

## **AGENDA**

### **Regular Meeting of the Sawmills Town Council Sawmills Town Hall**

**Tuesday, March 16, 2021  
6:00 pm**

- |     |  |   |
|-----|--|---|
| 1.  | Call To Order                                | Mayor Johnnie Greene                          |
| 2.  | Invocation                                   |   |
| 3.  | Pledge of Allegiance                         | Mayor Johnnie Greene                          |
| 4.  | Adopt Agenda                                 | Mayor Johnnie Greene                          |
| 5.  | Approve Meeting Minutes                      |   |
|     | A. February 9, 2021 Budget Retreat Minutes   | Mayor Johnnie Greene                          |
|     | B. February 16, 2021 Regular Meeting Minutes | Mayor Johnnie Greene                          |
|     | C. February 16, 2021 Closed Session Minutes  | Mayor Johnnie Greene                          |
| 6.  | Public Comment                               | Mayor Johnnie Greene                          |
| 7.  | Recognitions:                                |   |
|     | A. Recycle Rewards                           | Mayor Johnnie Greene                          |
| 8.  | Financial Matters:                           |   |
|     | A. American Legion Post 392 Donation Request | Mayor Johnnie Greene                          |
|     | B. Sales Tax Reinvestment Contract           | Mayor Johnnie Greene                          |
| 9.  | Park and Recreation Matters:                 |   |
|     | A. Park and Recreation Policies              | Park and Recreation Director<br>Tanner Greene |
| 10. | Planning Matters:                            |   |
|     | A. Call for Public Hearing for 321A Rezoning | Town Planner Dustin Millsaps                  |
|     | B. Call for Public Hearing for 106D Changes  | Town Planner Dustin Millsaps                  |
| 11. | Discussion:                                  |   |
|     | A. Bad Debt Write Off                        |   |
|     | B. Meter Charge for Replacement Meter        | Mayor Johnnie Greene                          |
|     | C. Reconnects for Sanitation Only Accounts   | Mayor Johnnie Greene                          |
|     | D. Special Pick-Up Limit                     | Mayor Johnnie Greene                          |
|     | E. Brush Pick-Up Policy                      | Mayor Johnnie Greene                          |
| 12. | Public Comment                               | Mayor Johnnie Greene                          |
| 13. | Updates:                                     |   |
|     | A. Code Enforcement Report                   | Mayor Johnnie Greene                          |
|     | B. Town Manager Updates                      | Town Manager Chase Winebarger                 |
|     | C. Council Comment                           | Mayor Johnnie Greene                          |
| 14. | Closed Session: N.C.G.S. §143-318.11(a)(3)   | Mayor Johnnie Greene                          |
| 15. | Adjourn                                      | Mayor Johnnie Greene                          |

**TUESDAY, FEBRUARY 9, 2021**  
**TOWN OF SAWMILLS ANNUAL BUDGET RETREAT**  
**9:00 AM**

**COUNCIL PRESENT**

Johnnie Greene  
Clay Wilson  
Rebecca Johnson  
Melissa Curtis

**STAFF PRESENT**

Chase Winebarger  
Julie A Good  
Terry Taylor

**COUNCIL ABSENT**

Keith Warren  
Joe Wesson

**CALL TO ORDER:** Mayor Johnny Greene called the meeting to order at approximately 9:06am.

**INVOCATION:** Town Manager Chase Winebarger gave the invocation.

**PLEDGE OF ALLEGIANCE:** Mayor Johnnie Greene led the Pledge of Allegiance.

**ADOPT AGENDA:** Mayor Johnnie Greene asked for a motion to adopt the February 9, 2021 Budget Retreat Agenda.

Rebecca Johnson made a motion, and Clay Wilson seconded, to adopt the February 9, 2021 Budget Retreat Agenda. All were in favor.

**FINANCIAL UPDATES: FINANCIAL UPDATE:** Town Finance Officer Karen Clontz presented to the council the following financial information for the Town Council.

1 – Attached is the summary sheet for revenues and expenditures year to date – 12/31/2020 – for all funds. The budget total is \$2,966,769 with \$1,908,838 budgeted for the General Fund and \$1,057,931 for the Utility Fund.

*\*General Fund includes the \$19,000 budget amendment for paving, original budget = \$1,889,838*

	Annual Budget	YTD Actual	Remaining Budget %
Revenue	\$1,908,838	\$1,167,470	38%
Expenditures	\$1,908,838	\$796,233	58%
Under		\$371,237	

2 - Cash Balance and Budget by Fund as of 12/31/2019:



*A. Cash Balance by Fund Summary*

General Fund Balance – Unassigned	\$6,335,860
Powell Bill Fund Balance- Restricted/Streets	\$ 475,523
Utility Fund Net Assets-Unassigned	\$4,588,746
Capital Reserve Fund – Restricted	\$ 374,000
<b>Total:</b>	<b>\$11,774,129</b>

Attached is a breakdown of the cash on hand and investments for each fund. The outline also compares the current fiscal year to the same time last year. Interest rates remain low.

*B. Budget by Fund Summary:*

<u>General Fund</u>	<u>Budget 20/21</u>	<u>Dec 2020 YTD</u>	<u>Remaining Budget %</u>
Revenue	\$1,908,838	\$ 1,167,470	38%
Expenditure	\$1,908,838	\$ 796,233	58%
Over/Under		\$ 371,237	

<u>Powell Bill Fund</u>	<u>Budget 20/21</u>	<u>Dec 2020 YTD</u>	<u>Remaining Budget %</u>
Revenue-State	\$130,000	\$137,230	-5%
Revenue-Reserve	\$0	\$0	0%
Expenditure	\$37,000	\$ 13,166	64%

Regarding the Powell Bill cash balance – the Town’s cash reserve must stay below the total sum of the past 5 years in revenue received from the State of North Carolina Department of Transportation. This is a result of HB 200 changes to GS 136-41.1 through 136-41.3. In summary, towns with a population over 5,000 cannot have a total reserve in excess of the five-year total revenue received.

<u>Utility Fund</u>	<u>Budget 20/21</u>	<u>Dec 2020 YTD</u>	<u>Remaining Budget %</u>
Revenue	\$1,057,931	\$ 762,637	28%
Expenditure	\$1,057,931	\$ 415,629	61%
Over/Under		\$ 347,008	

Utility Fund revenues continue to remain steady.

**DISCUSSION:**

**2020/21 PROJECTS COMPLETED:** Town Manager Chase Winebarger stated that even during the pandemic, the Town got many projects completed. Those projects are as follows:

- **Increased Employee Longevity Pay;**
- **Increased Vacation Accruals;**
- **Salary Increase 3% Cola 2% Merit;**
- **Phase II Stormwater Mapping;**
- **Power at Farmers Market;**
- **PA System;**
- **New Server;**
- **Cameras;**
- **Social Media Outsourced;**
- **Absorbed recreation programs from Optimist;**
- **Paving in Doe Run;**
- **Increased sanitation by \$2;**
- **Implemented year 1 of the NCRWA Water Rate study;**
- **This year we are potentially going to partner with the FD for Ham Day**

**2020/21 PROJECTS NOT COMPLETED:** Town Manager Chase Winebarger stated that with the pandemic, there were certain items that the Town could not get completed during this budget year. Those projects are as follows:

- **Spring clean-up and shred day;**
- **LCD sign and Flower planters;**
- **Parking concerns;**
- **New logo/Branding;**
- **ADA Assessment Plan;**
- **Town Hall**

**2020/21 ITEMS FOR CONSIDERATION DURING 2021/2022 FY:** Town Manager Chase Winebarger stated that there were some projects that he would like to discuss for the 2021/2022 FY. Those items are as follows:

- **Meter Service Contract:** Town Manager Chase Winebarger stated that he had received a quote from MeterSys for a yearly contract in the amount of eighteen thousand dollars (\$18,000.00). Town Manager Chase Winebarger stated that the Town can call MeterSys without a yearly contract and they will bill the Town hourly. Town

Manager Chase Winebarger stated that the Town could wait a year to see if a contract is needed.

- **Inhouse Planning:** Town Manager Chase Winebarger stated that the Town of Sawmills is paying the Western Piedmont Council of Governments approximately sixty dollars (\$60.00) an hour for only eight (8) hours a week. Town Manager Chase Winebarger stated that the Town has need for an inhouse Planner. Town Manager Chase Winebarger stated that all of the Town Ordinances need to be updated, which takes more time than a contracted Planner can give. Town Manager Chase Winebarger stated that he would get a full job description together and get back to Council with more details.
- **EDC-Sales Tax Reinvestment:** Town Manager Chase Winebarger stated that the EDC Sales Tax Reinvestment is up for renewal this year. Town Manager Chase Winebarger stated that Council will need to vote on the renewal during a regular scheduled Council meeting at a later time.
- **Additional Parking Lot at Veterans Park:** Town Manager Chase Winebarger stated that in the lease of project lands between the Town and Duke Power for Veterans Park, an additional parking lot was to be built by the Town. Town Manager Chase Winebarger stated that he would get with Town Public Works Director Ronnie Coffey and Town Engineer Todd Poteet with West and Consultants to discuss the parking lot and bring plans back to Council during the next budget meeting.
- **Multipurpose paved area at Baird Park:** Town Manager Chase Winebarger stated that the Town could possibly use an overfill parking lot at Baird Park. Town Manager Chase Winebarger stated that when the parking lot was not needed for overflow parking that the Town could build it to have additional uses, such as a basketball court or some other type of outside activity.
- **Charging Landlords a Deposit:** Town Manager Chase Winebarger stated that he had been discussing deposit with staff and referred the topic to Town Clerk Julie A Good. Town Clerk Julie A Good stated that everyone within the Town pays a deposit for water, sewer and sanitation, with the exception of a landlord, the only deposit a landlord has to pay right now is for sanitation. Town Clerk Julie A Good stated that the Town defines landlord as, "a person who owns a property and leases that property to another person." A landlord cannot live in the home. Town Clerk Julie A Good stated that all a landlord has to do is fill out an application and ask for the water to be turned on. Town Clerk Julie A Good stated that when the landlord then leases the property and the new customer puts the property in their name, that the Town has no money to put against any outstanding bills and, in some instances, the landlord has not paid, but then can get more water pout in their name as long as it is not the same address. Town Clerk Julie A Good stated that staff has talked about this issue and would like for Council to add landlords in the deposit policy.
- **Fee Schedule for Recreation:** Town Manager Chase Winebarger stated that the Town recently took over the ball programs from the Optimist, and along with that, himself and Recreation Director Tanner Greene have been researching field rental fees, registration fees, and other fees associated with the recreation department. Town Manager Chase Winebarger stated that what they had found, among other issues, was



that our base line fees for field rentals were too low. Town Manager Chase Winebarger stated that Recreation Director Tanner Greene would prepare new fees for Council for the fee schedule. Town Manager Chase Winebarger also stated that baseball signups have started and that Council would need to vote on a registration fee during the regularly scheduled February 16, 2021 Town Council meeting. Town Manager Chase Winebarger stated that this fee would normally also be on the fee schedule, but with the Town taking over the ball programs during the middle of a fiscal year, that an amount would need to be agreed upon now and in future years it would be on the fee schedule. Town Manager Chase Winebarger stated that himself and Recreation Director Tanner Greene had researched the registration fees for this area and they would likely propose a forty (\$40.00) registration fee, which would include a jersey, the equipment, the umpires, ballfield lights, and trophies, among other items.

- **Police:** Town Manager Chase Winebarger stated that he wanted Councils direction on what to do about looking into the Town starting a Police Department. Town Manager Chase Winebarger stated that some members of the Public had asked him about a Police Department.

#### **UPDATES:**

**LEGAL UPDATES:** Town Attorney Terry Taylor gave Council a handout (which is attached to the minutes) pertaining to Changing Property Values in a Pandemic.

Town Attorney Terry Taylor gave Council a handout (which is attached to the minutes) pertaining to May Nonresidents be Precluded from Enjoying Recreation Facilities?

**COUNCIL ADJOURN:** Mayor Johnnie Greene asked for a motion to adjourn.

Clay Wilson made a motion, and Rebecca Johnson seconded, to adjourn the meeting. All were in favor.

The meeting was adjourned at approximately 11:59pm.

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Johnnie Greene, Mayor

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Julie A Good, Town Clerk



**TUESDAY, FEBRUARY 16, 2021  
TOWN OF SAWMILLS REGULAR COUNCIL MEETING  
6:00 PM**

**COUNCIL PRESENT**

Mayor Johnnie Greene  
Clay Wilson  
Rebecca Johnson  
Melissa Curtis  
Keith Warren  
Joe Wesson

**STAFF PRESENT**

Chase Winebarger  
Julie A Good  
Terry Taylor  
Wendy Honeycutt  
Tanner Greene

**CALL TO ORDER:** Mayor Johnny Greene called the meeting to order at approximately 6:00pm.

**INVOCATION:** Mayor Johnny Greene gave the invocation.

**PLEDGE OF ALLEGIANCE:** Mayor Johnny Greene led the Pledge of Allegiance.

**ADOPT AGENDA:** Mayor Johnny Greene asked for a motion to adopt the February 16, 2021 Agenda.

Joe Wesson made a motion, and Clay Wilson seconded, to adopt the February 16, 2021 Agenda. All were in favor.

**APPROVE JANUARY 19, 2021 REGULAR MEETING MINUTES:** Mayor Johnny Greene asked for a motion to approve the January 19, 2021 regular meeting minutes.

Rebecca Johnson made a motion, and Keith Warren seconded, to approve the January 19, 2021 regular meeting minutes. All were in favor.

**PUBLIC COMMENT:** Mayor Johnny Greene asked if anyone had any questions or comments at this time.

Paul Hatton wanted to thank Council for letting him speak about his water payment problem and gave his sister his remaining time.

Pam Steller (Mr. Hatton's sister) wanted to talk about Mr. Hatton's water payment problem.

## **RECOGNITIONS:**

**RECYCLE REWARDS WINNER:** Mayor Johnny Greene announced Keith Harris, as the February Recycle Rewards winner. A credit of thirty-two dollars (\$32.00) will be added to the current sanitation bill.

No Council action was required.

## **PARKS AND RECREATION MATTERS:**

**RECREATION FEES:** Town Manager Chase Winebarger stated that the Town took over the ball programs on January 1, 2021, from the Sawmills Optimist. Since the Town took the programs over in the middle of a Fiscal Year, there are no set fees for any programs. Town Manager Chase Winebarger stated that Town Parks and Recreation Director Tanner Greene has contacted local municipalities for their fee structure for their sports programs, and would suggest that the Town set the participation fee at forty dollars (\$40.00) for all sports programs until a detailed fee schedule can be adopted.

Rebecca Johnson made a motion, and Keith Warren seconded, to set all sports participation fees at forty dollars (\$40.00). All were in favor.

## **PLANNING MATTERS:**

**2570 BAKER CIRCLE:** Town Planner Dustin Millsaps stated that the property at 2570 Baker Circle has been on the code enforcement report for well over a year. Town Planner Dustin Millsaps stated that there two (2) major issues with this property. First, there is a dilapidated trailer that has been stripped of all metal on the outside, windows and doors. Town Planner Dustin Millsaps stated that there are various animals living in the trailer and anyone can walk freely in between the joist in and back out of the house. Town Planner Dustin Millsaps stated the second problem is that there is a carport attached to the brick home that has fallen down and is a hazard to anyone walking around the property. Town Planner Dustin Millsaps stated that there are two (2) liens that are known on the property: a Medicare lien and a credit card lien. Town Planner Dustin Millsaps stated that if the Town abates the property, there is a good chance that no money will be recouped because of the prior liens.

Joe Wesson made a motion, and Keith Warren seconded, to table this matter until the May 18, 2021 regularly scheduled Council meeting. All were in favor.

**4486 SAWMILLS SCHOOL ROAD:** Town Planner Dustin Millsaps stated that on April 16, 2019, the Town removed a dilapidated house and placed a lien on the property at 4486 Sawmills School Road. Town Planner Dustin Millsaps stated that after the dilapidated brick home was removed the Town received another complaint regarding a mobile home on the back of this property that was not mentioned in the original complaint. Town Planner Dustin Millsaps stated that the mobile home has never been lived in, but it is home to wild dogs. Town Planner Dustin Millsaps stated that a title search could be done and then abate the



mobile home.

Town Planner Dustin Millsaps stated he would get with Town Attorney Terry Taylor and get a title search and contact the owner and send a violation letter.

No Council action was needed at this time.

**PUBLIC COMMENT:** Mayor Johnny Greene asked if anyone had any questions or comments at this time.

No one wished to speak.

#### **UPDATES:**

**FEBRUARY CODE ENFORCEMENT REPORT:** Town Planner Dustin Millsaps stated that there are four (4) code enforcement cases open:

- Carolyn Bray/Robyn Brittan, owner 2570 Baker Circle. Abandoned Mobile Home/Garbage and Rubbish. Town Planner Dustin Millsaps stated that he is working with Town Attorney Terry Taylor to abate the property. Town Planner Dustin Millsaps also stated that he will treat this as a Junk and Debris and not minimum housing. If so, the Town can proceed to abate after thirty (30) days of notice. Town Planner Dustin Millsaps stated that he got a quote that will demo entire trailer and haul off all debris including our equipment, labor and fees. Town Planner Dustin Millsaps stated that the quote is four thousand one hundred dollars (\$4,100.00). Town Planner Dustin Millsaps stated that he rode by the property and it is still in the same condition and would like to discuss demolition. Town Planner Dustin Millsaps stated that he had been in contact with Town Attorney Terry Taylor and former Town Planner to get all the evidence for this property;
- Teresa Annas Compton, 4486 Sawmills School Road. Abandoned Mobile Home/Garbage and Rubbish. Town Planner Dustin Millsaps stated he received a complaint on January 13, 2020. Town Planner Dustin Millsaps stated that a NOV letter was sent out on January 23, 2020 with a deadline of February 10, 2020. Town Planner Dustin Millsaps stated that the trailer is not finished and located on the same property as the Compton house that the Town abated in 2018. Town Planner Dustin Millsaps stated that staff will investigate and work with attorney for possible courses of abatement. Town Planner Dustin Millsaps stated that one (1) of Ms. Compton's sons is scheduled to meet with staff in late February to work towards getting the property in his name and get the property cleaned up. Town Planner Dustin Millsaps stated that staff has is waiting for Ms. Compton's son to schedule a time to come in and speak with staff regarding this property. Town Planner Dustin Millsaps stated that he went by the property on September 10, 2020 and the property is still in same condition with extremely high grass and would recommend demolition. Town Planner

Dustin Millsaps stated that he has been in contact with Town Attorney Terry Taylor and former Town Planner to get all the evidence for this property;

- Denise Dotson/William S Annas, II, 4095 Gatewood Dr. Abandoned Mobile Home/Minimum Housing. Town Planner Dustin Millsaps stated that a complaint was received on March 5, 2020, and a regular NOV letter and a certified NOV letter was sent on March 5, 2020, with a deadline of March 23, 2020. Town Planner Dustin Millsaps stated that the mobile home has been sprayed painted and has an apparent tenant, however, the water meter has been pulled from the property. Property was cleaned up. However, Mr. Annas informed Town Planner Dustin Millsaps that a new tenant has moved in the mobile home. Town Planner Dustin Millsaps stated that a second NOV letter was sent on May 15, 2020 with a deadline of June 15, 2020 for additional garbage on property. Town Planner Dustin Millsaps stated that staff will investigate and work with Town Attorney for possible courses of abatement. Town Planner Dustin Millsaps stated that he went by the property on September 10, 2020 and all garbage has been picked up, however, the house has multiple windows smashed out which is now a minimum housing violation. Town Planner Dustin Millsaps stated that he spoke with property owner and he plans on removing the trailer on November 5, 2020. Town Planner Dustin Millsaps stated that he spoke to William S Annas, II, the property owner, on November 5, 2020 and his plans are removing the mobile home. Town Planner Dustin Millsaps stated that he tried to get in touch with property owner William S Annas, II four (4) times from November 5, 2020 to November 19, 2020 before he would answer the phone for him again, and Town Planner Dustin Millsaps stated he informed property owner Williams S Annas, II that the Town would have to pursue moving the mobile home or fines would occur for him. Town Planner Dustin Millsaps stated that he talked to property owner William S Annas, II on December 8, 2020 and was informed that the property owner had been in contact with an attorney about removal of the mobile home. Town Planner Dustin Millsaps stated that on January 7, 2021, he spoke with property owner William S Annas, II and the property owner stated that he had not worked with his attorney because his attorney had been quarantined multiple times. Town Planner Dustin Millsaps stated that on 2/7/21 he talked with property owner William S Annas, II, again and Mr. Annas stated that he is still talking to his attorney about getting the issue handled;
- Dale E and Debra Miller, 4434 Jess Dr. Garbage and Rubbish/Property Maintenance. Town Planner Dustin Millsaps stated that a complaint was received on January 28, 2020. Town Planner Dustin Millsaps stated that the complaint addressed two (2) separate properties and possible violations. A NOV letter was sent on February 13, 2020, with a deadline of March 4, 2020 for the Miller property. Town Planner Dustin Millsaps stated that the Miller property is in violation for having high grass/vegetation and junk and garbage located around the property. Town Planner Dustin Millsaps stated another complaint was received on May 7, 2020 and a final letter was sent on May 13, 2020, with a deadline of May 31, 2020. Town Planner Dustin Millsaps stated that on June 1, 2020, staff spoke with Mrs. Miller, who has a medical condition, and she asked for an extension and stated that she is working on getting the property



cleaned up. Town Planner Dustin Millsaps stated that on September 10, 2020, a new tenant is cleaning up the property and is ¾ of the way done. Town Planner Dustin Millsaps stated that a final citation was issued on November 2, 2020. Town Planner Dustin Millsaps stated that a final notice was issued on February 4, 2021 to the updated address of the property owner. Town Planner Dustin Millsaps stated that once he sent the letter to the correct address of the property owner, the property was cleaned up by the weekend. Town Planner Dustin Millsaps stated that the code enforcement case is now closed.

No Council action was required.

#### **TOWN MANAGER UPDATES:**

- Town Manager Chase Winebarger introduced Wendy Honeycutt as the new Town Administrative Assistant and Tanner Greene as the new Parks and Recreation Director.
- Town Manager Chase Winebarger stated that the article about the cameras at the Town's Municipal Parks came out in the Lenoir News Topic and also on the News Topic's Facebook page. Town Manager Chase Winebarger stated that he was trying to find a company who could give a set number of log ins for each participate. Town Manager Chase Winebarger stated that the camera view is on the field only. Town Attorney Terry Taylor stated that the Town will need to adopt a surveillance policy for the cameras. Town Attorney Terry Taylor also stated that the cameras are not public record and can only be subpoenaed and reviewed by law enforcement or Town staff.

#### **COUNCIL COMMENTS:**

Melissa Curtis wanted to thank everyone for coming out.

Keith Warren wanted to thank everyone for coming out.

Rebecca Johnson wanted to thank everyone for coming out.

Joe Wesson welcomed new employees Wendy Honeycutt and Tanner Greene.

Mayor Johnnie Greene wanted to thank everyone for coming out.

**CLOSED SESSION PURSUANT TO N.C.G.S. §143.318-11(A)(3):** Mayor Johnnie Greene asked for a motion to go into closed session.

Joe Wesson made a motion, and Rebecca Johnson seconded, to go into closed session pursuant to N.C.G.S. § 143.318-11(a)(3) at approximately 6:39pm. All were in favor.

Rebecca Johnson made a motion, and Clay Wilson seconded, to come out of closed session at approximately 7:03pm. All were in favor.

**VETERANS PARK PAVING:** After coming out of closed session, Town Manager Chase Winebarger stated that during the budget retreat Council had discussed that in the agreement with Duke Power, the Council had agreed to build an additional parking lot at Veterans Park. Town Manager Chase Winebarger stated that he had spoken to Todd Poteet, of West Consultants, and Mr. Poteet had informed Town Manager Chase Winebarger that it would save the Town money if the project could go out to bid now. Town Manager Chase Winebarger stated that Mr. Poteet informed him that paving costs are down by fifty (50%) percent right now and that could possibly save the Town sixty-five thousand dollars (\$65,000.00) to eighty-five thousand dollars (\$85,000.00) on this project. Town Manager Chase Winebarger stated that the Town could transfer the money from the Fund Balance and do the project now while paving costs are down.

Town Manager Chase Winebarger also stated that since the Town is putting in the new parking lot, it would be beneficial to put lights Veterans Park to be able to utilize the park's ball fields at night like Baird Park, instead of just during daylight hours. Town Manager Chase Winebarger stated that the project could go to bid with the parking lot and save money.

Town Manager Chase Winebarger stated that Council would need to decide if they want to go ahead with the project in the FY 2020-2021 year or wait until the FY 2021-2022 year and if they would like to do the project with or without lights.

Council informed Town Manager Chase Winebarger that they would like to know how big the parking lot had to be and the approximate cost with and without lights. Town Manager Chase Winebarger stated that he would have more information for them at the March 4, 2021, budget meeting.

**ACCOUNT 0179 PAUL HATTON:** Mayor Johnnie Greene stated that Council should discuss account 0179 Paul Hatton. Mr. Hatton and his sister, Pam Steller, came to Council during Public Comment to talk about Mr. Hatton's payment being applied to the wrong account and Mr. Hatton's water being disconnected.

Town Manager Chase Winebarger stated that he had offered Mr. Hatton a three (3) month credit, but that Ms. Steller refused the offer. Town Manager Chase Winebarger stated that he could not offer anything higher without Council consent.

Melissa Curtis made a motion, and Keith Warren seconded, to give Mr. Hatton one hundred eighty dollars (\$180.00) credit on his utility bill and Mr. Hatton would need to sign a release. The motion carried four (4) to one (1) with Clay Wilson being the only opposed.

**COUNCIL ADJOURN:** Mayor Johnnie Greene asked for a motion to adjourn.

Melissa Curtis made a motion, and Clay Wilson seconded, to adjourn the meeting. All were in favor.

The meeting was adjourned at approximately 7:27pm.

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Johnnie Greene, Mayor

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Julie A. Good, Town Clerk

## **AGENDA ITEM 7A**

### **MEMO**

#### **DATE:**

March 16, 2021

#### **SUBJECT:**

Recognition:  
Recycle Rewards  
Program

#### **Discussion:**

The Town of Sawmills would like to congratulate James Clark on winning the Recycle Rewards Program for the month of March. Mayor Johnnie Greene will present him with a Certificate of Appreciation. A thirty-two dollar (\$32.00) credit will be added to the current sanitation bill.

#### **Recommendation:**

No Council action is required.



**AGENDA ITEM 8A**

**MEMO**

**DATE:**

March 16, 2021

**SUBJECT:**

Financial Matters:  
Request for a Donation  
To American Legion  
Post 392

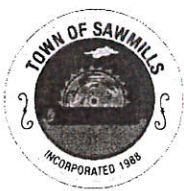
**Discussion:**

The Town has received a request from Hudson American Legion Post 392 for a donation in the amount of \$200.00 (two hundred dollars).

There are sufficient funds in the budget for this request.

**Recommendation:**

Staff recommends Council discuss this matter and decide how they wish to proceed.



## Town of Sawmills

Johnnie Greene, Mayor

Chase Winebarger, Town Manager

### Funding Request:

Name of Organization:		Phone	
<u>AMERICAN Legion Post 392</u>		<u># 828-320-4275</u>	
Permanent Address: <u>243 Legion Rd</u>			
City:	<u>Hudson</u>	State:	<u>N.C.</u>
		Zip Code:	<u>28638</u>
Contact Name:	Fed Tax ID #:		
<u>Jo Ann Miller</u>	<u>ID 56-1530149</u>		

Amount Requested:	<u>\$200<sup>00</sup></u>	Amount needed for the Project:	<u>\$200<sup>00</sup></u>
Date Funds Needed:	<u>APRIL 17 2021</u>	Project Begin/End Dates:	<u>APRIL 16 + 17 2021</u>
Complete description of project:			
<u>Rock Creek Coon Club will be doing fundraiser for American Legion Post 392 ALL proceeds goes to them to help veterans + families</u>			
How will the funds be used?			
<u>To help veterans with food, clothes, water + electric bills</u> <u>Also with Easter, Thanksgiving + Christmas meals + gifts</u>			
How will this project benefit the community?			
<u>IT will help any veterans + families to get what they need</u>			

Official Town Use Only			
Date application received:	Date presented to Council:		
Date approved/denied (circle one):	Amount approved:		
Available balance in Governing Body Expense Acct:	<u>\$1900.00</u>		
Date check written:	Check #:	Amount:	

*Chase Winebarger*

## **AGENDA ITEM 8B**

### **MEMO**

#### **DATE:**

March 16, 2021

#### **SUBJECT:**

Financial Matters:  
Sales Tax Reinvestment  
Agreement

#### **Discussion:**

The current contract with Caldwell County for the Sales Tax Reinvestment program will expire on June 30, 2021 and will need to be renewed. If renewed, the enclosed contract will be effective starting July 1, 2021 and ending June 30, 2025.

The amount of the contract will not exceed one hundred ninety-four thousand (\$194,000.00) dollars annually. The funds would be used by Caldwell County and the Caldwell County Economic Development Commission as incentive moneys for job growth and development. Additionally, Caldwell County is able to use up to three hundred fifty thousand (\$350,000.00) dollars of the fund annually for public purposes other than economic development. This expenditure is included in the FY 2021-2022 budget.

#### **Recommendation:**

Staff recommends Council discuss this matter and decide how they wish to proceed.

NORTH CAROLINA

CALDWELL COUNTY

SALES TAX REINVESTMENT AGREEMENT

This Sales Tax Reinvestment Agreement ("this Agreement") is entered into by and among CALDWELL COUNTY("the County"), a political subdivision of the State of North Carolina, and TOWN OF GAMEWELL ("Gamewell"), TOWN OF SAWMILLS ("Sawmills"), TOWN OF CAJAH'S MOUNTAIN ("Cajah's Mountain"), TOWN OF HUDSON ("Hudson"), TOWN OF GRANITE FALLS ("Granite Falls") and CITY OF LENOIR ("Lenoir"), all being North Carolina municipal corporations (collectively "the Municipalities").

WITNESSETH:

WHEREAS, the Towns of Gamewell, Sawmills, Cajah's Mountain, Hudson, and Granite Falls and the City of Lenoir are all municipal corporations located in Caldwell County; and

WHEREAS, the Municipalities and the County desire to collectively fund economic development activities and other public purposes within Caldwell County; and

WHEREAS, the parties have agreed that these activities and purposes will be funded by the Municipalities in consideration of the County's continued election of the per capita method of distribution of local government sales and use tax among the County and the Municipalities pursuant to G.S. §105-472(b)(1), under which election the County receives less sales and use tax revenues, and the Municipalities receive more sales and use tax revenues, than they would receive if the County elected the ad valorem method of distribution; and

WHEREAS, pursuant to the authority of G.S. Chapter 160A, Article 20, Part 1, the County and the Municipalities have each resolved to enter into this interlocal agreement to provide funding for the activities and purposes set forth herein:



NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties agree and contract as follows:

1. This Agreement is entered into for the purpose of collectively funding economic development activities and other public purposes in Caldwell County. It is the intention of the parties to this Agreement that those activities which are anticipated to have the greatest county-wide impact will receive priority in funding. Decisions on which economic development activities and other public purposes to fund, and the amount of funding, will be made by the Caldwell County Board of Commissioners. Provided, however, that no more than \$350,000.00 per fiscal year will be spent from the Fund for public purposes other than economic development, for four (4) consecutive years beginning with the fiscal year that begins July 1, 2021.

2. Administrative implementation of the Fund and of the activities and purposes funded thereby shall be the responsibility of the Caldwell County Manager and his staff.

3. Pursuant to the terms of previous similar agreements, the County has established a special appropriation fund ("the Fund") under the authority and control of the Caldwell County Finance Department, which has been and shall continue to be reserved for the activities and purposes herein provided. Each Municipality's contribution to the Fund shall be paid into the Fund during July of each year, beginning July, 2021. All interest earned on the monies in the Fund shall be credited to Fund and spent for the intended activities and purposes. The County shall include the Fund in its annual audit, and within two (2) weeks after its receipt of the annual audit report, it shall provide to each of the Municipalities a written report showing Fund

receipts, interest, expenditures and balance. During the term of this Agreement, the county shall continue to elect each year the per capita method of sales and use tax distribution.

4. The term of this Agreement is for a period for four (4) years, beginning July 1, 2021 and ending June 30, 2025.

5. During the four (4) year term of this Agreement, the Municipalities' respective annual contributions to the Fund shall be the following:

Gamewell	-	\$189,000.00
Sawmills	-	194,000.00
Granite Falls	-	27,500.00
Hudson	-	27,500.00
Cajah's Mountain	-	155,000.00
Lenoir	-	<u>7,000.00</u>
TOTAL		\$600,000.00

6. Monies paid into the Fund prior to July 1, 2017 that have not been expended will be used only for economic development purposes.

7. Should the sales tax revenues fall to a level below the level experienced at the time of this Agreement, each Municipality shall retain the right to request that its contribution be lowered. The request must be submitted to the County Board of Commissioners no later than January 31<sup>st</sup>. If approved, the lowered contribution would take effect in the following fiscal year, for the payment due to the County in July. Upon obtaining a request to lower the contribution amount the County shall analyze the actual sales tax receipts of each Municipality and determine if a reduction in the contribution is warranted. The ultimate authority on whether or not to reduce the contribution from each Municipality shall rest with the County Board of Commissioners.

8. This Agreement may be modified only with the unanimous consent of all of the parties hereto.

9. This Agreement supersedes all previous agreements between these parties dealing with this same subject matter.

10. Each of the signatories below hereby represents that this Agreement has been approved in an open meeting by the governing body represented by the signatory, and that the signatory has been duly authorized to execute this Agreement as the binding act of the governing body.

ATTEST:

Thomas W. Welch II  
Clerk to the Board of Commissioners

CALDWELL COUNTY

By: [Signature]  
Chairman, Board of Commissioners

ATTEST:

Mary L. Carter  
Clerk to the Town Council

TOWN OF GAMEWELL

By: [Signature]  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk to the Town Council

TOWN OF SAWMILLS

By: \_\_\_\_\_  
Mayor



ATTEST:

Randy Ferrelman

Clerk to the Town Council

TOWN OF CAJAH'S MOUNTAIN

By: Ronnie Stutz

Mayor

ATTEST:

Camille D. Hanson

Clerk to the Town Council

TOWN OF HUDSON

By: Paul H. Winkler, Mayor

Mayor

ATTEST:

Paula M. Kirby

Clerk to the Town Council

TOWN OF GRANITE FALLS

By: Barry Hayes

Mayor

ATTEST:

Shirley M. Cannon

Clerk to the City Council

CITY OF LENOIR

By: Joseph P. Blum

Mayor

## AGENDA ITEM 9A

**MEMO**

**DATE:**

March 16, 2021

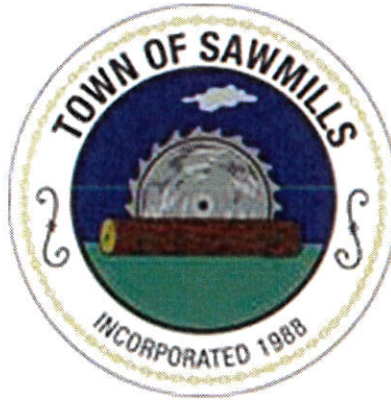
**SUBJECT:**

Discussion:  
Parks and Recreation Policies  
and Regulations

**Discussion:** The Parks and Recreation Department has been in contact with other local municipalities regarding their policies and regulations in regard to all matters pertaining to Parks and Recreation. After reviewing these policies and practices we have compiled a Parks and Recreation Policy Manual that we feel best fits the needs of the Town of Sawmills.

**Recommendation:**

Staff recommends the policy manual be adopted as presented.



**TOWN OF SAWMILLS  
PARKS AND RECREATION  
DEPARTMENT  
POLICY MANUAL**

ADOPTED: 3/16/2021

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## I. POLICY AND REGULATIONS GOVERNING THE PUBLIC USE OF RECREATION FACILITIES

### A. NO ENDORSEMENT

It should be understood by all groups and the public at large that the granting of permission to use recreation facilities does not constitute an endorsement of the beliefs, viewpoints, policies, or affiliations of any individuals or groups by the recreation staff, Parks and Recreation Committee or Sawmills Town Council.

### B. RECREATION ENFORCEMENT

Responsibility for the enforcement and interpretation of this policy is delegated to the Town Manager and their designee if necessary. Complaints should be made to the Town Manager and appeals can be made to the Town Council.

### C. RESERVATION POLICY

Non-recreation oriented groups, clubs, organizations, and other agencies may reserve recreation facilities and/or rooms up to three (3) months in advance. More than one meeting during this period may be reserved at one time at the discretion of the Town Manager, but the facilities and rooms are not intended to be monopolized as a regular and/or frequent meeting place or base of operation by any non-recreation oriented group, club, organization or agency.

### D. EQUITABLE USE

Facility reservations will be issued as equitably as possible on a first come, first serve basis to ensure that all lawful groups will have access to recreation facilities, Recreation programs receive first priority for use of equipment and facilities.

### E. REQUEST PROCEDURE AND LEGAL LIABILITY

Facility reservations must be submitted on a proper request form either in-person or online at least seven (7) working days in advance of the meeting or event by an authorized adult representative of the group who willingly assumes responsibility for the proper conduct of those attending the meeting or the event, cleaning of the facility at the conclusion of the meeting or event, and paying for the expense of any damage to the recreation property; picnic shelters may be reserved up to the day of the rental. The adult who signs the application will be held liable for all damages sustained due to the use of the facility for which the application is made, or for any violation of these regulations.

F. CONFIRMATION REQUIRED

Reservations receiving less than seven (7) working days' notice may be authorized by the Director of Parks and Recreation. Telephone inquiries are welcome but official bookings must be made online or in writing using the proper form and turned into Town Staff to provide an immediate confirmation of the facility reservation and under no circumstances will this take more than two (2) working days. Reservations are not official until a written or online application has been received, payment made and confirmation made by the Director of Parks and Recreation. Groups are asked to notify the Director of Parks and Recreation immediately of any cancellations. Repeated un-notified cancellations may result in loss of reservation privileges.

G. PUBLICITY PROCEDURE

All groups and especially those that will be distributing publicity for an event at a recreation facility must make the sponsorship of the event/program clear and include a telephone number for the sponsorship group. The group shall not be permitted to issue publicity or advertising indicating recreation sponsorship or co-sponsorship unless such status is granted in writing. Neither the name nor address of the Town of Sawmills may be used as the official address or headquarters of any individual or organization. Staff is not responsible for providing information about any scheduled meeting and any group that repeatedly fails to inform and/or advertise to its target audience may have their facility privileges denied. Before publicizing that any meeting or series of meeting will be held at the recreation facility, it is imperative that a reservation for all dates has been officially confirmed.

H. ACCESS

The Town Manager or designated staff member, or appropriate Town Council member, is authorized to have access to any meeting solely to determine that it is lawful and in compliance with the regulations of this policy.

I. BEHAVIOR GUIDELINES

The Town Manager, or designated staff member, is authorized to deny or terminate use of recreation facilities to individuals or groups that violate the Town's policies and procedures or whose activities would tend to incite or promote imminent lawless action, or are obscene. In general, one warning will be issued. Any appeals may be made to the Town Council.

J. COMMON AREAS

Common lobby areas, kitchenette, public restrooms and phone lines are all considered to be public areas and incapable of being reserved. Use of kitchenette (if any), and any groups needing to have access must share lobby area. If requested the staff will inform any group of requests by any other group(s) to use the kitchenette and/or lobby areas.

K. FIRE REGULATIONS

Fire exits are clearly identified and are to be used only in case of an emergency. Under no circumstances can the fire exits be blocked by furniture or other equipment items.

L. FURNISHINGS & EQUIPMENT

A limited number of stackable chairs and folding tables may be provided by the Town for use in all facilities on a first come, first serve basis.

M. EQUIPMENT TRAINING REQUIRED

It is the responsibility of anyone using recreation furnishings and equipment to make sure that they are properly trained in its use ahead of time. Staff will be glad to provide instruction in the use of recreation equipment as their time permits and preferably well in advance of the reservation. The person who signs for the facility is legally responsible for the proper use for any furnishings and equipment used by the group.

N. SELF SERVICE ARRANGEMENTS

Groups using the meeting rooms are required to do their own arranging of chairs and furniture and setting up of equipment. The staff will assist only so far as showing where items are stored and serving special items of equipment. Requests for extra furniture or special equipment should be made at the time of the reservation. Groups must allow sufficient time for furniture arrangement and clean up when making their booking requests. Normal procedure is to put all furnishings and equipment back into storage (leaving an empty room) unless specifically instructed not to do so by the recreation staff.

O. WEAR & TEAR

Activities involving more than normal wear and tear on the facilities will not be permitted. Groups may not affix any posters, banners, etc. to facility walls or other areas unless special low adhesive non-marring tape is used. Care is requested in the setting up and putting back of recreation furnishings and equipment to minimize wear and tear. Furniture items should not be placed where they can mar facility walls or block fire exits.

P. NO SMOKING

Smoking is not permitted at any Town of Sawmills recreation facility-including restrooms.



Q. NO ALCOHOLIC BEVERAGES

Alcoholic beverages of any type are not permitted in any Town of Sawmills recreation facility or park.

R. CLIMATE CONTROL

The heating, ventilation and air conditioning systems for recreation facilities may be on a timer. Groups need to be aware that special arrangements may need to be made for after hours use of facilities where systems are on a timer.

S. MEAL FUNCTIONS

Light refreshments, covered dish, and catered meal functions are permitted in recreation facilities. On site cooking is prohibited except to warm already prepared food. This is essentially an "honor" system and any spills or accidents must be reported and the cleaning deposit will be retained if necessary. All plates, cups, eating utensils, etc. must be furnished by the user. All facilities used by the group must be left clean, all food items must be removed, electrical equipment must be turned off, and furnishings and equipment must be cleaned and returned to their original location. Failure to adhere to these regulations may result in loss of facility reservation privileges.

T. NOISE RESTRICTIONS

Programs in recreation facilities may not disrupt those groups using adjacent recreation rooms/facilities. Loud noise (i.e. music or singing) may not emanate beyond the walls of the meeting room. If noise interferes with meetings of other users, or the recreation programs, the Town Manager, or designated staff member, will issue a warning. If an appropriate reduction in the volume level is not made by the group then the meeting can be terminated and future use denied.

U. TELEPHONE

Any recreation facility telephone should be used for emergencies only.

V. USE BY MINORS

Individuals or groups under the legal age of eighteen (18) are permitted to use the recreation facilities, but after hours use will only be issued to a sponsoring adult who agrees to be legally responsible for the use of the recreation facility according to this policy.

W. SOCIAL USE

Use of recreation facilities for social events is permitted so long as all other regulations are complied with and the appropriate fees are paid.

X. USE BY NON-RESIDENTS OF THE TOWN OF SAWMILLS

Use of recreation facilities by non-residents for the Town, for “profit” or social groups is permissible at the listed fee.

Y. FEE SCHEDULE

Groups will be charged the appropriate fees as determined by the Fee Schedule adopted by the Town Council (see attached fee schedule).

Z. CLOSING PROCEDURE

The adult who signs out the facility must agree to all the above regulations. In addition, that person must agree to comply with all the closing procedures and be willing to receive instructions in these procedures from the staff (See Opening and Closing Checklist). All individuals and groups are responsible for making sure that the outside door is secure and must not presume that another group will do this.

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II. GUIDELINE FOR WAIVER OF RENTAL FEE

Guidelines for non-profit organizations using and requesting a waiver of rental fees.

A. Non-Profit organizations must produce valid evidence of a federal tax I.D number and must show proof of liability insurance in an amount agreed to by the Town.

- B. Non-profit organization must consist of a majority of Town residents.
- C. The application for use of the facility and waiver of the fee must be submitted a minimum of two (2) weeks prior to using the facility for consideration.
- D. The non-profit organization is solely responsible for replacing and repairing any broken equipment that is damaged during the course of the rental agreement.
- E. The non-profit organization must announce, post, and enforce the policy of no smoking and no alcoholic beverages on the premises during the course of the rental period.
- F. The non-profit organization must agree that any event scheduled must be completed no later than 10:30 p.m. and that the facilities used shall be emptied, secured, and locked no later than 11:00 p.m.
- G. The non-profit organization agrees to present a security deposit which will be returned if the facility is found to be clean and in good repair (for more information reference the Fee Chart).
- H. The non-profit organization shall be able to request use of the facility and waiver of the rental fee no more than four (4) times per year.
- I. The non-profit organization agrees to abide by these guidelines and all other facility policies and procedures which apply to the use of Town parks and facilities.
- J. Any fund-raising request held in Town Parks and Recreation Department facilities must be submitted to the Town Manager for staff review and recommendation. Requests submitted without sufficient explanation for use of the specified facility will be returned to the requestor for further information. Upon staff recommendation, the request will be submitted to the Town Council for their consideration.
- K. **It is recommended that all requests be submitted six (6) weeks in advance to allow sufficient time to process the request.**

### III. PROGRAM AND FACILITY POLICIES



A. Non-residents:

1. In order to participate in the Parks and Recreation Department's organized sports programs or instructional classes, non-residents of the Town of Sawmills must pay a non-resident fee. The family plan entitles the entire family to participate for a one (1) year period, from date of purchase for sports programs/

B. Classrooms:

1. Residents and non-residents of the Town of Sawmills may reserve a classroom by paying a per hour room rental fee. When reserving after hours, a per hour supervisor fee will be charged.

C. Ball Fields:

1. Residents and non-residents of the Town of Sawmills may reserve a sports field, out-of-season, by paying a non-refundable fee per field and a non-refundable light fee. Teams participating in leagues may reserve a sports field in-season. Teams must pay a fee for lights set forth in fee schedule.

2. Bulletin boards are to be used for Town sponsored programs only.

3. Telephone reservations are not accepted. Customers must secure the reservation in person any pay all applicable fees prior to usage.

4. In the event of inclement weather or unforeseen circumstances, refunds will be issued provided the requesting party contact the Director of Parks and Recreation or the administrative office by 12:00 p.m. the next business day.

**Note: Sponsors of teams or programs have rental fees waived twice per sponsorship year for sports fields, classrooms, facilities, and picnic shelters. Reservations must be made at Town Hall or online.**

D. Playgrounds:

1. The Town of Sawmills does not reserve playgrounds. Use of playgrounds are handled on a first come, first serve basis.



# TOWN OF SAWMILLS

Parks and Recreation Department

## Volunteer Coaches Policy

Coaches are selected, pending Town of Sawmills background check, on the following criteria:

- Previous coach
- Positive outcome from previous coaching with Sawmills or reference of other Recreation Department. (This does NOT mean win – loss record)
- Works well with youth. Engaging and age appropriate.
- Works well with administration and parents. Communication, and support.
- Works well with game officials. Age appropriate with focus not driven by “win at all cost” mentality.

Town Manager or his designee have the final say in appointing coaches.



## **TOWN OF SAWMILLS COACHES BACKGROUND CHECK POLICY**

**Criminal Background Checks.** All candidates or a volunteer position with the Town or volunteers with Recreation Department must submit to a criminal background check. A background check will be conducted for full-time, part-time or volunteer position with the Town of Sawmills Parks and Recreation Department. An individual may be denied employment if the individual has been convicted of any crime against a person, crimes against property where intent is evident or any drug or gambling offense. Coaches and other volunteers will submit to a background check at least once per year.

### **Disqualifiers for Recreation Volunteers and Staff**

The following will be used as criteria to disqualify a potential employee or volunteer of the Recreation Department:

- All Sex Offenses-regardless of the amount of time since the offense
- Felonies-All violent felonies-regardless of the amount of time since the offense
- Non-Violent/Non-Sexual-any within the last 7 years
- Misdemeanors-all offenses involving children within the past 5 years
- Misdemeanors-not involving children within in the last 3 years



# TOWN OF SAWMILLS

## Parks and Recreation Department

### Draft Policy

Teams will be drafted/redrafted at the beginning of each athletic season with the only exception being if the league rules stipulate teams remaining intact.

Once teams have been drafted, there will be absolutely no changes to rosters including but not limited to additions of non-registered participants. For example: Once a player is established on a team they must play for that team, there will be no switching, trading etc.

Family members within divisions will be drafted to the same team.

Carpool and or family friends do not qualify as family and will not be guaranteed to be on the same team.

In age divisions where score is kept, skills assessment(s) will be conducted by the Recreation Department or head coaches of teams to ensure that coaches are not picking blindly.

If a participant is not present at the skills assessment the participant is not eligible for the draft. The Recreation Director has the ability to place participants where it is needed if participants do not show up to the skills assessment.

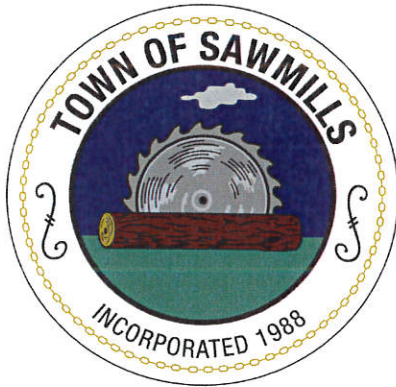
Coaches will assign what round their children should be drafted in. for example: Coach A's daughter is a first-year player and struggles to hit, while Coach B's daughter has played for several years and hits well. Coaches would agree that Coach B would draft child in an earlier round than Coach A based remaining players in the draft.

"Snake" style drafts will be conducted with head coaches by a Recreation Department employee in a private setting. A coin flip or card pick will determine draft order. The team with the last pick in the first round has the first pick in the second. In the third round, the order reverses again, and continues to alternate for each subsequent round. After draft is complete, Coaches will fill out a draft sheet in randomized order for call sheet, jersey order, and department records.

If coaches come into the season with a designated assistant coach then the following will be assessed. 1) All coaches will be asked if there are any exceptions. 2) Assistant coaches child will be assessed by all coaches and assigned a round that they must be drafted in. If any coach has exception to either than the child will be placed in the draft pool and open for any coach to draft.

The object of each draft is to split teams as even as possible. The Recreation Director reserves the right to rule on any draft situation as he/she sees fit.





**MAYOR**  
Johnnie Greene

**TOWN MANAGER**  
Chase Winebarger

**TOWN PLANNER**  
Dustin Millsaps

**TOWN  
COUNCIL**

Keith Warren , Mayor Pro-Tem  
Clay Wilson  
Rebecca Johnson  
Melissa Curtis  
Joe Wesson

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**Town of Sawmills Council Meeting  
March 16<sup>th</sup>, 2021  
6:00 PM**

**PLANNER'S STAFF REPORT**

Address: N/A

Owner Name: William D. Fields & Shauna L. Leone

PIN: 2766486954

Land Area: 1.20 acres (approximately) in our jurisdiction  
10.98 acres total

Zoning: (RA-20)

***Background***

This property is right on the edge of the Town of Sawmills jurisdiction. The total of 10.98 acres with the majority of the land (9.78 acres) being located in the Town of Hudson. While the approximate land in the Town of Sawmills being 1.20 acres.

The reason for this rezoning is because the owners of the parcel want to purpose the smaller piece of land in Sawmills limits for a greenhouse. Greenhouses are only permitted by right in the General Manufacturing District (G-M). The two properties across the street are already listed as G-M, so it would not stick out.

***Land Use and Zoning***

This properties current land use is vacant with no primary structure or use.

Surrounding Zoning:

North: *Town of Hudson (R-20)*

South: G-M

East: RA-20

West: G-M

Surrounding Land Use:

North: Single Family Residential/Vacant Land

South: General Manufacturing

East: Single Family Residential

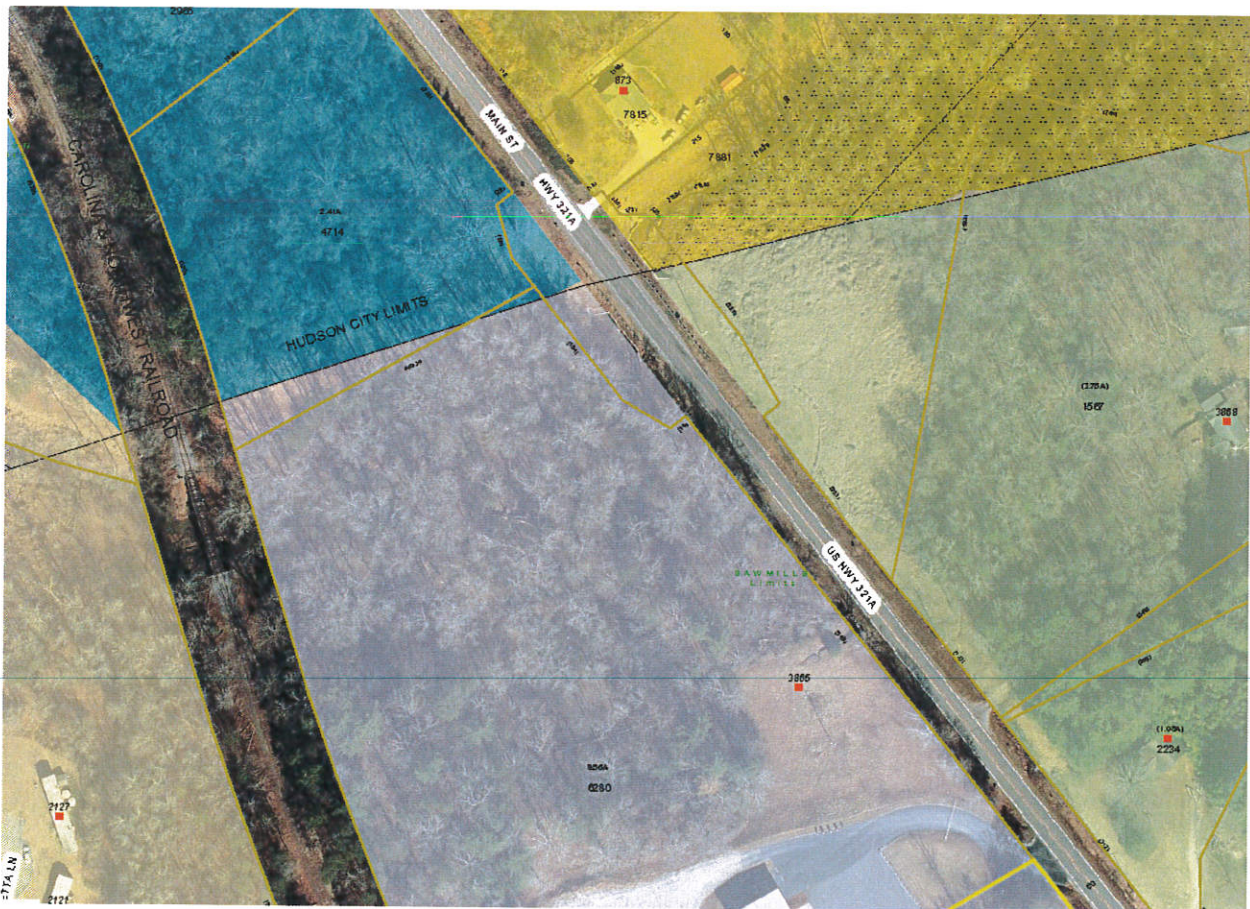
West: General Manufacturing

***Staff recommendation***

Staff recommends that the Town of Sawmills rezone this lot to G-M from (RA-20). This will grow the Town's commercial industry and bring Green jobs to Sawmills. This will also bring in some more tax money to the city for property taxes. Staff also recommends to proceed with the calling of a public hearing for next council meeting.

***Planning Board***

Town of Sawmills Planning Board met on this issue on March 2, 2021. They recommended the rezoning procedure shall proceed forward to Town Council. Planning Board raised no issues with this rezoning.



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4076 US Highway 321-A \* Sawmills NC \* (828)396-7903 \* (828)396-8955 fax

<http://www.townofsawmills.com/>

The Town of Sawmills does not discriminate on the basis of age, sex, race, religion, national origin, disability, political affiliation, or marital status.





## **160D Legislative Updates Zoning and Subdivision Ordinance**

The new Chapter 160D of the North Carolina General Statutes consolidates current city- and county-enabling statutes for development regulations (previously Chapters 153A and 160A) into a single, unified chapter. Chapter 160D places these statutes into a more logical, coherent organization. While the new law does not make major policy changes or shifts in the scope of authority granted to the Town of Sawmills, it does provide many clarifying amendments and consensus reforms that were required to be incorporated into the town's development regulations. As such, Chapter 160D requires that the town's zoning, subdivision, and other development regulations be updated to conform to the new law.

Additionally as a result of Chapter 160D, cities and counties that have zoning ordinances must have an up-to-date comprehensive plan or land use plan by July 1, 2022. This is not something that is written in the ordinance, but a procedure that the town will need to follow to support development decisions.

Chapter 160D is effective now, but the state granted local governments to have until July 1, 2021 for the development, consideration, and adoption of necessary amendments to conform local ordinances to this new law. The Town of Sawmills contracted with Western Piedmont Council of Governments (WPCOG) to update the town's current zoning and subdivision development regulations to conform with the requirements of Chapter 160D. During this process WPCOG staff presented the required and optional changes to the Planning Board and updated the ordinance according to the Planning Board's response. All required changes and updates to optional changes (which were already adopted by the zoning and subdivision ordinance) have been made. The optional changes that were made and not previously adopted in the existing ordinances include the following:

- 1) Zoning Ordinance, §153.005 Definitions – Update to existing or addition of new definition for administrative decision, determination, developer, development, development approval, development regulation, dwelling, evidentiary hearing, legislative decision, and legislative hearing.
- 2) Zoning Ordinance, §153.212 Powers and Duties of the Board of Adjustment- Allowing for minor modification to approved special use permits by administrative approval.

During the Planning Board meeting on March 2<sup>nd</sup>, 2021 the Planning Board voted to recommend the Chapter 160D changes to the zoning and subdivision ordinance to Council for approval.

Below is a list of all changes that were made to the ordinances:





Chapter 160D Zoning Ordinance Changes:

- 1) § 153.001 Purpose, Authority And Enactment, (A) – updated G.S. citation
- 2) § 153.001 Purpose, Authority And Enactment, (B) – added text to define jurisdictional authority and G.S. citations referencing the official zoning map and ETJ area.
- 3) § 153.005 Definitions – updates to definitions as previously mentioned above.
- 4) § 153.005 Definitions – Conditional Use Permits are now required to be termed Special Use Permits. Anywhere in the ordinance where Conditional Use Permit was listed the term “conditional” has been replaced with “special.” The definition itself has not changed.
- 5) § 153.005 Definitions – updated G.S. citation in Manufactured Home definition.
- 6) § 153.017 Official Zoning Map – Added text and G.S. citation referring to the Official Zoning Map. An updated Official Zoning Map is now required to be regularly updated and maintained for public inspection.
- 7) § 153.054 RMHP Manufactured Home Park District/Floating Zone, (4) – updated G.S. citation
- 8) § 153.190 Zoning Enforcement Officer, (D) – New subsection referring to conflicts of interest in administrative approval.
- 9) § 153.190 Zoning Enforcement Officer, (E) – New subsection referring to the Zoning Enforcement Officer’s permission to inspect work pursuant to development approval and in accordance with applicable State and local laws.
- 10) § 153.191 Zoning Permit Required – Added text and G.S. citation in association with written notice of determination to be provided to the permit applicant.
- 11) § 153.192 Application For Zoning Permit, (B) – Removed former subsection B concerning permit expiration. Subsection B is now in referral to vesting as defined by G.S. Zoning permits now expire 1 year after issuance unless substantial work has commenced. Vesting rights to development are also established in this subsection.
- 12) § 153.192 Application For Zoning Permit, (C) – New subsection and added G.S. citation concerning revocation of development approvals.
- 13) § 153.194 Violation Of Chapter; Penalties And Remedies (D) – Added text and G.S. citation to further define procedures upon discovery of violation. Primarily the delivery of the notice of violation.
- 14) § 153.205 Establishment Of Board Of Adjustment (A) – updated G.S. citation
- 15) § 153.206 Decisions Of The Board Of Adjustment (C) – New subsection and added G.S. citation concerning conflicts of interest procedure for members of the Board of Adjustment.
- 16) § 153.206 Decisions Of The Board Of Adjustment (D) – New subsection and added G.S. citation concerning quasi-judicial procedures for certain determinations.
- 17) § 153.207 Proceedings Of The Board Of Adjustment – updated G.S. citation
- 18) § 153.208 Appeals, Hearings And Notice – removed former text and replaced with that of 160D. Concerns appeal procedure.





- 19) §153.212 Powers and Duties of the Board of Adjustment (E) – Allowing for minor modification by administrative approval, as mentioned above. This insert moves each subsequent subsection down a letter in the list.
- 20) §153.225 Procedure For Amendments, (A) – updated G.S. citation
- 21) §153.225 Procedure For Amendments, (C) – removed former text for *Planning Board Consideration* and replaced with that required by 160D and added G.S. citation. All proposed amendments, supplement, change, modification or repeal to the zoning ordinance shall be referred to the Planning Board for its recommendation and report. Procedures for public hearing notification. Procedure concerning conflict of interest for members of the Planning Board.
- 22) §153.225 Procedure For Amendments, (E) – New subsection and G.S. citation concerning plan consistency when adopting or rejecting any zoning text or map amendment. Also procedure concerning conflict of interest for members of the Council.
- 23) §153.226 Protest Petition (A) – update G.S. citation

Chapter 160D Subdivision Ordinance Changes:

- 1) §152.003 Authority – updated G.S. citation
- 2) §152.004 Jurisdiction – Added text and G.S. citation concerning provisions of the chapter and jurisdiction.
- 3) §152.005 Definitions – updated the definition of Subdivision and added G.S. citation
- 4) §152.018 School Sites On Land Use Plan – updated G.S. citation
- 5) §152.035 Procedure For Review Of Divisions Or Alterations Of Property Lines Where No Local Approval Is Required, And Review Of Minor And Major Subdivisions, (A) – added new subsection to provide a general statement requiring procedure of a final plat pursuant to this ordinance along with the G.S. citation overseeing platting requirements and performance guarantees. This insert moves each subsequent subsection down a letter in the list.
- 6) §152.035 Procedure For Review Of Divisions Or Alterations Of Property Lines Where No Local Approval Is Required, And Review Of Minor And Major Subdivisions, (B) – added new subsection to provide a general statement requiring that a final plat have Town approval before recording along with the G.S. citation that enacts the Town to regulate subdivisions. This insert moves each subsequent subsection down a letter in the list.
- 7) §152.036 Procedure For Review Of Divisions Or Alteration Of Property Lines Where No Local Approval Is Required, (C) – updated G.S. citation
- 8) §152.037 Procedure For Review Of Minor Subdivisions, (A) – new subsection noting that minor subdivisions do not have to follow the same procedure as major. Cross-reference to minor subdivision requirements.
- 9) §152.037 Procedure For Review Of Minor Subdivisions, (B) – new subsection that establishes preliminary plat. This already existed but there was no cross-reference under minor subdivision review to note the requirement.



- 10) §152.037 Procedure For Review Of Minor Subdivisions, (C) – updated and added G.S. citation that minor subdivisions only require administrative approval.
- 11) §152.037 Procedure For Review Of Minor Subdivisions, (D) – Added text concerning the approval of preliminary plats and preparation of final plats.
- 12) §152.037 Procedure For Review Of Minor Subdivisions, (E) – changed “preliminary” to “final” plat for submission of approved plat for signature and recording.
- 13) §152.043 Guarantee Of Improvements (A) – Added text and G.S. citation regarding acceptable forms of a performance guarantee, and performance guarantee duration, extension, release, amount, timing, coverage, legal responsibilities, multiple guarantees, and exclusion.
- 14) §152.043 Guarantee Of Improvements (B) – removed text that is now covered in subsection A.
- 15) §152.055 Surveying Standards (B) – updated cross-reference to §152.035(D) and §152.035(C) since subsections A and B were added as noted above.
- 16) §152.80 Flag Lots, (B) – updated cross-reference to §152.035(C) since subsections A and B were added as noted above.
- 17) §152.145 Variances (B) – updated text and G.S. citation to the requirements for granting a variance.
- 18) §152.999 Penalty, (B) – Added text and G.S. citation in association with subdivision violation, penalty, and exemptions.



## GENERAL PROVISIONS

### § 153.001 PURPOSE, AUTHORITY AND ENACTMENT

- (A) For the purpose of promoting the health, safety, morals and the general welfare of the community, an ordinance regulating the uses of buildings, structures and land for trade, industry, commerce, residence, recreation, public activities or other purposes; the size of yards, courts and other open spaces; the location, height, bulk, number of stories and size of buildings and other structures, the density and distribution of populations creating districts of said purposes, and establishing the boundaries thereof; defining certain term used herein; providing for the method of administration, amendment and enforcement; providing penalties for violations; providing for a Board of Adjustment and defining the duties and powers of the Board; recalling conflicting ordinances; and for other purposes pursuant to the authority granted by the G.S. **Chapter 160D**, Article 19, Part 3.
- (B) The Town Council of the Town of Sawmills, in pursuance of the authority granted by state law, particularly G.S. § 160D-200, and that land as designated by the official zoning map as authorized by G.S. § 160D-307, to be known as EXTRATERRITORIAL AREA.
- (Ord. Art 1, passed 2-19-2008)

### §153.002 SHORT TITLE

This chapter shall be known as the "Zoning Code of the Town of Sawmills, North Carolina" and may be referred to as the "Zoning Code," and the map which is identified by the title "Official Zoning Map, Sawmills, North Carolina," may be known the "Zoning Map."

(Ord. Art. II, passed 2-19-08)

### §153.003 INTERPRETATION AND APPLICATION OF CHAPTER

- (A) In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purposes of the Zoning Code. Except as herein provided, this chapter shall not be deemed to interfere with, abrogate, annul, or otherwise effect in any manner whatsoever any easements, covenants, or other agreements between parties. Whenever the provisions of this chapter impose greater restrictions upon the use of the land or buildings or upon the height of buildings or require a larger percentage of a lot to be left unoccupied than the provisions of other ordinances, rules, regulations, permits or any easements, covenants or other agreements between parties, the provisions of this chapter shall govern, except as provided herein.
- (B) No land, building, or structure shall be used, no buildings or structure shall be erected, and no existing building or structure shall be moved, added to, enlarged or altered except in conformity with this chapter.
- (Ord. Art. III, passed 2-19-2008)

### §153.004 INTERPRETATION OF CERTAIN TERMS AND WORDS.

- (A) Words used in the present tense include the future tense.

- (B) Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
  - (C) The word PERSON includes a firm, association, corporation, trust and company, as well as individual.
  - (D) The words USED FOR shall include the meaning DESIGNED FOR.
  - (E) The word STRUCTURE shall include the word BUILDING.
  - (F) The word LOT shall include the words PLOT, PARCEL, or TRACT.
  - (G) The word SHALL is always mandatory and not merely direction.
  - (H) The term CERTIFICATE OF ZONING COMPLIANCE shall include the term ZONING COMPLIANCE PERMIT.
  - (I) For any word or term not explained or defined by this Ordinance, the explanation and/or definition shall be first determined by definitions utilized by any county, state, or federal statutes, if a definition or explanation is not identified by the above method, refer to the most recent edition of *Webster's Dictionary* for an explanation or definition.
- (Ord. Art VI, §60A, passed 2-19-2008)

#### §153.005 DEFINITIONS

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

**ACCESSORY DWELLING.** A dwelling unit that is accessory, supplementary, and secondary to the principal **DWELLING UNIT** that may be constructed as an addition to the principal structure or as an accessory building.

**ACCESSORY STRUCTURE.** A structure incidental and subordinate to the principal structure and located on the same parcel with such principal structure. Swimming pools (above and below ground) are **ACCESSORY STRUCTURES**. Items such as doghouses, bird houses, benches, picnic tables and the like are not considered **ACCESSORY STRUCTURES**. Gazebos, covered picnic shelters, and the like are not considered **ACCESSORY STRUCTURES** except for meeting setback requirements. When the term **ACCESSORY BUILDING** is used in this chapter, it shall be interpreted to mean **ACCESSORY STRUCTURE** as defined herein. Tractor trailers, manufactured homes, and storage pods may not be used as **ACCESSORY STRUCTURES** in the residential zoning districts.

**ACCESSORY USE.** A use customarily incidental and subordinate to the principal use and located on the same parcel with such principal use. In no instance shall an **ACCESSORY USE** be used as principal use.



Furthermore, in no instance shall an **ACCESSORY USE** be placed upon a parcel which is absent of a principal use.

**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 this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

**ADULT ESTABLISHMENTS.** A land-use which is established for the explicit purpose of adult entertainment.

(1) The following items represent but are not limited to, examples of ADULT ESTABLISHMENTS:

**ADULT ARCADE.** An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or other similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, DVD's or other photographic or digital reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. (See division (2) of this definition for the definition of specified sexual activities or specified anatomical areas.)

**ADULT BOOKSTORE.** An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes, DVD's, slides or other visual representations that are characterized by an emphasis upon the depiction or description of specialized sexual activities or specified anatomical areas; or instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities. (See division (2) of this definition for the definition of specified sexual activities or specified anatomical areas.)

**ADULT CABARET.** A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, DVD's, slides, or other photographic or digital reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. (See division (2) of this definition for the definition of specified sexual activities or specified anatomical areas.)

**ADULT MOTION PICTURE THEATER.** An establishment where, for any form or consideration, films, motion pictures, video cassettes, DVD's, slides or other similar photographic or digital reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas. (See division (2) of this definition for the definition of specified sexual activities or specified anatomical areas.)

**ADULT THEATER.** A theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities. (See division (2) of this definition for the definition of specified sexual activities or specified anatomical areas.)

**MASSAGE PARLOR.** An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner,

chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where a massage or similar manipulation of the human body is offered as an incidental or accessory service.

**SEXUAL ENCOUNTER ESTABLISHMENT.** An establishment other than a hotel or motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

(2) (a) **SPECIFIED ANATOMICAL AREAS.** As used herein, specified anatomical areas means and includes any form of the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or
2. Human male genitals even if completely and opaquely covered.

(b) **SPECIFIED SEXUAL ACTIVITIES.** As used herein, includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in divisions 1 through 3 of this definition.

(3) An establishment where a person appears in a state of nudity as part of a modeling class will not be construed as an **ADULT ESTABLISHMENT** if the establishment is operated:

(a) By a proper school, licensed by the state; a college, junior college, or university accredited by a nationally recognized accreditation authority; and

(b) In a structure:

1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;
2. Where, in order to participate in the class, a student must enroll at least three days in advance of the class; and
3. Where no more than one model is nude at any one time.



**ALLEY.** A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

**ALTERNATIVE STRUCTURE.** A structure which is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted. **ALTERNATIVE STRUCTURES** include, but are not limited to, buildings, silos, water tanks, pole signs, lighting standards, steeples, billboards and electric transmission towers.

**ANTENNA.** Any exterior transmitting or receiving device which radiates or captures electromagnetic waves (excluding radar signals).

**ANTENNA, CONCEALED.** An antenna with a support structure that screens or camouflages the presence of antennas and/or towers from public view, in a manner appropriate to the site's context and surrounding environment. Examples of **CONCEALED ANTENNAS** include but are not limited to manmade trees, clock towers, flag poles, light structure, steeples, camouflage painting and similar objects.

**ANTENNA, DUAL-BAND/MULTI-BAND.** An antenna with separate elements for two or more commercial wireless service frequency bands (example: cellular and PCS or specialized mobile radio).

**AUTOMOBILE SALES LOT.** A land use which utilizes a parcel of property for the storage, open or concealed, and sale of new and/or used automobiles.

**AUTOMOBILE REPAIR.** A facility which is operated for the purpose of repairing and/or reconstructing automobiles.

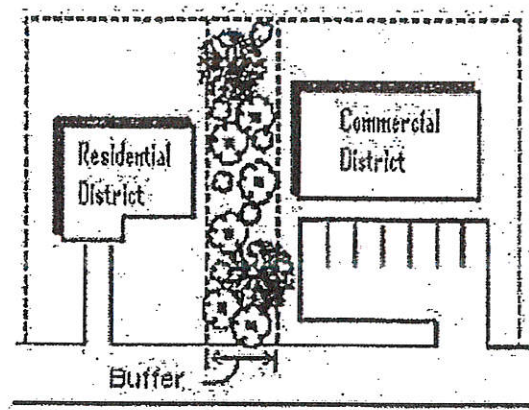
**AUTOMOTIVE CAR WASH/DETAIL SHOP.** A facility where either the owner of an automobile or an employee of the establishment cleans automobiles.

**BACKYARD WORKSHOP.** A home occupation which is conducted within an accessory structure.

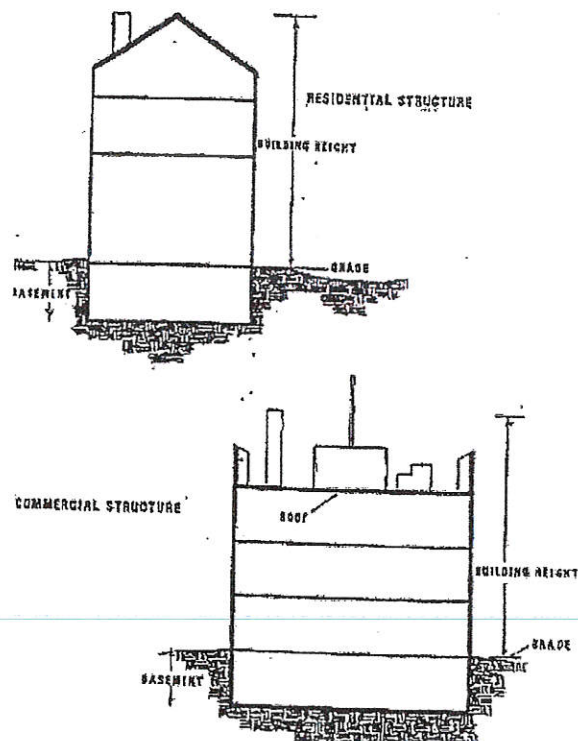
**BED AND BREAKFAST INN.** An owner-occupied dwelling unit which provides for short-term lodging accommodations (less than thirty days), with or without meals, for compensation.

**BILLBOARD.** An off-premises sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign.

**BUFFER.** A method, perpetually maintained, by which a view of one zoning district is shielded, concealed or hidden by a visual block which is constructed or preserved upon the site. When existing vegetation is present such vegetation shall be preserved for buffering purposes.



**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.



**BUMPER OVERHANG.** The distance measured from the outermost portion of the curb stop forward which is intended to allow area for the portion of the vehicle that protrudes forward or backward beyond the wheels of said vehicle so that said vehicle does not protrude into any vertically adjoining parking stalls.

**BUSINESS SIGN.** A sign which directs attention to goods, commodities, products, services, or entertainment sold or offered upon the premises where the sign is located.



**CAMPGROUND.** An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character. In no instance shall a **CAMPGROUND** be used for permanent residency.

**CANOPY.** An attached structure which provides shelter.

**CELLAR.** A story having more than one-half of its height below the average level of the adjoining ground. A **CELLAR** shall not be counted as a story for purposes of height measurement.

**CEMETERY, COMMERCIAL.** A facility not used in conjunction with a church or similar place of worship, which is used for the burial, above or below ground, of deceased human beings or animals. This definition includes columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of the commercial cemetery.

**CLINIC.** An establishment where patients are admitted for special study and/or treatment by one or more licensed practitioners in medically related arts.

**CLUSTER DEVELOPMENT.** The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land. **CLUSTER DEVELOPMENTS** shall be developed utilizing the identical standards placed upon Planned Unit Developments.

**CO-LOCATION.** The placement of additional antennas of antenna arrays on an existing or approved telecommunications tower (or alternative structure), the sharing of an antenna or antenna array, or otherwise sharing a common location by two or more commercial wireless service providers of personal wireless services. **CO-LOCATION** includes antennas, transmitters, receivers and related electronic equipment, cabling, wiring, equipment enclosures and other support equipment or improvements located on the tower site.

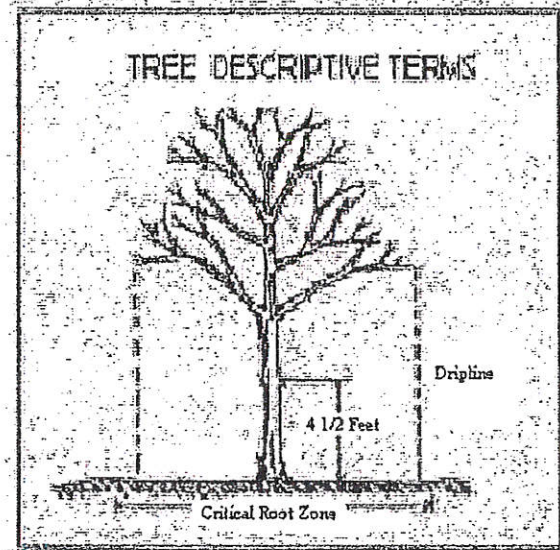
**COMMERCIAL WIRELESS SERVICE PROVIDER.** Persons who operate radio systems requiring an FCC license and who employ those facilities to provide fixed wireless (including microwave) or mobile wireless communication services to third parties for compensation. **COMMERCIAL WIRELESS SERVICE PROVIDERS** include, but are not limited to cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and competitive local exchange carriers (CLEC) utilizing point-to-multipoint microwave.

**CONDITIONALSPECIAL USE PERMIT.** A permit granted by the Board of Adjustment after the Board holds a quasi-judicial public hearing. Such a permit authorizes a use, the nature of which, would not be appropriate generally throughout the zoning district but which, if regulated as to number, size, location or relation to the neighborhood, would not hinder the public health, safety, and general welfare. Each district shall have a list of conditionalspecial uses which could be authorized within such district. If a conditionalspecial use is not listed in the subject district then it is prohibited. Conditions outlined by the Ordinance may not be modified and/or omitted by the Board of Adjustment. Additional conditions which are not listed in the Ordinance may be added to the **CONDITIONALSPECIAL USE PERMIT** by the Board of Adjustment.

**CONDOMINIUM.** A group of dwelling units as defined by the North Carolina Condominium Act.

**CONGREGATE HOUSING.** A structure or group of structures containing two or more dwelling units and rooming units limited in occupancy and occupied by persons, their spouses, or surviving spouses, except for rooms or units occupied by resident staff personnel, providing on-site, conveniently located, shared food preparation services and major dining areas, and common recreational, social, and service facilities for the exclusive use of all residents. This definition shall include **REST HOME**.

**CRITICAL ROOT ZONE (CRZ).** A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The CRZ is one foot for every inch of tree diameter measured at four and one-half feet above grade, with a minimum of eight feet. Each CRZ shall be clearly marked and surrounded a means of adequate protection.



**CURB STOP.** A barrier which prohibits the through access of a parking stall.

**CUSTOMARY HOME OCCUPATION.** Any use conducted entirely within the dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.

**DAY CARE.** An agency, organization, or individual providing daytime care of six or more persons not related by blood or marriage to, or not the legal wards or foster children, of the attendant adult.

~~**DEVELOPMENT.** Any land disturbing activity which changes the natural character of the land area.~~

**DETERMINATION.** A written, final, and binding order, requirement, or determination regarding an administrative decision.

**DEVELOPER.** A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

**DEVELOPMENT.** Unless the context clearly indicates otherwise, the term means any of the following:

- a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b) The excavation, grading, filling, clearing, or alteration of land.



- c) The subdivision of land as defined in G.S. 160D-802.
- d) The initiation or substantial change in the use of land or the intensity of use of land.

**DEVELOPMENT APPROVAL.** An administrative or quasi-judicial approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.

**DEVELOPMENT REGULATION.** A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, 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 this Chapter, or a local act or charter that regulates land use or development.

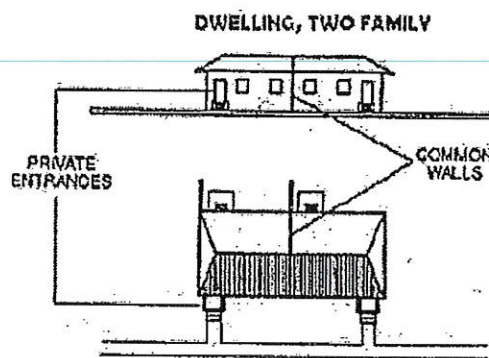
**DISCERNIBLE.** Capable of being distinguished with the eye or mind from its surroundings. As way of example and not limitation, a telecommunications tower on a hill.

**DWELLING.** Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of this Chapter, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

**DWELLING UNIT.** A building, or portion thereof, providing complete and permanent living facilities for one family. The term **DWELLING UNIT** shall not be deemed to include a motel, hotel, tourist home, or other structure designed for transient residence.

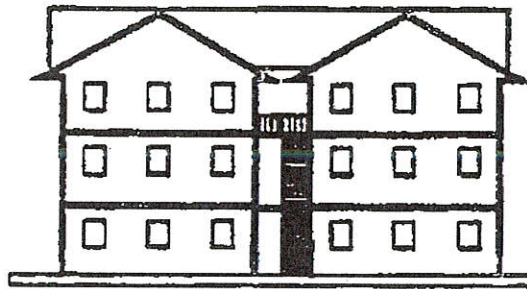
**DWELLING, SINGLE- FAMILY.** A building designed for and containing one dwelling unit.

**DWELLING, TWO FAMILY.** A building designed for and containing two dwelling units.



**DWELLING, MULTI-FAMILY.** A building designed for and containing three or more dwelling units.



Dwelling, multi-family

**ELECTRIC TRANSMISSION TOWERS.** Metal towers used to suspend wires transporting electricity between generating plants and substations supplying electricity to distribution and feeder lines.

**EQUIPMENT ENCLOSURE.** A building, cabinet or shelter used to house transmitters, receivers and other electronic equipment and accessories at a wireless telecommunication facility.

**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 this Chapter.

**EXISTING DEVELOPMENT.** Those projects which are built or those projects that has established a vested right under GS §160A-385.1, as amended, as of the effective date of this Ordinance based on at least one of the following criteria:

- (1) Building permits have been issued pursuant to GS §160D-403 prior to the enactment of this chapter or amendments so long as the permit(s) remain valid and unexpired pursuant to GS §160D-403(c) and unrevoked pursuant to GS §§160D-404(b) and 160D-403(f); or
- (2) A vested right has been established pursuant to GS §160D-102 and such vested right remains valid and unexpired pursuant to GS §160D-102 as subsequently amended.

**FAA.** Federal Aviation Administration.

**FALL ZONE.** An area around the base of a telecommunication tower required to be kept clear of buildings, other than equipment enclosures associated with the wireless telecommunication facility, to contain debris in the event of a tower structure failure.

**FCC.** Federal Communications Commission.

**FENCE.** Any artificially constructed barrier of any material or combination of materials erected to enclose areas of land.

**FLEA MARKET.** A building or open area in which stalls or sales areas are set aside, rented or otherwise provided, and which are intended for use by individuals for the sale of goods.

**FUNCTIONALLY EQUIVALENT SERVICES.** FCC-licensed providers of commercial mobile radio services (CMRS) classified as cellular, personal communication services (PCS), paging, specialized mobile radio (SMR) and enhanced specialized mobile radio (ESMR).

**GOVERNMENTAL USER.** Federal, State or local governments, or agencies or instrumentalities thereof, volunteer fire departments or rescue squads which operate radio systems (including microwave) requiring an FCC license and which employ those facilities exclusively for intra-governmental or inter-governmental public service, public safety or administrative purposes.

**GRADE.** An average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

**GROSS FLOOR AREA.** The total area of all buildings in the project including basements, mezzanines and upper floors, exclusive of stairways and elevator shafts. It excludes separate service facilities outside the main building such as boiler rooms and maintenance shops.

**HAZARDOUS MATERIAL.** Any substance list as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (Oil & Hazardous Substances).

**IMPOUNDED WATER BODY.** A body of water, such as a lake, confined by a dam, dike, floodgate or other barrier. It is used to collect and store water for a public water supply.

**INDUSTRIAL DEVELOPMENT.** Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product.

**JUNK/SALVAGE YARD.** An area where waste and/or used secondhand materials are bought, sold, exchanged, stored, processed, or handled. Materials shall include but are not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. An automobile junkyard or graveyard is also considered a **JUNK/SALVAGE YARD**.

**KENNEL/COMMERCIAL.** Any location where boarding, caring for or keeping of more than a total of three dogs or cats or other small animals or a combination thereof (except litters of animals of not more than six months of age) is carried on, and also raising, breeding, caring for or boarding dogs, cats, or other small animals for commercial purposes.

**KENNEL, NONCOMMERCIAL.** Any location where the boarding, caring for and keeping of more than three but not more than ten dogs or cats or other small animals or combination thereof (except litters of animals of not more than six months of age) is carried on, not for commercial purposes, but as a hobby such as the raising of show and hunting dogs.

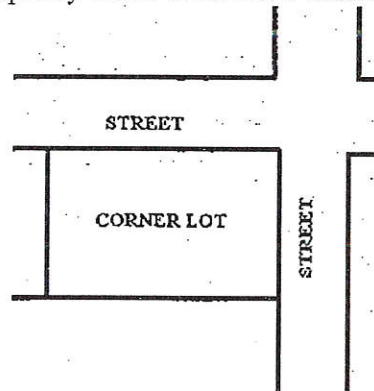
**LEGISLATIVE DECISION.** The adoption, amendment, or repeal of a regulation under this Chapter or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of this Chapter.

**LEGISLATIVE HEARING.** A hearing to solicit public comment on a proposed legislative decision.

**LIFE CARE FACILITY.** A health facility where persons are housed and furnished with meals and continuing health care for compensation. This term shall not include congregate housing, but shall include the term **NURSING HOME**.

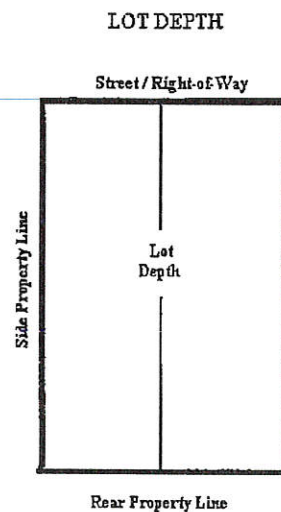
**LOT.** A parcel of land occupied or capable of being occupied by a building, group of buildings, or specific use devoted to a common use, together with the customary accessories and open spaces belonging to the same.

**LOT, CORNER.** A lot which occupies the interior angle at the intersection of two street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning compliance permit.



**LOT COVERAGE.** The percentage of a lot which may be covered by impervious surfaces. For the purposes of this definition compacted gravel and stone shall be included as impervious surface.

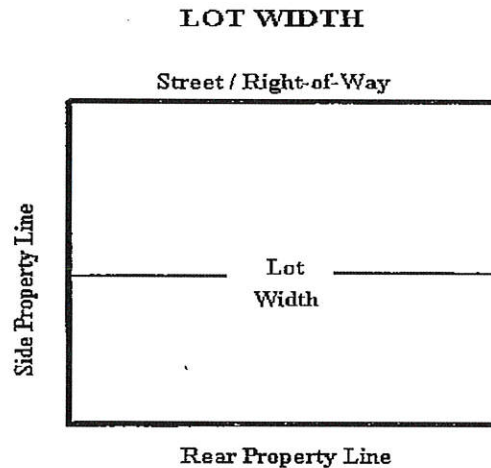
**LOT DEPTH.** The mean horizontal distance between the front and rear lot lines.





**LOT OF RECORD.** A lot which meets all applicable development requirements of the town and has been properly recorded with the County Register of Deeds. Lots recorded prior to the adoption date of this chapter shall be given grandfather status.

**LOT WIDTH.** The mean horizontal distance between the side property lines.



**MANUFACTURED HOME.** A structure transportable in one or more sections, which in the traveling mode is eight feet or more in width or 40 feet or more in length or when erected on site is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, including plumbing, heating, air conditioning and electrical systems contained therein. Such units shall also comply with the National Mobile Home Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development and meet the Appearance Criteria established by this Ordinance. This term shall also include the term **MOBILE HOME**. (See GS §160D-910, as subsequently amended.) In accordance with state requirements (*North Carolina State Manufactured Housing Code*, 1995 Edition/1996 Revision), a **MANUFACTURED HOME** shall not be permitted as an accessory structure.

**MANUFACTURED OR MOBILE HOME PARK.** Any place or tract of land maintained, offered or used for the parking of two or more manufactured homes for rental or lease and used or intended to be used for living or sleeping quarters.

**MATURE VEGETATIVE CANOPY.** The more or less continuous cover of branches and foliage which have reached their mature height formed collectively by the crowns of adjacent trees that have reached their mature height.

**MODIFICATION.** The addition, removal, repositioning (other than down tilt adjustments), alteration or other material change in the number or type of antennas employed in a wireless telecommunications facility; changes in the height, size, shape or appearance of telecommunications towers; and increase in the number or size of equipment enclosures or other improvements at an existing or approved wireless telecommunication facility.

**MODULAR HOME.** A dwelling unit constructed in accordance with the standards set forth in the *North Carolina State Residential Building Code*, as amended, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent

foundation. A **MODULAR HOME** shall consist of two or more sections transported to the site on a truck and erected or joined together on the site.

**MODULE.** The distance, measured parallel from curb to curb, of the interior of a parking facility. This measurement shall include the parking aisle and the parking stalls.

**MOTEL/HOTEL.** A building in which lodging or board and lodging are provided for transient guests and offered to the motoring public for compensation.

**NONCONFORMING.** A lot, structure, sign, or use of land or structure which is currently prohibited under the terms of this Ordinance.

**NONCONFORMING LOT.** A lot of record that does not conform to the dimensional requirements of the district in which it is located. The nonconformity may result from adoption of this chapter or any subsequent amendment.

**NONCONFORMING STRUCTURE.** A structure that does not conform to the dimensional, height, elevation, location, appearance standards, or other requirements of this chapter. The nonconformity may result from adoption of this chapter or any subsequent amendment.

**NONCONFORMING USE.** A use which does not conform to the use regulations of this chapter for the district in which it is located, at the effective date of this chapter.

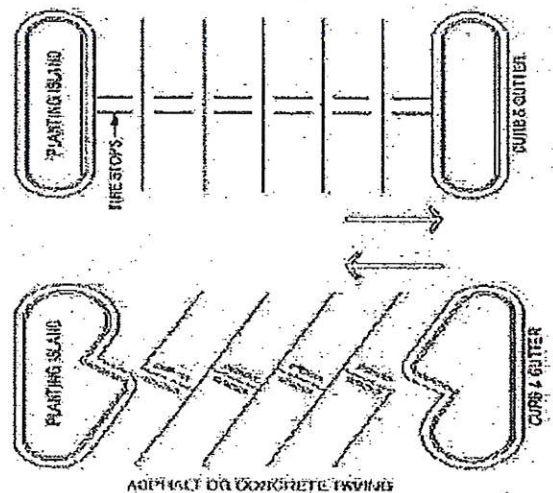
**NURSING HOME.** A home for aged or ill persons in which three or more persons not of the same immediate family are provided with food, shelter and care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to diagnosis and treatment.

**OPEN SPACE.** Property within a development or contained on an individual parcel, which is designated by a permanent reservation to remain undeveloped, for the purpose of providing areas for recreation and/or conservation.

**OPEN STORAGE.** Unroofed storage area, whether fenced or not.

**PARKING AISLE.** The area, parallel to curb stops, which automobile traverse in order to utilize parking stalls.

**PARKING LOT.** Any designated area designed for temporary accommodation of motor vehicles of the motoring public in normal operating condition, whether for a fee or as a service.



**PARKING SPACE/STALL.** A storage space for a motor vehicle or motorcycle.

**PERSON.** Any individual, partnership, limited partnership, company, corporation, trust, estate, agency, association or other legal entity and their successors and assigns.

**PHASED DEVELOPMENT PLAN.** A plan which has been submitted to the county for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan determined by the Town to be a site specific development plan.

**PLANNED UNIT DEVELOPMENT (PUD).** A form of development characterized by a unified site design for a number of structures, clustering of buildings and providing common open space, density increases, and a mix of building types. It permits the planning of a project and a calculation of densities over the entire development rather than on an individual lot-by-lot basis. Such development shall be based on a plan which allows for flexibility of design not available under normal district requirements.

**PRINCIPAL BUILDING.** A building in which is conducted the principal use of the lot on which said building is situated.

**PRINCIPAL STRUCTURE.** A structure in which is conducted the principal use of the lot on which said building is situated.

**PRINCIPAL USE.** The primary use of a lot or structure.

**PRIVATE BUSINESS USER.** Persons who operate radio facilities (including microwave) requiring an FCC license solely for intra-company communications and who do not employ those facilities to offer fixed or mobile wireless communication services to third parties for compensation.

**PROTECTED MOUNTAIN RIDGE.** A ridge at or above 3,000 feet with an elevation of 500 feet or more above the elevation of an adjacent valley floor.

**PUBLIC SERVICE FACILITY.** The use of land, buildings, or structures by a municipal or county agency to provide protective, administrative, maintenance and social services for the general public, including water treatment plants, sewage treatment plants, resources recovery facilities, parks and



recreation facilities, police and fire stations, municipal buildings, community centers and other similar public structures and facilities.

**RECREATIONAL VEHICLE PARK.** Any lot of land upon which one or more recreational vehicles sites are located, established, or maintained for occupancy by recreational vehicles for the general public as temporary living quarters for recreation or vacation purposes. In no instance shall a recreational vehicle be used as a permanent residence.

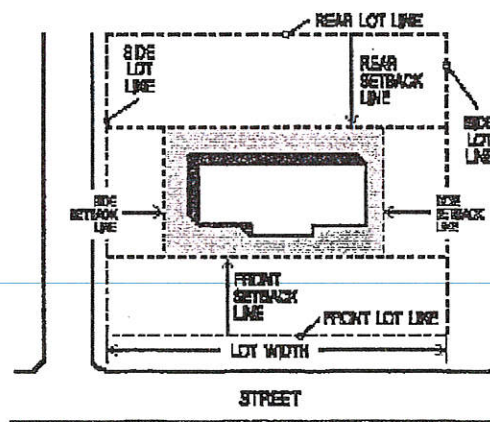
**REPLACEMENT TOWER.** A telecommunications tower intended to replace an existing approved tower where the replacement tower is:

- (1) At or within 50 feet of the existing tower base, and
- (2) No higher than the existing tower.

**RIDING STABLE.** Commercial horse, donkey, and mule facilities including: horse ranches, boarding stables, and riding schools. This land use includes barns, stables, corrals, and paddocks accessory and incidental to the above uses.

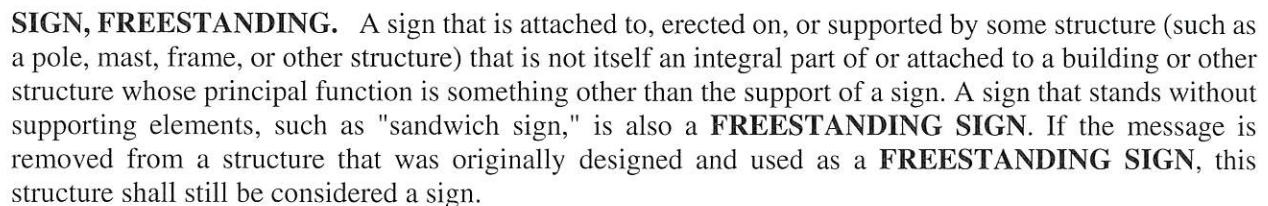
**RIDGE.** The elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain, and includes all land within 100 feet below the elevation of any portion of such line or surface along the crest.

**SETBACK.** The minimum distance that a structure can be constructed or erected in relation to property and/or right-of-way lines, excluding any uncovered porches, patios, steps, gutters and similar fixtures. Front yard **SETBACKS** shall be measured from the outermost edge of the dedicated right-of-way. In the event the lot in question does not directly abut upon a dedicated right-of-way, the front yard **SETBACK** shall be measured from the property line or outermost edge of any access easement. In the case of a corner lot the applicant of the Zoning Compliance Permit shall state which frontage is intended to serve as the front yard.

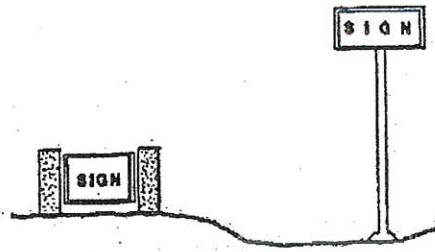


**SEWER, PUBLIC / TRADITIONAL MUNICIPAL.** System approved by the County Department of Environmental Health and Town Engineer that provides for multiple unit treatment. Such systems as municipal sewer, community drain fields, spray irrigation, drip irrigation, pressurized underground systems and similar systems recognized by the County Department of Environmental Health. The following are exclusively prohibited: package treatment plant or individual lot septic drain field systems.

**SIGN AREA.** Sign area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire advertising copy area, excluding architectural trim and structural members. In computing area, only one side of a double-faced sign shall be considered.







**SIGN, INTERNALLY ILLUMINATED.** Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that are filled with neon or some other gas that glows when an electric current passes through it and are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered **INTERNALLY ILLUMINATED SIGNS**.

**SIGN, OFF-SITE.** A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained or provided at a location other than the site where the sign is located.

**SIGN, ON-SITE.** A sign that draws attention to or communicates Information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained or provided at a location other than the site where such sign is located.

**SIGN, PORTABLE.** Any sign not permanently affixed to the ground or to a structure, including any sign attached to or displayed on a vehicle that is used for the expressed purpose of advertising a business establishment, product, service, or entertainment, when that vehicle is so parked as to attract attention of the motoring or pedestrian traffic.

**SIGN, ROOF.** A sign which is higher than the roof to which it is attached. Signs attached to the lower slope of a roof or attached to a parapet wall above a flat roof are considered wall signs. Signs on mansard or canopy roofs are considered wall signs.

**SIGN, TEMPORARY.** A sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or is intended to remain on the location where it is erected or placed for a period of not more than 15 days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

**SIGN, WALL.** See Sign, Roof.

**SINGLE FAMILY RESIDENTIAL DEVELOPMENT.** Any development where:

- (1) No building contains more than one dwelling unit;
- (2) Every dwelling unit is on an individual lot; and
- (3) Where no lot contains more than one dwelling unit.

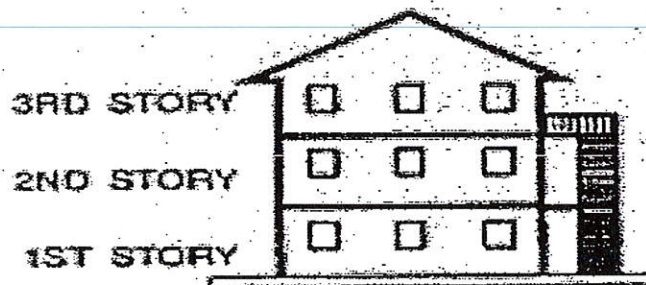


**SITE SPECIFIC DEVELOPMENT PLAN.** A plan which has been submitted to the Town describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property.

- (1) The plan may be in the form of but not limited to any of the following plans or approvals:
  - (a) A planned unit development plan;
  - (b) A subdivision plat;
  - (c) A ~~conditional~~special use permit; or
  - (d) A zoning compliance permit.
- (2) Unless otherwise expressly provided by the Town such plan shall include the approximate boundaries of the site; significant topographical features; the approximate location of any proposed structures; the approximate dimensions, including height, of any proposed structures; the approximate location of existing and proposed infrastructure on the site, including but not limited to water, sewer, roads and pedestrian walkways.
- (3) A variance shall not constitute a **SITE SPECIFIC DEVELOPMENT PLAN**, and approval of a **SITE SPECIFIC DEVELOPMENT PLAN** with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels or property shall constitute a **SITE SPECIFIC DEVELOPMENT PLAN**.

**SPECIAL USE PERMIT.** A permit issued by the Town Council after said Council has held a public hearing. **SPECIAL USE PERMITS** may be issued within any of the use districts outlined in this Ordinance. Such a Special Use shall only be allowed within districts to which the **SPECIAL USE PERMIT** is to correspond. By way of example and not limitation, within an RA-20 District an NB-SU permit may be issued for a site-specific development proposal for any use permitted by right with an ordinary NB District. The development proposal authorized by a **SPECIAL USE PERMIT** shall comply with all provisions of the corresponding district. Additional conditions may not be added onto any **SPECIAL USE PERMIT**.

**STORY.** That portion of a building comprised between a floor and the floor next above. The first floor of a two or multi-story building shall be deemed the **STORY** that has no floor immediately below it that is designed for living quarters or for human occupancy. Those **STORIES** above the first floor shall be numbered consecutively.



**STREET.** A dedicated right-of-way for vehicular traffic which affords the principal means of access abutting properties. (Also see Town Subdivision Regulations set forth in Chapter 152 which are incorporated here by reference.)

**STRUCTURE.** Anything constructed or erected, the use of which requires more or less permanent location on or in the ground or which is attached to something having more or less permanent location on or in the ground.

**STRUCTURAL ALTERATIONS.** Any change on the supporting members of a building, such as load bearing walls or partitions, columns, beams, or girders, or any structural change in the roof, or dimensions or the rooms therein.

**SUBDIVISION.** See Town Subdivision Regulations set forth in Chapter 152 which are incorporated here by reference.

**SURFACING MATERIAL.** A material whose natural characteristics provide a hard, nonflexible, rigid, and relatively flat groundcover. Examples include but are not limited to concrete and asphalt. Gravel shall not be considered a **SURFACING MATERIAL**.

**TELECOMMUNICATIONS TOWER.** Any tower, pole or similar structure 20 feet or more in height, used to support one or more antennas.

**TOWER BASE.** The foundation, usually concrete, on which the telecommunications tower is situated. For measurement calculations, the **TOWER BASE** is the actual or geometric center of the tower.

**TOWER HEIGHT.** The vertical distance measured from the tower base to the highest point on a telecommunications tower, including any antennas or other equipment affixed thereto, but excluding any lightning protection rods extending above the tower and attached equipment.

**TOWER SITE.** The land area which contains, or will contain, a proposed telecommunications tower, and related equipment enclosures and other equipment.

**TREE, LARGE.** A tree which has an expected height at maturity of at least 35 feet. These types of trees shall at the time of planting have a diameter of at least two inches. The diameter shall be measured four and one-half feet above grade.

**TREE, PROTECTED.** Any tree located on a development site having a circumference of 30 inches or more measured four and one-half feet above natural grade.

**TREE, SMALL.** A tree which has an expected height at maturity of at least 15 feet. These types of trees shall at the time of planting have a diameter of at least one inch. The diameter shall be measured four and one-half feet above grade.

**VARIANCE.** A modification of the literal provisions of the zoning ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

**VESTED RIGHT.** The right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan or an approved phased development plan.

**VETERINARY CLINIC.** A facility whose practitioners are licensed by the state to treat diseased or injured animals.



**VISIBLE.** Capable of being seen by the unaided eye in daylight.

**WATER SYSTEM, PUBLIC / TRADITIONAL MUNICIPAL.** Water supply systems serving multiple connections are classified as a public water supply by State law. Plans and specifications must be approved by the Town Engineer and the Sanitary Engineering Section, Division of Health Services, North Carolina Department of Human Resources.

**WATER SYSTEM, SEMI-PUBLIC.** Water supply systems serving from two to nine connections, inclusive. This system may be regulated by the County Board of Health, and plans should be approved by the Town Engineer and the County Health Department.

**WATER SYSTEM, INDIVIDUAL.** A drilled or bored well or spring which serves a single connection. Individual water supply systems should be located, constructed and operated in accordance with the Division of Health Services, North Carolina Department of Human Resources.

**WATERSHED, CRITICAL.** Refer to the Town Watershed Protection Ordinance, set forth in Chapter 155.

**WATERSHED, PROTECTED.** Refer to the Town Watershed Protection Ordinance, set forth in Chapter 155.

**WIRELESS TELECOMMUNICATION FACILITY.** Equipment at a single location used by a private business user, governmental user or commercial wireless service provider to transmit, receive or relay electromagnetic signals (including microwave). Such facility includes antennas or antenna arrays, telecommunications towers, support structures, transmitters receivers, base stations, combiners, amplifiers, repeaters, filter or other equipment; together with all associated cabling, wiring, equipment enclosures and other improvements.

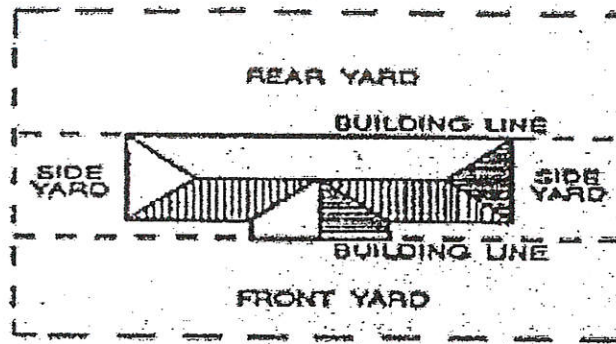
**YARD.** The open space on the same lot with a principal building, or structure unoccupied and unobstructed from the ground upward.

**YARD, FRONT.** The open, unoccupied space on the same lot with a principal building or structure, between the front line of the principal building or structure (exclusive of uncovered porches, patios, steps, gutters and similar fixtures) and the front property line or street right-of-way line and extending across the full width of the lot.

**YARD, REAR.** The open, unoccupied space on the same lot with a principal building or structure, between the rear line of the principal building or structure (exclusive of uncovered porches, patios, steps, gutters and similar fixtures) and the rear property line and which extends the full width of the lot.

**YARD, SIDE.** The open, unoccupied space on the same lot with a principal building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.





**ZONING ADMINISTRATOR.** Town official charged with the responsibility of enforcing this chapter.

**ZONING PERMIT.** Permit issued by the Zoning Administrator indicating that a proposed use is in compliance with requirements of this chapter.

(Ord. Art. VI, §60B, passed 2-19-2008; Ord. passed 8-16-2011)

## APPLICABILITY

### **§153.015 JURISDICTION, TERRITORIAL APPLICATION**

The provisions of this chapter shall be applicable to all property within the corporate limits of the town and to the extraterritorial jurisdiction as adopted by later resolution of the Town Council.  
(Ord. Art. VI, §40A, passed 2-19-2008)

### **§153.016 BONA FIDE FARMS EXEMPT**

The provisions of this chapter shall not apply to bona fide farms. This chapter does not exercise any control over crop lands, timber lands, pasture lands, orchards, idle or other farm lands, nor over any farm house, barn, poultry house, or other farm buildings including tenant or other houses for persons working on said farms, as long as such houses be in the same ownership as the farm and located on the farm. Such agricultural uses maintain the openness of the land and achieve the purposes of this chapter without the need for regulation. Residences for nonfarm use or occupancy and other nonfarm uses shall be subject to the provisions of this chapter.  
(Ord. Art. V, passed 2-19-2008)

### **§153.017 OFFICIAL ZONING MAP**

The districts established within the Zoning Code of the Town of Sawmills, North Carolina and shown on the Official Zoning Map which, together with all explanatory matter thereon, are hereby adopted a part of this chapter. See the Appendix to this chapter. *The Zoning Map shall be maintained for public inspection in the office of the local government clerk. The maps may be in paper or a digital format approved by the local government (G.S. 160D-105).*  
(Ord. Art. V, passed 2-19-2008)

## ESTABLISHMENT OF DISTRICTS

### **§153.030 USE DISTRICT NAMES.**

For the purposes of this chapter, the Town is hereby divided into seven use districts with the designations as listed below.

Retail operations	One loading space for each 5,000 square feet of gross floor area or fraction thereof
Wholesale/industrial operation	One loading space for each 10,000 square feet of gross floor area or fraction thereof

(Ord. §110D, passed 2-19-2008)

## ADMINISTRATION AND ENFORCEMENT

### §153.190 ZONING ENFORCEMENT OFFICER.

- (A) It shall be the duty of the Zoning Enforcement Officer to enforce and administer the provisions of this chapter. The assistance of other persons may be provided as the Town Council may direct.
- (B) If the Zoning Enforcement Officer finds that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal use of land, buildings or structures; removal of illegal buildings or structures or additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions. No zoning permit shall be issued except in conformity with the provisions of this chapter, except after written order from the Board of Adjustments.
- (C) If a ruling of the Zoning Enforcement Officer is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

(Ord. §120A, passed 2-19-2008)

- (D) The Zoning Enforcement Officer or other staff member shall not make a final decision on an administrative decision required by this chapter if the outcome of that decision would have a 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 (G.S. 160D-109).
- (E) The Zoning Enforcement Officer 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 city local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured (G.S. 160D-403(e)).

### §153.191 ZONING PERMIT REQUIRED.



No building, sign or other structure shall be erected, moved, extended or enlarged, or structurally altered, nor shall any excavation or filling of any lot of record for the construction of any building be commenced until the Zoning Enforcement Officer has issued a zoning permit for such work. Every person obtaining a zoning permit hereunder shall pay a fee as provided in a schedule of zoning permit fees to be adopted by the governing body.

(Ord. §120B, passed 2-19-2008)

Written notice of such determination refusal and reason therefore shall be given to the applicant and property owner (G.S. 160D-403(b)), the Zoning Enforcement Officer may provide their determination in print or electronic form; if electronic form is used then it must be protected from further editing (G.S. 160D-403(a)).

#### **§153.192 APPLICATION FOR ZONING PERMIT.**

(A) Each application to the Zoning Enforcement Officer for a zoning permit shall be accompanied by plot plans in duplicate showing:

- (1) The actual dimensions of the lot to be built upon;
- (2) The size of the building to be erected;
- (3) The location of the building on the lot;
- (4) The location of existing structures on the lot, if any;
- (5) The number of dwelling units the building is designed to accommodate;
- (6) The approximate setback lines of buildings on adjoining lots;
- (7) The intended use of the property;
- (8) The county tax map identification number of the property and a copy of the metes and bounds description of the lot of record; and
- (9) Such other information as may be essential for determining whether the provisions of this chapter are being observed.

~~(B) — Any zoning permit issued shall expire and be cancelled unless the work authorized by it shall have begun within six months of its date of issue, or if the work authorized by it is suspended or abandoned for a period of one year. Written notice thereof shall be given to the persons affected, including notice that further work as described in the cancelled permit shall not proceed unless and until another zoning permit has been obtained.~~

~~(Ord. §120C, passed 2-19-2008)~~

- (B) Vesting. Zoning permits 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. A site specific plan or planned unit development shall remain vested for a period exceeding two years, but not exceeding five years. A multi-phase development

shall remain vested for a period of seven years from the time a site plan is approved. For the purposes of this chapter, a multi-phase development must contain 100 acres or more and is submitted for site plan approval for construction to occur in more than one phase and is a master plan that includes a requirement to offer land for public use (G.S. 160D-108(d)).

- (C) Revocation of development approvals. Development approvals may be revoked by the local government issuing the development approval by notifying the permit holder in writing stating the reason for the revocation. The local government 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 local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the permit 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 to the board of adjustment pursuant to G.S. 160D-4-5. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-4-5(e) regarding stays shall be applicable (G.S. 160D-403(f)).

#### **§153.193 CERTIFICATE OF OCCUPANCY REQUIRED.**

- (A) A certificate of occupancy issued by the Zoning Enforcement Officer is required in advance of:
- (1) Occupancy or use of a commercial or industrial building hereafter erected, altered or moved for commercial or industrial purposes;
  - (2) Change of use of any building or land;
  - (3) A certificate of occupancy, either for the whole or a part of a building, shall be applied for coincident with the application for a zoning permit. The certificate of occupancy shall be issued within ten days after the erection or structural alteration of such building, or part, has been completed in conformity with the provisions of this chapter. If a certificate of occupancy is denied, the Zoning Enforcement Officer shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or the land involved.
  - (4) In addition, a certificate of occupancy shall be required for each non-conforming use created by the passage and subsequent amendments to this chapter.
- (B) The owner of such non-conforming use shall obtain a certificate of occupancy within 30 days of the date of said passage or amendments.
- (Ord. §120D, passed 2-19-2008)



**§153.194 VIOLATION OF CHAPTER; PENALTIES AND REMEDIES.**

- (A) *Complaints regarding violations.* Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Town Clerk. The Zoning Enforcement Officer shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.
- (B) *Violation.* In addition to those remedies provided in G.S. §§14-4 and 160-175, as amended and otherwise as law provided, whenever, by the provisions of this chapter, the performance of any act is prohibited, or whenever any regulation or limitation is imposed on the use of any land and water, or on the erection or removal or alteration of a structure, a failure to comply with such provision shall constitute a violation of this chapter.
- (C) *Liability.* The owner, tenant, or occupant of any land or structure, or part thereof, and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this chapter shall be held responsible for the violation and be subject to the penalties and remedies herein.
- (D) *Procedures upon discovery of violation.* Upon the determination that any provision of this chapter is being violated, the Zoning Enforcement Officer shall send, within five working days, a written notice by registered mail to the person(s) responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Zoning Enforcement Officer's discretion. *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 may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud (160D-404(a)).*
- (E) *Final written notice.* The final written notice, which may also be the initial notice, shall state the action the Zoning Enforcement Officer intends to take, if the violation is not corrected, and shall advise that the Zoning Enforcement Officer may seek enforcement without prior written notice by invoking any of the remedies contained in this section.
- (F) *Town Attorney may prevent violation.* If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any structure or land is used in violation of this chapter, the Zoning Enforcement Officer shall inform the Town Attorney. *In addition to other remedies, the Town Attorney may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such structure or land or to prevent any illegal act, conduct, business or use in or about such premises.*
- (Ord. §120E, passed 2-19-2008) Penalty, see §153.999

**BOARD OF ADJUSTMENT****§153.205 ESTABLISHMENT OF BOARD OF ADJUSTMENT.**

- (A) A Board of Adjustment is hereby created as provided in G.S. §160D-1-9(d). Said Board shall consist of five members to be appointed by the Town Council for the overlapping terms of three years. Initial



terms of office shall be as follows: one member appointed for a term of one year; two members appointed for terms of two years; and two members appointed for terms of three years. Upon completion of the initial term of office for each member, all additional appointments to vacancies on the Board shall be for three year terms. The members of the Board of Adjustment shall be residents of the county. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board of Adjustment.

- (B) The Town Council may, in its discretion, appoint not more than two alternate members to serve on the Board of Adjustment in the absence, for any cause, of any regular member. This alternate member or members shall be appointed in the same manner as regular members and at the regular times for appointment. The alternate member, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and exercise all the powers and duties of such regular member so absent.
- (Ord. §130A, passed 2-19-2008)

#### §153.206 DECISIONS OF THE BOARD OF ADJUSTMENT.

- (A) The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer pertaining to the town or to decide in favor of the applicant any matter upon which it is required to pass under the Zoning Code or to effect any variation of such code in the town.
- (B) On all appeals, applications and other matters brought before the Board of Adjustment, the Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and shall decide the same within a reasonable time. The Board shall inform all parties involved of its decision in writing, stating the reasons therefore.
- (Ord. §130B, passed 2-19-2008)
- (C) Members of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible 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. 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. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.<sup>12</sup> (G.S. 160D-109(d), (e), (f)).
- (D) Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision (G.S. 160D-406).

#### §153.207 PROCEEDINGS OF THE BOARD OF ADJUSTMENT.

The Board of Adjustment shall elect a chairman and vice-chairman from its members, each of whom shall serve for one year or until re-elected or until their successors are elected and qualify. This year shall run

from July 1 to June 30. The Board shall adopt rules and bylaws in accordance with the provisions of this chapter and G.S. Ch. 160D, Art. 19. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his or her absence the Vice-Chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. The secretary shall keep a record of all proceedings of meetings but shall not have a vote unless he or she is also a regular or alternate member of the Board.

(Ord. §130C, passed 2-19-2008)

#### **§153.208 APPEALS, HEARINGS AND NOTICE.**

~~An appeal from the decision of the Zoning Enforcement Officer may be taken by any person aggrieved or affected by such decision to the Board of Adjustment. Such appeal shall be taken within 45 days by filing with the Zoning Enforcement Officer and with the Secretary of the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Enforcement Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.~~

~~(Ord. §130D, passed 2-19-2008)~~

Any person who has standing under G.S. § 160D-1-2 or the town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal. The owner or other party shall have 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 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 G.S. 160D-4-3(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 (G.S. 160D-405(d)).

#### **§153.209 STAY OF PROCEEDINGS.**

An appeal stays in all legal proceedings in furtherance of the action appealed from unless the Zoning Enforcement Officer certified to the Board of Adjustment after the notice of appeal has been filed with him or her that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record, upon appropriate application, on notice to the Zoning Enforcement Officer and on due cause shown.

(Ord. §130E, passed 2-19-2008)

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#### **§153.210 DECISION OF THE BOARD OF ADJUSTMENT.**

The Board of Adjustment may reverse or reaffirm, wholly or in part, or may modify any order, requirements, decision or determination and to that end shall have the powers of the administrative official from whom the appeal is taken.

(Ord. §130F, passed 2-19-2008)

#### **§153.211 DUTIES OF THE ZONING ENFORCEMENT OFFICER, BOARD OF ADJUSTMENT, COURTS AND TOWN COUNCIL ON MATTERS OF APPEAL.**

It is the intention of this chapter that all questions arising in connection with the enforcement of this chapter shall be presented to the Zoning Enforcement Officer and that such questions shall be presented to the



Board of Adjustment only on appeal from the Zoning Enforcement Officer, and that from the decision of the Board of Adjustment recourse shall be had to courts as prescribed by law. It is further the intention of this chapter that the duties of the Town Council in connection with the chapter shall not include the hearing and passing upon disputed question that may arise in connection with the enforcement thereof. The duties of the Town Council in connection with this chapter shall be only the duty of considering and passing upon any proposed amendments or repeal of this chapter.

(Ord. §130I, passed 2-19-2008)

#### §153.212 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT.

- (A) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Enforcement Officer in the enforcement of this chapter.
- (B) *Conditional Special uses; conditions governing application.* To grant in particular cases and subject to appropriate conditions and safeguards, permits for conditional special uses under the various use districts, the Board of Adjustment shall not grant a conditional special use permit unless and until:
  - (1) A written application for a conditional special use permit is submitted indicating the section of this chapter under which the conditional special use permit is sought;
  - (2) A quasi-judicial public hearing is held. A notice of the public hearing shall be given once a week for two consecutive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten days nor more than 25 days before the date fixed for this hearing (G.S. §160D-601). Any petition may be withdrawn at any time by written notice to the Town Clerk. All property owners within 100 feet of the property in question shall be notified of this hearing by first class mail; and
  - (3) The Board of Adjustment finds that in the particular case, the use for which the conditional special use permit is sought will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. In granting such a permit, the Board of Adjustment may designate such conditions in connection therewith as will conform to the requirements and spirit of this chapter.
- (C) *Compliance with other codes.* Granting a conditional special use permit does not exempt the applicant from complying with all of the requirements of building codes or other ordinances.
- (D) *Revocation.* If at any time after a conditional special use permit has been issued, the Board of Adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a conditional special use permit, the permit shall be terminated and the operation of such use discontinued. If a conditional special use permit is terminated for any reason, it may be reinstated only after a public hearing is held.
- (E) *Expiration.*
  - (1) In any case where a conditional special use permit has not been exercised within the time limit set by the Board of Adjustment, or within one year if no specific time limit has been set, then without further action the permit shall be null and void.



- (2) **EXERCISED** as set forth in this division shall mean that binding contracts for the construction of the main building shall have been let; or in the absence of contracts, that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, and the like). When construction is not a part of the use, **EXERCISED** shall mean that the use is in operation in compliance with the conditions set forth in the permit.
- (F) *Careful record.* A careful record of such application and plat, together with a record of the action taken thereon, shall be kept in the office of the zoning enforcement officer.
- (G) *Variances.* Any application for a Variance shall be filed with the Town Clerk at least 20 days prior to the date on which it is to be introduced to the Board of Adjustment. The Town Clerk or designated staff member shall be responsible for presenting the application to the Board of Adjustment. Each variance application shall be accompanied by a fee (as adopted by the Town Council) to help defray the costs of advertising the public hearing required by G.S. §160A-364.19.
- (H) *Variance application requirements.* A Variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted demonstrating that:
- (1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same district;
  - (2) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
  - (3) The circumstances do not result from the action of the applicant;
  - (4) Granting the variance requested will not confer upon the applicant any special privileges that are denied by this chapter to other lands, structures, or buildings in the same district;
  - (5) No nonconforming use of neighboring land, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts will be considered grounds for the issuance of a variance.
- (I) *Hearing.* Notice of a public hearing shall be given as set forth in division (A)(2). At the quasi-judicial public hearing, any party may appear in person or by agent or attorney.
- (J) *Findings, general.* The Board of Adjustment shall make findings that the requirements of division (G) shall have been met for a variance.
- (K) *Findings, specific.* The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance is the minimum one that will make possible the reasonable use of the land, building or structure.
- (L) *Findings, environment.* The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

- (M) *Conditions attached.* In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under §153.134.
- (N) *Prohibition.* Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in the district.
- (Ord. §130F, passed 2-19-2008)

## AMENDMENTS AND CHANGES

### §153.225      PROCEDURE FOR AMENDMENTS.

A petition for an amendment to this chapter and to the Official Zoning Map may be initiated by the town, the Planning Board, any department or agency of the town, the owner of any property within the town, or any interested citizen who can show just cause for an amendment. Applications submitted by individual property owners or interested citizens who are not acting in an official capacity for the town shall comply with the following procedural requirements:

- (A) *Application submission.* Any petition for an amendment to this chapter shall be filed with the Town Clerk at least 20 days prior to the date on which it is to be introduced to the Planning Board. Each petition for an amendment shall be accompanied by a fee (as adopted by the Town Council) to help defray the costs of advertising the public hearing required by **G.S. §160D-601**.
- (B) *Change to Zoning Map.* Each application involving a change to the Official Zoning Map shall be signed, be in duplicate, and shall contain at least the following information:
- (1) The applicant's name in full, applicant's address, address or description of the property to be rezoned, including the tax map number;
  - (2) The applicant's interest in the property and the type of rezoning requested;
  - (3) If the proposed change would require a change in the Zoning Map, an accurate diagrams of the property proposed for rezoning, showing:
    - (a) All property lines with dimensions, including north arrow;
    - (b) Adjoining streets with rights-of-way and paving widths;
    - (c) The location of all structures, existing and proposed, and the use of the land;
    - (d) Zoning classification of all abutting property owners; and
    - (e) Names and address of all adjoining property owners.
  - (4) A statement regarding the changing conditions, if any, in the area or in the town generally that makes the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.



- ~~(C) *Planning Board consideration.* All proposed amendments to this chapter shall be submitted to the Planning Board for review and recommendation. At the discretion of the Planning Board, a public hearing may be conducted to consider the proposed amendment. The Planning Board shall have 30 days from the time the proposed amendment was first considered by the Planning Board to submit its report. If the Planning Board fails to submit a report within the above period, it shall be deemed to have approved the proposed amendment.~~

*Planning Board consideration.* Every proposed amendment, supplement, change, modification or repeal to this chapter shall be referred to the planning board for its recommendation and report (G.S. 160D-604(c), (e)). The owner 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 addresses 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. Additionally, the town shall prominently post a notice of the public hearing on the site proposed for rezoning the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within twenty-five days prior to the hearing until 10 days prior to 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 (G.S. 160D-602). The Planning Board shall have thirty-one (31) days from the time the proposed amendment was first considered by the Planning Board to submit its report. If the Planning Board fails to submit a report within the above period, it shall be deemed to have approved the proposed amendment.

Members of the Planning Board shall not participate in or vote on any zoning amendment 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 close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a 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. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.12 (G.S. 160D-109(d), (e), (f)).

- (D) *Town Council consideration.* Before adopting or amending this chapter, the Town Council shall hold a public hearing on it. A notice of the public hearing shall be given once a week for two consecutive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten days nor more than 25 days before the date fixed for this hearing (G.S. 160D-601). Any petition for an amendment to this chapter may be withdrawn at any time by written notice to the Town Clerk.

(Ord. §140A, passed 2-19-2008)

- (E) *Plan consistency.* When adopting or rejecting any zoning text or map amendment, the Town Council 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 Town Council, that at the time of action on the amendment, the Town Council was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If the 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 request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-6-2(b), the Town



Council 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.

Members of the Town Council shall not participate in or vote on any zoning amendment 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 close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a 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. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.<sup>12</sup> (G.S. 160D-109(d), (e), (f)).

#### **§153.226 PROTEST PETITION.**

*General.* A protest petition may be presented against any proposed amendment signed by the owners of 20% or more either of the area of the lots included in the proposed changes, or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet there from, or of those directly opposite thereto extending 100 feet from the street fronting on the opposite lots. In this case the amendment shall not become effective except by favorable vote of three-fourths of all members of the Town Council.

- (A) *Petition requirements.* No protest against any change in or amendment to the Zoning Code or Zoning Map shall be valid or effective unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, unless it shall have been received by the Town Clerk in sufficient time to allow the town at least two normal working days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition (**G.S. §160D-604**).
- (Ord. §140B, passed 2-19-2008)

### **LEGAL PROVISIONS**

#### **§153.270 INTERPRETATION, PURPOSE AND CONFLICT.**

In interpreting and applying the provisions of this Zoning Code, the provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this chapter shall govern, provided that nothing in this chapter shall be construed to amend or repeal any other existing ordinance of the town.

(Ord. §150A, passed 2-19-2008)

#### **§153.299 PENALTY.**

- (A) *Generally.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to §10.99.

- (B) *Civil penalties.* Violation of any provision of this chapter shall subject the offender to a civil penalty in the amount of \$50, to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within a period of 72 hours after being cited. Citation shall be in writing, signed by the Zoning Enforcement Officer, and shall be delivered or mailed to the offender either at his or her residence or at his or her place of business or at the place where the violation occurred.
- (C) *Criminal penalties for violation.* Any person, firm or corporation who violated the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be fined not exceeding \$50 or imprisoned not 30 days. Each day that a violation continues to exist shall be considered a separate offence, provided that violation of this chapter is not corrected within 30 days after the notice of the violation has been given.
- (Ord. §120E, passed 2-19-2008)

## CHAPTER 152: SUBDIVISION REGULATIONS

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**GENERAL PROVISIONS**

**§152.001 SHORT TITLE.**

This chapter is known and may be cited as the *Subdivision Regulations of the Town of Sawmills, North Carolina*, and may be referred to as the Subdivision Regulations or this chapter.  
(Ord. Art 1, passed 1-26-2007)

**§152.002 PURPOSE.**

The purpose of this chapter is to establish procedures and standards for the development and subdivision of land within the territorial and extraterritorial (ETJ) jurisdiction of the town. It is further designed to provide for the orderly growth and development of the town; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication and reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety and the general welfare. This chapter is designed to further facilitate adequate provision of water, sewerage, parks, schools and playgrounds, and also to facilitate the further subdivision of larger tracts into smaller parcels of land.

(Ord. Art II, passed 1-26-2007)

**§152.003 AUTHORITY.**

This chapter is hereby adopted under the authority and provisions of **N.C.G.S 160D-801 et seq**. The regulations contained herein, as provided in **N.C.G.S 160D-801 et seq** shall govern each and every subdivision within the town's jurisdiction.  
(Ord. Art III, passed 1-26-2007)

Commented [AK1]: Updated Citations

## §152.004

## JURISDICTION.

~~These regulations shall govern all subdivisions of land lying within the town and within the extraterritorial jurisdiction, whether it be for commercial or industrial purposes.~~

The provisions of this chapter, as provided in N.C.G.S 160D-200; 202; 903, shall apply to every subdivision or development within the corporate limits of the Town of Sawmills and within the territory beyond such corporate limits referred to as the Town's extraterritorial jurisdiction as shown on the Official Zoning Map of the Town of Sawmills.

(Ord. Art IV, passed 1-26-2007)

Commented [AK2]: This says the same thing but is a little more detailed. Also added Citation for jurisdiction.

## §152.005

## DEFINITIONS.

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

**BLOCK.** A piece of land bounded on one or more sides by streets or roads.

**BUFFER STRIP.** A buffer strip as required by certain sections of this chapter shall consist of a planting strip of at least ten feet in width, composed of deciduous or evergreen trees 20 feet apart and not less than one row of dense shrubs, spaced not more than five feet apart, and the strip shall be planted and maintained in a healthy growing condition by the property owner.

**BUILDING SETBACK LINE.** A line establishing minimum allowable distance between the nearest portion of any building (excluding the outermost three feet of any uncovered porch, steps, eaves, gutters and similar fixtures), and the nearest right-of-way or property line when measured perpendicularly thereto. In the absence of a dedicated right-of-way it shall be assumed that there is a 45-foot right-of-way, in which the existing street is centered.

**CONTROL CORNER.** Concrete monuments at least four inches in diameter and not less than three feet in length. Each set monument shall be placed at least 30 inches beneath ground surface with at least six inches exposed above ground.

**DEDICATION.** A gift, by the owner, or right to use land for a specific purpose or purposes. Because a transfer of property rights is entailed, dedication must be made in written instrument and completed with acceptance and filing with the County Register of Deeds.

**EASEMENT.** A grant by the property owner for a specified purpose and used by the public, a corporation or persons.

**EXISTING LOT OF RECORD.** A lot which is part of a subdivision, a plat of which has been recorded with the County Register of Deeds prior to the original adoption of this chapter, or a lot described by metes and bounds, the description of which has been so recorded prior to the original adoption of this chapter.

**FLOODPLAIN.** The land subject to a 1% or greater chance of being flooded in any given year as defined by FEMA.



**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one foot.

**HALF STREET.** A street whose centerline coincides with a subdivision plat boundary, with one-half of the street right-of-way being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

**LOT.** A parcel of land having fixed designated boundaries.

**LOT OF RECORD** -A lot which is part of a Subdivision, the plat for which meets all applicable development requirements of the town and has been properly recorded with the County Register of Deeds.

**LOT TYPES.**

- (1) **CORNER LOT.** A lot which occupies the interior angle at the intersection of two street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The front of the lot is to be the frontage fronting on the major road with the other lot road frontage front setback being reduced to 20 feet.
- (2) **CUL-DE-SAC LOT.** A lot which fronts onto a cul-de-sac by a minimum of 35 feet. Additionally, the lot shall be at least 75 feet in width at a depth of 75 feet from the front right-of-way (the width of the lot shall be measured perpendicular from the right-of-way).
- (3) **DOUBLE FRONTAGE LOT/THROUGH LOT.** A lot that lies between two parallel or semi parallel streets and is accessible from both streets upon which it fronts. Unless approved by the Town Council double frontage lots may have access from just one street frontage. In instances where **DOUBLE FRONTAGE LOTS** are created as part of a larger subdivision plan, driveway access is to be identified as part of the final plat approval.
- (4) **FLAG/PANHANDLE LOT.** A lot design that utilizes a configuration that consists of a flagpole and a flag. The flagpole portion of the lot is an area that provides access to and from an adjacent street. The flag portion of the lot is the area that is designated for the construction of all structures. The flagpole portion of the lot must abut upon a dedicated right-of-way by no less than 45 feet. Building setback lines shall be measured from property lines which encompass the flag portion of the lot. Lots abutting cul-de-sacs shall not be included in the definition.
- (5) **INTERIOR LOT.** A lot other than a corner lot with one frontage on a street.
- (6) **REVERSE FRONTAGE LOT.** A lot on which the frontage is at right angles (interior angles less than 135 degrees) to the general pattern in the area. A **REVERSE FRONTAGE LOT** may also be a corner lot, an interior or through lot.

- (7) **SINGLE-TIER LOT.** A lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is prohibited.

**OFFICIAL MAPS OR PLANS.** Any maps or plans officially adopted by the Town Council as a guide for the development of the town.

**OPEN SPACE.** Property within a development or contained within an individual parcel, which is designated by a permanent reservation to remain undeveloped, for the purpose of providing areas for recreation and/or conservation for the general pleasure and enjoyment of the property owners of the development or the general public at large.

**PLANNED UNIT DEVELOPMENT.** A parcel of land under the unified control at platting which is planned and developed as a whole or in stages, not subdivided into the customary streets and lots and which will not be so subdivided, consisting of at least two principal buildings.

**PLAT.** A map or plan of a parcel of land which is to be or has been subdivided, has been subdivided or meets the exemption requirements.

**PRIVATE DRIVEWAY.** An access-way which provides ingress/egress to a lot not intended for the purposes of public ingress or egress.

**PRIVATE STREET.** An undedicated private right-at-way which affords access to abutting properties and requires a subdivision street disclosure statement in accordance with GS §136-102.6.

**PUBLIC SEWAGE DISPOSAL SYSTEM.** A system serving two or more dwelling units and approved by the County Health Department and the North Carolina Department of Environment and Natural Resources.

**RECREATION AREA OR PARK .** An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various human-made features that accommodates such activities.

**RESERVATION.** A **RESERVATION** of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

**SPONSOR.** A group or entity which collaborates together.

**STREET.** A dedicated, recorded and accepted right-of-way for vehicular traffic which affords the principal means of access to abutting properties. The following classifications shall apply:

- (1) *Rural streets.*

- (a) **PRINCIPAL ARTERIAL.** A rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial

statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as **PRINCIPAL ARTERIALS**.

- (b) **MINOR ARTERIAL.** A rural link in a network joining cities and larger towns and providing intrastate and inter-county service at relatively high overall travel speeds with minimum interference to through movement. This network would primarily serve traffic.
- (c) **MAJOR COLLECTOR.** A road which provides service to small local communities and links locally important traffic generators with their rural hinterland.
- (d) **MINOR COLLECTOR.** A road which provides service to small local communities and links locally important traffic generators with their rural hinterland.
- (e) **LOCAL ROAD.** A local road serves primarily to provide access to adjacent land and for travel over relatively short distance.

(2) *Urban streets.*

- (a) **LOCAL ACCESS STREET.** A link not part of a higher-order urban system which serves primarily to provide direct access to abutting land and access to higher systems.
- (b) **MAJOR THOROUGHFARES.** Major thoroughfares consist of interstate, other freeway an expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and throughout urban areas.
- (c) **MINOR THOROUGHFARES.** Minor thoroughfares are important streets in the urban system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system by facilitating through traffic movement. These roads may also serve abutting property.

(3) *Specific type rural or urban streets.*

- (a) **ALLEY.** A public or private thoroughfare which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.
- (b) **CUL-DE-SAC.** A short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.
- (c) **FREEWAYS, EXPRESSWAY or PARKWAY.** Divided multilane roadways designed to carry large volumes of traffic at relatively high speeds. A **FREEWAY** is a divided highway providing for continuous flow of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps. An **EXPRESSWAY** is a divided highway with full or partial control of access and with grade separations at major intersection. A **PARKWAY** is a highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park-like development.



- (d) **FRONTAGE ROAD.** A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.
- (e) **LOCAL RESIDENTIAL ROAD.** Cul-de-sac, loop streets less than 2,500 feet in length, or streets less than one mile in length that do not connect thoroughfares, or serve major traffic generators, and do not collect traffic for more than 100 dwellings units.
- (f) **RESIDENTIAL COLLECTOR ROAD.** A local access street which serves as a connector street between local residential streets and the thoroughfare system. **RESIDENTIAL COLLECTOR STREETS** typically collect traffic from 100 to 400 dwelling units.

**SUBDIVIDER.** Any person, firm or corporation who creates a subdivision.

**SUBDIVISION.** ~~For the purposes of this ordinance, a subdivision shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites or other divisions when any one or more of those divisions are created for the propose of sale of or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or change in existing street; however, the following are shall not be included within this definition nor be subject to the regulations authorized by this Article but do require a Certificate of No Approval Required be issued in accordance with §153.036 (N.C.G.S. 1610D-802):~~

Commented [AK3]: Definition Update. Added definition citation

- (1) The combination or recombination of a portion of previously subdivided and recorded lots, ~~or existing lots of record, if where~~ the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as shown in this chapter;
- (2) The division of land into parcels greater than ten (10) acres, ~~if where~~ no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors; ~~and~~
- (4) The division of a tract in single ownership, ~~the whose~~ entire area ~~of which~~ is no greater than two (2) acres into not more than three (3) lots, ~~if where~~ no new street right-of-way dedication is involved and ~~if where~~ the resultant lots are equal to or exceed the standards of the town, as shown by this chapter; ~~and~~
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

#### **SUBDIVISION – TYPES OF SUBDIVISION**

- (1) **FAMILY.** Subdivision of property for family use where resulting subdivision meets all requirements of §152.130.
- (2) **MAJOR.** All subdivision of lots which do not qualify as a minor or family subdivision.
- (3) **MINOR.** Subdivision of property where five or fewer lots are created and all lots created have road frontage in accordance with this chapter or any subdivision where a new road is involved.

**TERRIAN CLASSIFICATIONS.**

- (1) **LEVEL.** Cross slope range of 0% to 8%.
- (2) **ROLLING.** Cross slope range of 8.1% to 12%.
- (3) **MOUNTAINOUS.** Cross slope range of over 12%.  
(Ord. §60, passed 1-26-2007)

**§152.006 WORD INTERPRETATION.**

For the purpose of this chapter, certain words shall be interpreted as follows:

- (A) Words used in the present tense include the future.
- (B) Words used in the singular number include the plural and words used in the plural include the singular, unless the natural construction of the word indicates otherwise.
- (C) The word **PERSON** includes a firm, association, corporation, sponsor, trust and company as well as an individual.
- (D) The words **USED FOR** shall include the meaning **DESIGNED FOR**.
- (E) The word **STRUCTURE** shall include the word **BUILDING**.
- (F) The word **LOT** shall include the words **PLOT, PARCEL, or TRACT**.
- (G) The word **SHALL** is mandatory, not merely discretionary.  
(Ord. §60.25, passed 1-26-2007)

**COMPLIANCE**

**§152.015 PREREQUISITE TO PLAT RECORDATION.**

After the effective date of this chapter, each individual subdivision plat of land within the town's jurisdiction shall be approved by the Town Council on recommendation from the Town Planning Board, unless otherwise set forth herein.  
(Ord. §5.1, passed 1-26-2007)

#### §152.016 ACCEPTANCE OF STREETS.

No street shall be maintained by the town nor street dedication accepted for ownership and maintenance in any subdivision for which a plat is required to be approved unless and until the final plat has been approved by the town and thereafter accepted for maintenance.  
(ord. §5.2, passed 1-26-2007)

#### §152.017 THOROUGHFARE PLANS.

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the town, that part of the thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in this chapter.  
(Ord. §5.3, passed 1-26-2007)

#### §152.018 SCHOOL SITES ON LAND USE PLAN.

If the Town and the County Board of Education have jointly determined the specific location and size of any school sites to be reserved and this information appears in the Comprehensive Land Use Plan, the Town Planning Board shall immediately notify the Board of Education whenever a sketch plan for a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does not wish to reserve the site, it shall so notify the Planning Board. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without the reservation. The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the subdivider may treat the land as freed of the reservation. G.S. 160D-804  
(Ord. §5.4, passed 1-26-2007)

Commented [AK4]: Added citation

#### §152.019 ZONING AND OTHER PLANS

Similarly, proposed subdivisions must comply in all respects with the requirements of the zoning ordinance in effect in the area to be subdivided, and any other officially adopted plans.  
(Ord. §5.5, passed 1-26-2007)

#### §152.020 PERMITS.

No building permits shall be issued for, nor shall water, sewer, or other town facilities or services be extended to or connected with, any individual building lot within any subdivision for which a final



plat is required to be approved until said plat shall have been approved, or exempted, in accordance with this Ordinance and recorded in the office of the Caldwell County Register of Deeds. This section shall not restrict or prohibit the extension of trunk water and/or sewer lines into any subdivision which requires such extensions in order to gain final approval.  
(Ord. §5.6, passed 1-26-2007)

#### PROCEDURE

##### §152.035 PROCEDURE FOR REVIEW OF DIVISIONS OR ALTERATIONS OF PROPERTY LINES WHERE NO LOCAL APPROVAL IS REQUIRED, AND REVIEW OF MINOR AND MAJOR SUBDIVISIONS.

- (A) Pursuant to G.S. 160D-804; 804.1, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this ordinance whenever any subdivision of land takes place. Whenever any manipulation of property lines or property boundaries takes place within the jurisdiction of the Town of Sawmills as established in §152.004 of this ordinance that is exempt from these regulations as provided by §152.005 definition of *Subdivision* of this ordinance, a plat clearly displaying such change must be presented to the subdivision administrator. Said plat must also be presented to the Caldwell County Register of Deeds for recordation
- (B) Pursuant to G.S. 160D-804, no final plat of a subdivision within the jurisdiction of the Town of Sawmills as established in Section §152.004 of this ordinance shall be recorded by the Register of Deeds of Caldwell County until it has been approved by the proper Board or official as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in this section.
- (C) All subdivisions shall be considered major subdivisions except those defined as minor subdivisions in this subchapter. Divisions or alterations of property lines where no local approval is required shall be reviewed in accordance with the requirements in §152.036 to verify such status. Minor subdivisions shall be reviewed in accordance with §§ 152.037 and 152.040. Major subdivisions shall be reviewed in accordance with the requirements in §§ 152.038 and 152.040.
- (D) For the purposes of these regulations, a **MINOR SUBDIVISION** is defined as the following:
- (1) The division of a tract of land, regardless of period of time, into not more than five (5) lots or parcels which front on an existing state maintained road or existing private road constructed to the specifications of this chapter; all further divisions of the parent tract into any additional lots or parcels shall be considered a major subdivision, and shall be subject to the requirements of §§152.038 and 152.040;
  - (2) Does not involve any new street or prospectively require any new street for access to interior property;

**Commented [AK5]:** The general statement requiring procedure of a final plat pursuant to this ordinance was missing. I have added this recommended statement along with the G.S. citation overseeing platting requirements and performance guarantees (if applicable).

**Commented [AK6]:** The general statement requiring that a final plat have Town approval before recording was missing. I have added this recommended statement along with the G.S. citation that enacts the Town to regulate subdivisions.

- ## Certificate of Approval for Recording

Date \_\_\_\_\_ Watershed Administrator \_\_\_\_\_

(4) If the Watershed Administrator disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant. The subdivider may make changes and submit a revised plan which shall constitute a separate request for the purpose of review.

§152.036 PROCEDURE FOR REVIEW OF DIVISIONS OR ALTERATION OF PROPERTY  
LINES WHERE NO LOCAL APPROVAL IS REQUIRED.

- (A) The subdivider shall submit to the Town Planning Department a Mylar and at least four (4) copies of the proposed recombination or division. For the purpose of this section a division or manipulation where no local approval is required shall be defined by §152.005.
- (B) The Town Planning Department shall review the submitted division or alteration of property lines to ensure the division or alteration of the lots or parcels will not adversely affect the property or any surrounding properties or create residual nonconforming lots.

- (C) After the Town Planning Department has determined that the division or alteration of the lot(s) or parcel(s) meet the criteria laid out in **G.S. §160D-802** and will not have adverse consequences, the following certificate shall be placed on the face of the plat that acknowledges no approval is required from the Subdivision Regulations.

Commented [AK7]: Updated Citation

Certificate of No Approval Required

I certify that the plat shown hereon qualifies as division or alteration in property lines where no local approval is required as outlined under North Carolina General Statute §160A-376.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Town of Sawmills Planner

NOTE: See the definition of subdivision as contained in §152.005 for list of platting events where no local approval is required.

(Ord. §71, passed 1-26-2007)

**§152.037 PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS.**

Commented [AK8]: There was not much in terms of minor subdivision procedure. The added text is my recommendation. The only change required here by 160D is that minor subdivisions only undergo administrative approval and not required go through a Board.

- (A) If the land to be subdivided meets the requirements of a minor subdivision as defined in §152.035(d) above, the subdivider will not have to follow the same procedures as for a major subdivision. A preliminary plat for the minor subdivision is required. The following minor plat approval process may be used only where the subdivision meets the requirements of §152.035(d).
- (B) Prior to submission of a final plat, the subdivider shall submit to the Planning Department three (3) copies of a preliminary plat of the proposed subdivision containing the information required in §152.040 for preliminary plats.
- (C) The Town Planning Department shall review the preliminary minor subdivision plat for complete compliance with the requirements of this section and any other applicable Town or state regulations; and shall discuss with the subdivider or authorized agent of any changes deemed advisable in the proposed subdivision or require any additional information necessary for review of the minor subdivision. ~~outlined for final approval of subdivisions contained within this chapter. The Subdivision Review Board shall make a recommendation to the Town Council and the Town Council shall vote whether to approve the minor subdivision.~~
- (D) After determining that all requirements of this section have been met, the Planning Department shall advise the subdivider to proceed with the preparation of a final plat, which conforms to the submitted preliminary plat. The approval of the preliminary plat shall in no way be construed as constituting official approval of the final plat. The final plat shall be complete and show all information required for preliminary and final plats in §152.040, and all certificates and notarizations required in this section for final plat approval of a minor subdivision.
- (E) ~~The~~ subdivider shall submit to the Town Planning Department a Mylar and at least four (4) copies of the ~~proposed subdivision~~ final plat.
- (F) The final plat shall be of a size suitable for recording with the County Register of Deeds. Maps (with appropriate match lines) may be placed on more than one sheet.

Commented [AK9]: This already existed but there was no cross-reference in the minor subdivision procedures.

Commented [AK10]: Minor subdivisions are now required to be administrative approval

Commented [AK11]: Formally (B)



(G) *Forms for final certifications.* The following certificates shall appear on the final plat.

(1) *Certificate of final approval of a minor subdivision.*

We, the undersigned hereby certify that the subdivision entitled \_\_\_\_\_ fully meets the minimum requirements of the Town of Sawmills Subdivision Regulations, however before any lot can be built upon, an improvement permit must be obtained from the Caldwell County Health Department to allow a septic tank disposal system to be located thereon and to approve the placement of any well thereon. The approval or the recordation of this map in no way guarantees that any lot shown hereon can or will be permitted for a septic tank or for placement of a well.

\_\_\_\_\_  
Town of Sawmills Planner

\_\_\_\_\_  
Date

(2) *Certificate of ownership and dedication.*

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish minimum building lines, and dedicate all roads, alleys, walks, parks, and other sites to (public or private\*, choose which ever is applicable) use as noted. Further, I (we) certify the land as shown hereon is within the platting jurisdiction of the Town of Sawmills.

\_\_\_\_\_  
Owner or Authorized Agent

\_\_\_\_\_  
Date

North Carolina  
Caldwell County

I, \_\_\_\_\_, a notary public of the county and state aforesaid certify that \_\_\_\_\_ personally came before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_

\*If private, an approved Road Maintenance Agreement must be submitted and recorded prior to the recording of this plat.

(3) *Certificate of Accuracy*

(As required under NCGS 47-30 as amended)

\_\_\_\_\_  
Licensed Surveyor

\_\_\_\_\_  
Date

(4) *Review Officer's Certificate*

State of North Carolina, County of Caldwell

I, \_\_\_\_\_, Review Officer of Sawmills certify that the map or plat to which this Certification is affixed meets all statutory requirements for recording.

\_\_\_\_\_  
Review Officer

\_\_\_\_\_  
Date

(5) *Town Engineer certificate*

I, \_\_\_\_\_, Town Engineer of Sawmills certify that all public water and/or sewer lines installed were inspected and are in conformity with all applicable Town and State standards.

\_\_\_\_\_  
Town Engineer

\_\_\_\_\_  
Date

**§153.038 PROCEDURE FOR PRELIMINARY REVIEW OF MAJOR SUBDIVISIONS.**

- (A) The subdivider shall submit the following to the Town of Sawmills Planning Department at least 14 days prior to a scheduled meeting of the Subdivision Review Board:
- (1) At least 4 copies of the proposed subdivision prepared in accordance with the requirements of §152.040. Additional prints may be required when deemed necessary;
  - (2) A description of the proposed method of providing a water supply and sewer disposal for each lot, including any protective covenants to be applied to the subdivision;
  - (3) One copy of any required supplemental information. An erosion control plan if applicable, stormwater control measures, and the like; and
  - (4) A street profile.
- (B) Before acting on a preliminary plat the Subdivision Review Board shall require that the plat be submitted to the District Highway Engineer for NCDOT and the Town Engineer for review and comment as to the proposed streets and the drainage system; the Caldwell County Health Director or Town Engineer for his or her approval as to the proposed water and sewage disposal system; the Caldwell County School Superintendent for his or her information; and such other agencies and officials as the Town Planner deems necessary or desirable.
- (C) If the Subdivision Review Board disapproves or conditionally approves the preliminary plat, the reason for such action shall be noted in the Subdivision Review Board's minutes and reference shall be made to the specific sections of the ordinance with which the preliminary plat does not comply, if applicable. The applicant shall receive said denial in writing from town planning staff.

<i>Site Calculations (Cont'd)</i>	<i>Preliminary</i>	<i>Final</i>
Topographic map with contours at a scale of no less than 1:24,000	X	
All certifications required in §§152.036, 152.037, and 152.039		X
Any other information considered by either the subdivider, Planning Department or Subdivision Review Board to be pertinent to the review of the plat	X <sup>2</sup>	X <sup>2</sup>
<sup>1</sup> Not required on plats for minor subdivisions.		
<sup>2</sup> This information must accompany plat submittal.		

(Ord. §75, passed 1-26-2007)

#### §152.041 EFFECT OF FINAL APPROVAL ON DEDICATIONS.

The approval of a final plat shall not constitute or affect the acceptance by the town of the dedication of any land, utility line or other facility on said plat.

(Ord. §76, passed 1-26-2007)

#### §152.042 RECORDING OF FINAL PLAT.

Within 30 days after the final plat is exempted or approved and properly executed by the Town Official it shall have been properly recorded with the County Register of Deeds. This plat shall be recorded prior to any conveyance of any portion of said property by reference to said plat. Should the 30-day time limit expire before the plat is recorded it must be resubmitted to the Town Planner for reapproval. Upon adoption of this chapter, the County Register of Deeds shall not thereafter file or record a plat or subdivision located within the territorial jurisdiction of the town until said plat has been approved and properly executed by the Town Official.

(Ord. §77, passed 1-26-2007)

#### §152.043 GUARANTEE OF IMPROVEMENTS.

- (A) Where the required improvements have not been completed prior to the submission of the plat for final approval, the approval of said plat shall be subject to the subdivider guaranteeing the installation of said improvements by one of the following methods (G.S. 160D-804.1):

For purposes of this section, all of the following apply with respect to performance guarantees:

- (1) Type. - The type of performance guarantee shall be at the election of the developer. The term "performance guarantee" means any of the following forms of guarantee:
  - a. ~~The subdivider shall obtain Filing a performance or surety bond payable to the town from a surety bonding Company authorized to do business in the state~~ issued by any company authorized to do business in the State of North Carolina, in an amount to be determined by the Town. The bond shall be payable to the Town of Sawmills, and its duration shall be until such time as the improvements are accepted by the Town Council; ~~or~~
  - b. ~~The subdivider shall obtain an Irrevocable Letter of Credit or certified check payable to the Town of Sawmills and sufficient documentation from a recognized financial institution.~~ Depositing or placing in escrow a certified check or cash issued by any financial institution licensed to do business in the State of North Carolina, in an amount

**Commented [AK12]:** Added Citation for performance guarantees

**Commented [AK13]:** The added text below are the requirements for performance guarantees as required by the State. There have been a few changes and more parameters added since the writing of the section. Probably the biggest change is that the amount of cannot exceed 125%, which Sawmills previously required 150%.



to be determined by the Town. Portions of the security deposit may be released as work progresses.

- c. Entering into an agreement with the Town guaranteeing the completion of the required work, said agreement to be binding on subsequent purchasers of the property and to be recorded at the option of the Town. The agreement shall provide that satisfactory security be furnished guaranteeing the completion of the necessary improvements before each section is developed.
- (1a) Duration. - The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.
- (1b) Extension. - A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the local government, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (3) of this subsection and shall include the total cost of all incomplete improvements.
- (2) Release. - The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the local government that the improvements for which the performance guarantee is being required are complete. The local government shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to local government acceptance. When required improvements that are secured by a bond are completed to the specifications of the local government, or are accepted by the local government, if subject to its acceptance, upon request by the developer, the local government shall timely provide written acknowledgement that the required improvements have been completed.
- (3) Amount. - The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The local government may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

- (3a) Timing. - A local government, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.
  - (4) Coverage. - The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.
  - (5) Legal responsibilities. - No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:
    - a. The local government to whom the performance guarantee is provided.
    - b. The developer at whose request or for whose benefit the performance guarantee is given.
    - c. The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.
  - (6) Multiple guarantees. - The developer shall have the option to post one type of a performance guarantee as provided for in subdivision (1) of this section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.
  - (6) Exclusion. - Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.
- (B) ~~The bond or letter of credit shall be accompanied by a signed construction contract from a recognized licensed contractor. Additionally said bond or letter of credit shall be equal to 150% of the entire cost of completing all required improvements, and shall be made payable and/or released in full, free and clear to the town upon failure on the part of the subdivider to complete the required improvements. The method of guarantee shall be approved by the Town Administrator or his or her designee. The duration of said method of guarantee shall be for a period of one year from the date of acceptance by the Subdivision Review Board and shall be subject to the completed improvements complying with the requirements of this chapter. If at the end of the one-year duration period the improvements have not been completed, the Subdivision Review Board may grant one 6-month extension. In order for the extension request to be considered the subdivider shall present to the Subdivision Review Board a revised letter of credit or bond stating that the project will be guaranteed for the duration of the extension, if granted. However these guarantees shall not be used to insure the construction of the following items:~~
- (1) Roadbeds;
  - (2) Required ditches;
  - (3) Drainage structures and/or facilities;
  - (4) Required seeding and grassing;
  - (5) Erosion control measures;
  - (6) Water Lines; or
  - (7) Sewer Lines

(Ord. §78, passed 1-26-2007)

## SURVEYING STANDARDS AND INSTALLATION OF IMPROVEMENTS

### §152.055 SURVEYING STANDARDS

- (A) Final plats shall be prepared by a Licensed Land Surveyor currently licensed in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. §47-30, as amended, and the *Manual of Practice for Land Surveying in North Carolina*.
- (B) Furthermore, all subdivision plats shall conform to all applicable town ordinances and the following additional requirements:
- (1) Minor subdivisions as defined by §152.035~~(B)~~~~(D)~~ shall be required to install two control comers;
  - (2) Major subdivisions as defined by §152.035~~(A)~~~~(C)~~ shall be required to install one control comer for each major subdivision, plus an additional control comer for each block as defined in §152.094 with a minimum of two control corners per major subdivision;
  - (3) All lots shall be surveyed to all property lines not right-of-way lines.

(Ord. §80, passed 1-26-2007)

Commented [AK14]: The two changes are where I recommended the 2 new statements for A and B in 152.035

### §152.056 INSTALLATION OF IMPROVEMENTS:

Before the Subdivision Review Board shall approve a final plat for recording, the subdivider shall have guaranteed the installation or complied with the following requirements:

- (A) *Road Improvements.* All dedicated roads which are to be publicly maintained shall be constructed in accordance with the specifications and standards established by the NCDOT for acceptance on to the State Highway System unless otherwise noted in §§152.075 through 152.097, 152.110 through 152.116 and 152.130 through 152.132. All dedicated roads which are to be privately maintained shall be constructed in accordance with the specification contained within §§152.075 through 152.097, 152.110 through 152.116 and 152.130 through 152.132.
- (B) *Utilities:*
- (1) All private and community well water systems intended for connection the Town Water system shall first submit plans and specifications to the State Department of Environment and Natural Resources for approval. These systems shall also meet all standards required by the Town Public Works Department and/or Town Engineer.
  - (2) Plans for public and community sewer systems must be approved by the North Carolina Department of Natural and Economic Resources.



**§152.077 ROAD PROFILES.**

Road profiles indicating grades shall be submitted to the Subdivision Review Board.  
(Ord. §90.3, passed 1-26-2007)

**§152.078 CONTOUR MAPS.**

A contour map of a specified interval shall be provided for any subdivision when requested by the Town Council or Town Planning Department. Furthermore, preliminary subdivision designs shall be overlaid on the contour map.  
(Ord. §90.4, passed 1-26-2007)

**§152.79 LOTS.**

All lots shall front upon a dedicated and maintained road or street. This frontage shall be no less than 75 feet. Cul-de-sac lots (as defined by §152.005) shall be required to have a minimum of 35 feet of road frontage.  
(Ord. §90.5, passed 1-26-2007)

**§152.80 FLAG LOTS.**

Flag lots, as defined by §152.005, shall be allowed contingent upon the following:

- (A) The access drive to the "flag" portion of the lot must be constructed on the "flag pole" portion of the lot;
  - (B) No more than 5% of the total number of lots contained within a major subdivision as defined in §152.035 ~~(A)(C)~~ may be flag lots; however major subdivisions containing less than 20 lots shall be permitted to contain only one flag lot in their design;
  - (C) No more than two flag lots may share common property lines.
  - (D) Flag lots are not allowed in minor subdivisions or as part of an exception plat.
- (Ord. §90.6, passed 1-26-2007)

**Commented [AK15]:** The two changes are where I recommended the 2 new statements for A and B in 152.035

**§152.081 ACCESS TO ADJACENT PROPERTIES AND FUTURE ACCESS.**

Where it is logical to provide access to adjoining property, the required right-of-way shall be encouraged to be extended by dedication to the boundary of such property, and in the instance of strip development along transportation corridors, building lots shall be encouraged to be laid out as to provide for the opening of future roadways.  
(Ord. §90.7, passed 1-26-2007)

(10) *Building Permits.*

- (a) No building permits shall be issued for the PUD or phase, if a phasing schedule was approved, until the required physical infrastructure (streets, sidewalks, sewer lines, and the like) has been properly installed and inspected. The applicant/developer shall provide to the Town of Sawmills Planning Department a construction and inspection report certified by a professional engineer licensed in the state which verifies that the physical infrastructure has been installed as approved and inspected.
- (b) Unless stated at approval, the construction and development of all common areas and open space of each PUD or phase, if a phasing schedule was approved, shall be completed to coincide with the completion of structures. For example, when 25% of the structures are completed, then approximately 25% of the common areas and open space shall be required to be completed. Furthermore, a Certificate of Occupancy (CO) shall not be issued until and unless such common areas and open space have been completed.

(Ord. §95.3, passed 1-26-2007)

## VARIANCES

## §152.145 VARIANCES.

- (A) The Board of Adjustment may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Board shall make findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.
- (B) No variance shall be granted unless the Board finds that all of the following are met (G.S. 160D-705):
  - (1) ~~That there are special circumstances or conditions affecting the property such that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land;~~  
Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - (2) ~~That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;~~  
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) ~~That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this chapter; and~~  
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 is not a self-created hardship.
  - (4) ~~That the granting of the variance will not be detrimental to the public health, safety, and welfare or injurious to other property in the vicinity in which said property is located.~~

Commented [AK16]: Added citation and updated variance requirements

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

(Ord. §100, passed 1-26-2007)

§152.999 PENALTY.

- (A) *Generally.* Any person violating any provisions of this chapter for which no specific penalty is prescribed shall be subject to §10.99.
- (B) *Violation a misdemeanor.* Violations of these regulations shall be punishable as provided in **GS §160D-807**.

After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, thereafter subdivides his land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this ordinance and recorded in the Office of the Caldwell County Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. Building permits may be denied for lots that have been illegally subdivided. The Town of Sawmills through its attorney or other official designated by the Town Council may enjoin illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4.

1. The provisions of this section do not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision regulation or recorded with the register of deeds, provided the contract does all of the following:
  - i. Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.
  - ii. Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.
  - iii. Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.
  - iv. Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.
2. The provisions of this section do not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulation or recorded with the

Commented [AK17]: Below are exemptions for approved preliminary plats under 160D-807



register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision regulation and recorded with the register of deeds.

(Ord. §110, passed 1-26-2007)

Minor Modification language:

135.28 Minor modifications to a special use permit may be administratively approved by the zoning administrator if issues arise after the special use permit has been approved by the board of adjustment that keep the applicant from carrying out the strict interpretation of the ruling.

The Zoning Administrator is authorized to review and approve administratively a minor modification to an approved special use permit. Minor modifications include: reconfiguring parking design, changing landscaping or buffering arrangements, or slightly altering road and lot configurations for a development that has already gone through the full approval process. Minor modifications are subject to the following limitations.

1. General Limitations. The minor modification:
  - i. Does not involve a change in uses permitted or the density of overall development permitted;
  - ii. Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and
  - iii. Meets all other ordinance requirements.
  - iv. An adjustment to landscape standards up to 10% percent of required landscaping.

**MEMO:** Chase Winebarger/Town Manager

**FROM:** Karen Clontz/Finance Officer

**DATE:** 3/9/2021

**SUBJECT:** Financial Matters:  
Water/Sewer/Sanitation  
Bad Debt Write Off

**Discussion:**

Attached is a list of accounts which have gone unpaid for Utility and Sanitation services during the calendar year 2017. The Town does not expect to collect payment. The total amount is \$6,735/28.

Included in this amount are 34 accounts with balances of \$50, and above, totaling \$4,791.85. These accounts have been submitted to the NC Debt Setoff Program for collection.

As of this writing, the Town has recovered \$6,786.46 from previous years.

There are sufficient funds budgeted for this reason.

**Recommendation:**

Staff recommends Council approve the bad debt write off amount of \$6,735.28.



	NAME	DATE	AMT OWED
1	TIM HICE	7/12/2017	\$54.89
2	STEVE HILDEBRAN	9/11/2017	\$133.60
3	THOMAS BRASWELL	4/7/2017	\$60.83
4	IBS	3/6/2017	\$46.50
5	TONY SUMMERLIN	12/20/2017	\$268.81
6	WENDY TAYLOR	4/7/2017	\$409.84
7	BOBBIE J LARKIN	8/7/2017	\$0.88
8	CATHERINE LUNSFORD	6/6/2017	\$59.35
9	EVER PINEDA VASQUEZ	12/7/2017	\$79.70
10	Joseph Barker Jr	12/21/2017	\$10.06
11	ELLEN D DOTSON	3/10/2017	\$266.91
12	JULIE PERKEY	7/6/2017	\$34.08
13	KATIE CARTY	9/7/2017	\$144.13
14	LINDSAY HOLMAN	12/7/2017	\$10.06
15	CYNTHIA HUDSON	8/1/2017	\$19.70
16	MEGAN BYRD	2/8/2017	\$12.88
17	SARAH JOHNSON	7/5/2017	\$34.08
18	OLA HOLSTEAD	8/1/2017	\$0.88
19	MARY TEAGUE	10/11/2017	\$51.79
20	LEONARD SABATINO, JR	10/11/2017	\$225.69
21	MISTY MCKEE	10/11/2017	\$71.16
22	SERENA A FULCHER	7/12/2017	\$38.35
23	DONNA HAAS	10/12/2017	\$90.86
24	TERESA ANDREWS	5/19/2017	\$30.85
25	Kenneth Potter	12/21/2017	\$32.20
26	ANGELA TAYLOR	2/23/2017	\$15.85
27	JESSICA JEPSON	5/8/2017	\$49.35
28	Linda Gail Bowlin	7/24/2017	\$98.05
29	LINDA NORRIS	11/17/2017	\$50.06
30	Carolina Locust	10/16/2017	\$17.60
31	JOSEPH M SOUTH	8/7/2017	\$54.18
32	FRANCIS COFFIN	8/7/2017	\$54.18
33	SCOTT ELLER	7/13/2017	\$34.20
34	JESSICA TOWNSEND	8/7/2017	\$44.80
35	KURTIS KUNKLE	11/29/2017	\$146.09
36	Shelby Kerley	12/21/2017	\$72.41
37	DOROTHY HOLSCLOW	12/18/2017	\$25.95
38	VFC Property	12/21/2017	\$212.55
39	MILLIE MCCARTHY	3/6/2017	\$40.83
40	LISA DAWN MILLER	9/29/2017	\$118.48
41	SHERRY MONK	5/15/2017	\$39.00
42	AMANDA M HUDGINS	6/6/2017	\$85.85
43	Misty Vess	12/21/2017	\$109.90
44	LISA PARLIER	2/3/2017	\$38.35
45	ANGEL ORTIZ ORTEGA JR	7/12/2017	\$210.48

46	KAYLA NELSON	2/8/2017	\$85.85
47	CHRISTY L RIVERA	4/21/2017	\$44.38
48	DEREK TRIVETT	5/17/2017	\$24.43
49	SHIRLEY REGISTER	8/7/2017	\$4.45
50	TRACIE WORLEY	8/9/2017	\$7.20
51	RANDY HAYES	3/10/2017	\$49.50
52	TONY BYRD	2/8/2017	\$153.78
53	JOHNNY WAYNE POTTS	6/6/2017	\$80.85
54	TAYLOR STOOT	12/4/2017	\$3.30
55	BRITTANY BENGE	5/1/2017	\$7.00
56	MEGAN LAMBERT	6/16/2017	\$4.35
57	APRIL PARLIER	10/12/2017	\$37.56
58	TAMARA EARP	8/14/2017	\$72.35
59	Peggy Frazier	12/21/2017	\$11.93
60	ROBERT VINCENT	10/11/2017	\$38.23
61	KEISHA SHROPSHIRE	3/3/2017	\$39.00
62	RANDLE K POE	7/12/2017	\$22.85
63	JESSICA MORGAN	5/8/2017	\$22.85
64	JOSHUA L HOLMAN	5/8/2017	\$13.93
65	MELISSA ROLL	4/7/2017	\$249.33
66	ASHLEY DULA	2/8/2017	\$32.64
67	THE RELIABLE GROUP, LLC	9/28/2017	\$95.54
68	SYLAS RAY FARMER	8/2/2017	\$7.20
69	STEPHEN OLIVER	8/7/2017	\$3.50
70	MANUEL R CULLAR	8/1/2017	\$4.45
71	LYNETTE HALL	5/1/2017	\$8.50
72	RAYMOND MATHIS	9/7/2017	\$51.79
73	SIERRA HOLSCLOW	2/8/2017	\$34.08
74	SHAWN HOPPER	7/11/2017	\$37.00
75	Norma Goodlake	12/21/2017	\$133.61
76	ROGER LEE POARCH	7/12/2017	\$4.35
77	TIMOTHY WAYNE GREENE	4/3/2017	\$57.85
78	KRISTIE HODGE	4/6/2017	\$18.00
79	TRAVIS MELTON	1/17/2017	\$7.00
80	EUNICE ANN TESTER	7/12/2017	\$22.85
81	RICHARD MCFALLS	2/6/2017	\$22.00
82	Pamela Laws	12/21/2017	\$42.56
83	LOGAN HOLLINGSWORTH	2/8/2017	\$4.19
84	MICHAEL SCHWARTZ	3/6/2017	\$43.85
85	ANGELA CHURCH	9/7/2017	\$32.38
86	WILLIAM STEVEN WRIGHT	9/25/2017	\$6.60
87	EMILY MCMICKLE	4/3/2017	\$59.84
88	CECIL WILLIAMS	10/11/2017	\$91.53
89	JORDAN WINKLER	7/6/2017	\$22.85
90	CAROLINA HERITAGE REALTY	2/22/2017	\$25.85
91	HASKEL CARMACK	4/7/2017	\$1.33
92	DOUG HICKS	11/7/2017	\$52.41

93	VICTOR DAVIS	10/5/2017	\$65.54
94	LACI CAPE	4/7/2017	\$43.85
95	JAMES BRANDON LAUGHTER	7/12/2017	\$77.20
96	Angela Lefevers	7/31/2017	\$0.88
97	SANDRA DEVAN	8/7/2017	\$90.55
98	BRITTANY WALLACE	5/8/2017	\$23.38
99	Brittany Pyatte	11/7/2017	\$91.53
100	RONNIE BURCHETTE	6/6/2017	\$78.18
101	JONATHAN HOLTSCALW	6/6/2017	\$37.85
102	Pearl Buchannan	12/21/2017	\$41.72
103	Donald Mills Jr	12/21/2017	\$16.94
104	DEBBIE YOUNCE	10/2/2017	\$79.70
105	Shelbie Townsend	12/21/2017	\$131.58
106	LATASHA TRIPLET	8/8/2017	\$26.45
107	COLTON WATSON	9/7/2017	\$11.93
108	Shelia Vasquez	9/5/2017	\$88.66
109	Chasity Taylor	12/21/2017	\$18.66
110	SUZANNE DUCKWORTH	9/8/2017	\$15.06
111	MARY NELSON	12/7/2017	\$192.51
			\$6,735.28

Accounts with a balance due of \$50, or greater,  
has been submitted to the NC Debt Setoff for  
collection.

Total: \$4,791.85



## **AGENDA ITEM 11B**

### **MEMO**

#### **DATE:**

March 16, 2021

#### **SUBJECT:**

Discussion:  
Meter Charge for  
Replacement Meters

#### **Discussion:**

Since changing to the new AMI meters last year, Public Works has had to go change several meters due to customer negligence. The new AMI meters have an approximate value of four hundred dollars (\$400.00). Staff would like for Council to approve a meter replacing fee of five hundred dollars (\$500.00), which would include the cost of the AMI meter and labor for any meters that have to be replaced due to customer negligence.

Also, staff would like for Council's guidance in how to collect for the replacement meters. Would staff invoice the customer for the meter and wait for payment, or would staff require the customer to pay for the meter before install?

#### **Recommendation:**

Staff recommends Council discuss this matter and decide how they wish to proceed.

## AGENDA ITEM 11C

### MEMO

#### DATE:

March 16, 2021

#### SUBJECT:

Discussion:  
Reconnect Fees for  
Sanitation Only Accounts

#### Discussion:

During disconnects, Public Works has to pick up sanitation cans due to nonpayment, only to have to go and return the can in the next few days. All accounts are charged a reconnect fee or given an option to pay two (2) months bills (the past due amount and the following month) except for sanitation only accounts. Sanitation only accounts only have to pay the past due amount and Public Works then returns the customers can. Staff would like to charge a reconnect fee of twenty dollars (\$20.00) for the time to pick up the can, return of the can and for storage of the can, or give the sanitation customer the option to pay two (2) months bills, to try and discourage nonpayment of the sanitation bill.

#### Recommendation:

Staff recommends Council discuss this matter and decide how they wish to proceed.

## **AGENDA ITEM 11D**

### **MEMO**

#### **DATE:**

March 16, 2021

#### **SUBJECT:**

Discussion:  
Special Pick-Up Limits

#### **Discussion:**

Public Works and office staff has noticed an increase in the number of special pick-ups for sanitation and brush. There are multiple locations that call a special sanitation pick-up weekly. The Town does not charge for special sanitation pick-ups because in the past the Town picked up the sanitation and went to the landfill on a regular basis. Now Public Works is having to make trips to the landfill daily because of all the special sanitation and brush pick-ups, which is costing the Town in tipping fees, fuel and truck maintenance charges. Staff would like to limit the amount of special pick-ups to six (6) free pick-ups a year, which can be any combination of sanitation and brush (that meets the standard requirements), and then charge for any additional pick-ups after the initial six (6) at a cost of seventy-five dollars (\$75.00) per special pick-up.

#### **Recommendation:**

Staff recommends Council discuss this matter and decide how they wish to proceed.



## AGENDA ITEM 11E

### MEMO

#### DATE:

March 16, 2021

#### SUBJECT:

Discussion:  
Brush Pick-Up Policy

#### Discussion:

The current brush pick-up policy that:

1. Due to the volume of requests, work orders for brush pickup are handled in the order that they are received. When possible, brush pickup will take place within three (3) business days of receipt of the work order. If not possible to attend to within three (3) business days, brush will be collected as soon as possible.
2. *Brush will only be collected if it is left on the curb with all cut ends turned toward the street.*
3. *No brush from commercial tree trimming companies will be accepted or any brush from out of town.*
4. Limbs should be no larger than four (4) inches in diameter and the entire brush pile should be no longer than five (5) foot wide by five (5) foot tall by twelve (12) long. *Tree trunks, logs, and stumps will not be collected and must be separated out from the brush to be collected.*
5. There will be no charge for brush pick up, unless the brush pile is larger than standard requirements. If larger than standard requirements and/or, the pile in question takes two (2) employees longer than thirty (30) minutes to clean up; there will be a minimum charge of seventy-five dollars (\$75.00).

If it takes longer than one (1) hour, there will be an additional fee of seventy-five dollars (\$75.00) per hour or portion thereof.

#### **All fees must be paid in advance.**

For the past few years, staff has been able to dispose of the brush locally for a monthly cost, but that place has now closed and staff is having to take brush to the Caldwell County Landfill. The cost for the tipping fees on brush is fifty dollars and one cent (\$50.01) per ton. With the increase of cost for tipping fees, fuel and maintenance, the Town can no longer afford to pick up brush larger than a standard pile for free. Staff would like for Council to consider changing the brush pick-up policy to the following:

1. Due to the volume of requests, work orders for brush pickup are handled in the order that they are received. When possible, brush pickup will take place within three (3) business days of receipt of the work order. If not possible to attend to within three (3) business days, brush will be collected as soon as possible.
2. *Brush will only be collected if it is left on the curb with all cut ends turned toward the street.*
3. *No brush from commercial tree trimming companies will be accepted or any brush from out of town.*
4. Limbs should be no larger than **three (3)** inches in diameter and the entire brush pile should be no longer than five (5) foot wide by five (5) foot tall by twelve (12) long. *Tree trunks, logs, and stumps will not be collected and must be separated out from the brush to be collected.*
5. There will be no charge for brush pick up, unless the brush pile is larger than standard requirements. If larger than standard requirements there will be a minimum charge of **one hundred fifty dollars (\$150.00) per trip.**

**All fees must be paid in advance.**

**Recommendation:**

Staff recommends Council discuss this matter and decide how they wish to proceed.

**AGENDA ITEM 13A**

**MEMO**

**DATE:**

March 16, 2021

**SUBJECT:**

Updates:  
Code Enforcement  
Monthly Report

**Discussion:**

The attached report shows the progress that Planner Dustin Millsaps continues to make throughout the town.

**Recommendation:**

No Council action required.



Code Enforcement Report			
Property Address	Property Owner	Issue	Notes
4486 SAWMILLS SCHOOL RD	TERESA ANNAS COMPTON	Abandoned Mobile Home/Garbage and Rubbish	Complaint Received 1/13/20. Letter was sent on 1/16. Deadline of 1/28. Trailer is not finished and located on the same property of the Compton house that was abated in 2018. Staff will investigate and work with attorney for possible courses of abatement. One of the sons of Ms. Compton is scheduled to meet with staff in February to work towards getting the property in his name and get the property cleaned up. Staff has yet to speak with any representative of this property. Dustin-9/10 Went by the house, still in same condition with extremely tall grass. Abatement is still recommended. 11/30/20 Have been in contact with Terry Taylor to get all evidence for this property done with the previous planner. 2/19/21 Have started the title search process with Terry Taylor. 3/11/2021 From the title search we were able to find the location on the three heirs.
4095 GATEWOOD DR	DENISE DOTSON/WILLIAM S ANNAS II	Abandoned Mobile Home/Minimum Housing	Complaint Received 3/5/20. A regular letter and a certified letter was sent on 3/5. Deadline of 3/23/2020. Trailer has been spray painted and has an apparent tenant. However, Water meter was pulled from property. Property was cleaned up. However, Mr. Anna's informed me that a new tenant has moved into the mobile home. Second letter was sent 5/15/2020 for additional garbage on property. Deadline is 6/15/2020. Staff will investigate and work with attorney for possible courses of abatement. Dustin-9/10 All garbage is picked up, however the house has multiple windows smashed out. This is a minimum housing issue. 11/5/20 Have spoken with property owner, he plans on removing the trailer. 11/19/20-Tried getting in contact with owner 4 times before he answered again, told him he would have to pursue moving the trailer or fines will occur for him. 12/8/20 Property owner has been in contact with lawyers about getting the trailer removed from the property. 1/7/2021 Property owner still has not worked with property owner because the lawyer has been quarantined multiple times. 2/7/2021 Talked to the property owner again and he said that he is in talks with his lawyer still about getting this issue handled.
4438 JESS DR	ANNIE NEWTON/AUSTIN MARY	RUBBISH	Complaint received 2/25/21. Trash was seen piling up on the porch, issue was fixed immediately.
	Open Violation		
	Open Violation (Older Than 60 Day)		
	Open Violation (In Limbo)		
	Successfully Closed Violation		