language for other determinations in letters at least six (6) inches high and shall identify the means to contact an official for information about the determination. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner, applicant, or person who sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs shall not be required.

8.01.03 Duration of Development Approval: A development approval issued pursuant to this Ordinance shall expire one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. If after commencement, the work or activity is discontinued for a period of 12 months after commencement, the development approval shall immediately expire. The time periods set out in this subsection shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured. Nothing in this subsection shall be deemed to limit any vested rights secured under Article 3 Part II.

8.01.04 Changes: After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. Minor modifications to development approvals can be exempted or administratively approved. The Town shall follow the same development review and approval process required for issuance of the development approval in the review and approval of any major modification of that approval.

8.01.05 Inspections: The Zoning Administrator may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

8.01.06 Revocation of Development Approvals: In addition to initiation of enforcement actions under Article 8, development approvals may be revoked by the Town issuing the development approval by notifying the holder in writing stating the reasons for the revocation. The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable Town of Watha development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to Section 3.41. If an appeal is filed regarding a development regulation adopted by the Town pursuant to NCGS Chapter 160D, the provisions of Section 3.41.6 regarding stays shall be applicable.

Section 8.02 Building Permits:

8.02.01: Before commencing the construction, erection, alteration, addition to, removal, moving or demolishing of any building or structure or part thereof, or before commencing any excavation for such building or structure, or before erecting, (except where specifically authorized by this Ordinance), a building permit for the same shall be secured from the Building Inspector.

Section 8.03 Certificates of Occupancy:

After the effective date of this Ordinance, it shall be unlawful to change or commence the use of any building or land, except the use of land for agricultural purposes, until a certificate of occupancy shall have been issued by the Building Inspector stating that the proposed use complies with the provisions of this Ordinance.

The Town of Watha may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit required by Article 11 of Chapter 160D shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to NCGS 160D-1114 has been issued.

Section 8.04 Determination of Exact Location of Zoning District Boundary Lines:

The Building Inspector shall decide the exact location of zoning district boundary lines when a question arises concerning boundary lines shown on zoning maps, subject to administrative review by the Board of Adjustment.

Section 8.05 Building Permit Issued Prior to Adoption of this Ordinance:

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure, or part thereof for which a building permit had been granted by the Building Inspector

before the time of passage of this Ordinance; provided, however, that where construction is not begun under such outstanding permit within a period of 60 days subsequent to passage of this Ordinance or where it has not been prosecuted to completion within 18 months subsequent to passage of this Ordinance, any further construction or use shall be in conformity with the provisions of this Ordinance.

Section 8.06 Interpretation, Purpose and Conflict:

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

When the requirements of this Ordinance, made under the authority of NCGS 160D, require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of NCGS 160D shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of NCGS 160D the provisions of that statute or local ordinance or regulation shall govern.

Section 8.07 Severability:

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

Section 8.08 Notices of Violation:

When the Zoning Administrator determines work or activity has been undertaken in violation of the Zoning Ordinance or other local development regulations or any State law delegated to the Town for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation shall be posted on the property. The Zoning Administrator shall certify to the Town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by NCGS 160D-1123 or GS 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to Section 3.41, Appeals.

Section 8.09 Stop Work Orders:

Whenever any work or activity subject to regulation pursuant to this Ordinance or other applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff

may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the 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 Town that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by NCGS 160D-1112 and 160D-1208, a stop work order may be appealed pursuant to Section 3.41. 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.

Section 8.10 Remedies:

8.10.01: Any development regulation adopted pursuant to NC General Statutes Chapter 160D may be enforced by any remedy provided in NCGS 160A-175. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this Zoning Ordinance or of any development regulation or other regulation made under authority of NCGS Chapter 160D, the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct, or abate the violation; to prevent any illegal act, conduct, business, or use in or about the premises.

8.10.02: When a development regulation adopted pursuant to authority conferred by NCGS Chapter 160D is to be applied or enforced in any area outside the planning and development regulation jurisdiction of the Town, the Town and the property owner shall certify that the application or enforcement of the Town's Zoning Ordinance is not under coercion or otherwise based on representation by the Town that the Town's development approval would be withheld without the application or enforcement of the Town Zoning Ordinance outside the jurisdiction of the Town. The certification may be evidenced by a signed statement of the parties on any development approval.

8.10.03: In case any building, structure, site, area, or object designated as a historic landmark or located within a historic district designated by the Town of Watha is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed, or destroyed, except in compliance with the Zoning Ordinance, the Town or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal, to restrain, correct, or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area, or object. Such remedies shall be in addition to any others authorized by this Zoning Ordinance for violation of this Ordinance.

Section 8.11 Effective Date:

This Ordinance, including the Zoning Map, shall take effect from and after the date of its adoption by the Board of Commissioners, as amended.

ARTICLE 9

Non-Conformances

Section 9.01 Purpose and Intent:

If, within the districts established by this Ordinance, or by amendments that may later be adopted, there exist lots, structures, and use of land and structures which were lawful before this Ordinance was passed or amended, but which would be prohibited under the terms of this Ordinance, it is the intent of this Ordinance to permit these non-conformances to continue until they are removed (except signs, which are provided for below), but not to encourage their continuance. Such non-conformances are declared by this Ordinance to be incompatible with permitted uses in the districts in which they are located.

It is further the intent of this Ordinance that non-conformances shall not be enlarged upon, expanded or extended, or used as grounds for adding other structures, or uses prohibited elsewhere in the same district.

Section 9.02 Non-Conforming Lots of Record:

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by the other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot which was recorded prior to the date it became legally non-conforming. Such lot must be in separate ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of lot, shall conform to the regulations for the district in which such lot is located. Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment.

If two or more lots or combination of lots and portions of lots with continuous frontage in single ownership, are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet at least eighty percent (80%) of the requirements for lot width and area for the zone in which they are located, as established by this Ordinance, the land involved shall be considered to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel shall be used or sold which does not meet width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

Section 9.03 Non-Conforming Uses of Structures:

This category of non-conformances consists of structures used, at the time of passage of this Ordinance, for purposes not permitted in the district in which they are located.

9.03.01: A non-conforming use of a structure may be changed to a conforming use.

9.03.02: A non-conforming use of a structure shall not be changed to another non-conforming use.

9.03.03: When a non-conforming use of a structure has been changed to a conforming use, it shall not thereafter be used for any non-conforming use.

9.03.04: A non-conforming use of a structure shall not be extended or enlarged except into portions of the structure which, at the time the use became non-conforming, were already erected and arranged or designed for such non-conforming use. No structural alterations shall be made in any structure occupied by a

non-conforming use, except those required by law or ordinance or ordered by the Building Inspector to secure the safety of the structure.

9.03.05: When any non-conforming use of a structure is discontinued for a period in excess of one year, any future use of the structure shall be limited to those uses permitted in that district under the provisions of this Ordinance. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

Section 9.04 Non-Conforming Structures:

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

9.04.01: No such structure may be enlarged or altered in a way which increases its non-conformity.

9.04.02: Should such a structure be moved for any reason for any distance whatever it shall hereafter conform to the regulations for the district in which it is located after it is moved.

Section 9.05 Repairs and Maintenance:

On any structure on a non-conforming lot, a structure containing a non-conforming use, or a non-conforming structure, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding 10 percent of the current replacement value of the buildings, provided that the cubical content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased. Should such building or structure be destroyed by any means to an extent of more than 50 percent of its replacement cost or bulk, exclusive of foundation and land value, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any town official charged with protecting the public safety, upon order of such official.

Section 9.06 Non-Conforming Signs:

9.06.01: All signs that do not comply with the requirements of this Ordinance shall not be replaced with new non-conforming signs and shall be removed within three years from the effective date of this Ordinance.

Section 9.07 Non-Conformances Created by Changes in Zoning Boundaries or Regulations:

Any non-conformances created by a change in district boundaries or ordinance regulations after the date of passage of this Ordinance shall also be governed by the provisions of this section.

ARTICLE 10

Definitions

Section 10.01 Words and Phrases:

For the purpose of this Ordinance, the use of the present tense shall be interpreted to mean the future tense also; the singular number shall include the plural number; the plural number shall include the singular number, unless the natural construction of the wording indicates otherwise; the word “shall” is mandatory, and the word “may” is permissive.

Section 10.02 Definitions:

For the purpose of this Ordinance, certain words and terms are defined as herein indicated:

- (1) **Accessory Structure.** A detached, subordinate structure, the use of which is clearly incidental and related to that of the principal structure or use of the land, and which is located on the same lot as that of the principal structure or use.
- (2) **Administrative Decision.** Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in NCGS Chapter 160D or Town development regulations. Also referred to as ministerial decisions or administrative determinations.
- (3) **Administrative Hearing.** A proceeding to gather facts needed to make an administrative decision.
- (4) **Adult Care Home.** An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes.
- (5) **Advertising Sign.** A sign which directs attention to a business, profession, commodity, service or entertainment conducted, sold or offered upon the premises.
- (6) **Assisted Living Residence:** Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. There are three types of assisted living residences: adult care homes, adult care homes that serve only elderly persons, and multi-unit assisted housing with services.
- (7) **Auto Wash.** A structure or portions thereof the principal use of which is the washing of automobiles or other motor vehicles.

- (8) Bona Fide Farm. Agricultural activities as set forth in NCGS 160D-903. Sufficient evidence that the property is being used for bona fide farm purposes includes the following: (1) a farm sales tax exemption certificate issued by the Department of Revenue; (2) a copy of the property tax listing showing that the property is eligible for participation in the present-use-value program pursuant to NCGS 105-277.3; (3) a copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; or (4) a forestry management plan.
- (9) Building. A structure having a roof supported by columns or walls for the housing or enclosure of person, animals or goods.
- (10) Building Height. The vertical distance measured from the average elevation of the finished lot grade at the front building line to the highest point of the roof beams adjacent to the front of the wall in the case of a flat roof, to the average height of the gables in the case of a pitched roof, and to the deck line in the case of a mansard roof.
- (11) Corner Lot. A lot at the junction of and abutting upon two or more streets.
- (12) Day Care Center. An agency, organization or individual providing daytime care of children not related by blood or marriage to, or not the legal wards or foster children of, the attendant adult at (a) any place other than an occupied dwelling in which the occupant provides day care or at, (b) any place which provides care to more than fifteen (15) children.
- (13) Day Care Home. An occupied dwelling in which the occupant provides daytime care of six (6) to fifteen (15) children not related by blood or marriage to, or not the legal wards or foster children of, the attendant adult.
- (14) Determination: A written, final, and binding order, requirement, or determination regarding an administrative decision.
- (15) Development Approval: An administrative or quasi-judicial approval made pursuant to NCGS 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, development permits, site plan approvals, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to NCGS Chapter 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued.
- (16) Development Permit: A permit issued by the Zoning Administrator that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance.
- (17) Development Plan: A detailed drawing(s) containing specific information regarding proposed development within the Town.
- (18) Development Regulation: A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulations, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to NCGS Chapter 160D, or a local act or charter that regulates land use or development.

- (19) Drive-In Restaurant. Establishment designed, in whole or in part, to cater to or accommodate the consumption of food and/ or beverage in automobiles on the premises of such establishment.
- (20) Dwelling Unit. An enclosure of one or more rooms and separate bathroom and kitchen facilities designed and constructed as a unit for permanent residential occupancy by one family.
- (21) Evidentiary Hearing: A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under NCGS Chapter 160D.
- (22) Family. One or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel.
- (23) Family Care Home. A facility that provides health, counseling, or related services, including room, board, and care, to six (6) or fewer handicapped persons in a family-type environment. These handicapped persons include those with physical, emotional, or mental disabilities, but not those who have been deemed dangerous to themselves or to others.
- (24) Family Foster Home. The private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship, or adoption.
- (25) Flammable and Combustible Liquids. Liquids which will ignite easily and burn freely.
- (26) Front Yard. A yard across the full width of the lot, extending from the front line of the nearest building on the lot to the front line of the lot.
- (27) Gross Floor Area. For purpose of computing off-street parking requirements in this Ordinance, the total floor area enclosed within a building, including interior balconies and Mezzanines exclusive of stairways and elevator shafts.
- (28) Halfway House: A home for not more than nine (9) persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in NCGS 35 17(30)), or antisocial or criminal conduct, together with not more than two (2) persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.
- (29) Home Occupation. A use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes.
- (30) Identification Sign. A sign, used to identify only: the name of the individual, family, organization or enterprise occupying premises; the profession of the occupant; the name of the building on which the sign is displayed.
- (31) Junk Yard. A lot, land or structure or part thereof, used primarily for the collecting, processing, storage or sale of salvage paper, rags, rubber, glass, scrap metal, lumber or other building materials, or for the dismantling, storing, and salvaging of machinery or vehicles or for the sale of parts thereof.

- (32) Large Scale Zoning Amendment: The rezoning of more than fifty (50) parcels.
- (33) Legislative Decision: The adoption, amendment, or repeal of a regulation under NCGS Chapter 160D or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of NCGS Chapter 160D, Article 10.
- (34) Legislative Hearing: A hearing to solicit public comment on a proposed legislative decision.
- (35) Lot. A parcel of land or any combination of several lots; occupied or intended to be occupied by a principal building or a building group as permitted herein, together with their accessory buildings or uses, and such access, yards and other open spaces required under this Ordinance.
- (36) Lot Width. The distance between the side lot lines, measured along the setback line as established by this ordinance, or if no setback line is established, the distance between the side lot lines measured along the street line.
- (37) Mobile Home. A movable or portable dwelling over thirty-two (32) feet in length and over eight (8) feet wide, constructed to be transported on its own chassis and designed without a permanent foundation, whether or not a permanent foundation is subsequently provided, which includes one or more components that can be retracted for transporting purposes and subsequently expanded for additional capacity, or two (2) or more units separately transportable but designed to be joined into one integral unit, as well as a portable dwelling composed of a single unit.
- (38) Mobile Home Park. A parcel or tract of land under single ownership which has been planned and improved for the placement of mobile homes for dwelling purposes.
- (39) Modular Dwelling. A movable or portable dwelling constructed to be transported as a unit and designed to be placed upon a permanent foundation.
- (40) Multi-Family Dwelling. A building or portion thereof used or designed as a residence for three or more families living independently of each other and doing their own cooking therein, including apartments, apartment hotels, and group houses.
- (41) Multi-Unit Assisted Housing with Services. An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or other compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care.
- (42) Nursing Home. A home for persons, aged, ill, or handicapped, in which two or more persons not of the immediate family of the owner or manager of said home are provided with food, shelter, and nursing care. The term "nursing home" includes "sanitarium," "home for the blind," "rest home," or any similar establishment.

- (43) Principal Structure or Building. A structure or building containing the principal use of the lot.
- (44) Principal Use. The primary purpose or function that a lot serves or is intended to serve.
- (45) Quasi-Judicial Decisions: A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.
- (46) Rear Yard. An open space including driveways and parking areas, unoccupied other than by permitted accessory buildings or uses, extending from the rear building line of a principal building to the rear lot line, between the side building lines, projecting to the rear lot line.
- (47) Repair Garage. A garage in which machinery operated by mechanical power is installed which is designed for making major repairs to motor vehicles.
- (48) Residential Child-Care Facility. A staffed premise with paid or volunteer staff where children receive continuing full-time foster care.
- (49) Roof Sign. A sign erected, constructed, or maintained upon the roof of any building.
- (50) Service Station. Establishment used for the servicing of automobiles, including the sale of gasoline, oil, grease, and minor accessories and washing and polishing, but excluding the sale of automobiles, body repairing, major motor repairing, and painting.
- (51) Setback. The distance between a street line and the front building line of a principal building or structure, projected to side lines of the lot.
- (52) Side Yard. An open, unoccupied space including driveways, and parking areas between the side lot line and the building line, extending from the required setback to the required rear yard.
- (53) Sign. Any surface, fabric or device bearing lettered, pictorial or sculptured matter designed to convey information visually and exposed to public view, or any structures, including billboard or poster panel, designed to carry the above visual information.
- (54) Sign Area. The area of a sign composed in whole or in part of freestanding letters, devices or sculptured matter not mounted on a measurable surface shall be construed to be the area of the smallest square, rectangle or circle that will enclose the letters, devices and/ or sculptured matter. The area of a double-faced shall be the area of one face of the sign.
- (55) Single-Family Dwelling. A building designed, constructed and used for one dwelling unit.

- (56) Standing: The following persons shall have standing to file an appeal:
- (a) Any person possessing any of the following criteria:
 - 1. An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restrictions, or covenant in the property that is the subject of the decision being appealed.
 - 2. An option or contract to purchase the property that is the subject of the decision being appealed.
 - 3. An applicant before the decision-making board whose decision is being appealed.
 - (b) Any other person who will suffer special damages as the result of the decision being appealed.
 - (c) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.
 - (d) A local government whose decision-making board has made a decision that the Board of Commissioners believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by that Board.
- (57) Story. That part of a building or structure above ground level between a floor and the floor or roof next above.
- (58) Street. A public right-of-way set aside for public travel not less than thirty feet in width.
- (59) Street Line. A dividing line between a lot and a street right-of-way.
- (60) Temporary Health Care Structure: A temporary structure that will house a single mentally or physically impaired person in accordance with NCGS 160D-915. The statute defines these to be North Carolina residents who require assistance with two or more activities of daily living (bathing, dressing, personal hygiene, ambulation, transferring, toileting, and eating). The impairment must be certified in writing by a physician licensed in North Carolina.
- (61) Temporary Real Estate Sign. A sign located on the premises and offering said premises for sale, rent, lease, or development.
- (62) Therapeutic Foster Home: A family foster home where, in addition to the provision of foster care, foster parents who receive appropriate training provide a child with behavioral health treatment services under the supervision of a county department of social services, an area mental health program, or a licensed private agency.
- (63) Two-Family Dwelling or Duplex. A building designed, constructed or reconstructed and used for two dwelling units that are connected by a common structural or load-bearing wall of at least ten lineal feet with any other dwelling unit on the same floor or building level.

- (64) Vested Right: The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS Chapter 160D-108 or under common law.
- (65) Warehouse. A building where wares, or goods, are stored, as before distribution to retailers, or are kept in reserve, in bond, etc.
- (66) Zoning Map Amendment or Rezoning: An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of the Town that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by the Town, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.