

# ZONING ORDINANCE

TOWN OF EAST BEND  
NORTH CAROLINA

Adopted 10-12-2015

By the Town of East Bend

Larry Adams

Mayor

Zoning Ordinances  
Town of East Bend, North Carolina

Zoning Ordinances  
Town of East Bend, North Carolina

<b>ARTICLE I TITLE .....</b>	<b>1</b>
<b>ARTICLE II AUTHORITY AND ENACTMENT.....</b>	<b>1</b>
<b>ARTICLE III JURISDICTION .....</b>	<b>1</b>
<b>ARTICLE IV DEFINITIONS.....</b>	<b>1</b>
SECTION 400     WORD INTREPRETATION.....	1
SECTION 401     DEFINITIONS.....	2
<b>ARTICLE V ADMINISTRATION, ENFORCEMENT AND APPEALS .....</b>	<b>11</b>
SECTION 500     THE GENERAL PROCESS AND THE DUTIES OF THE ZONING.....	11
ADMINISTRATOR, BOARD OF ADJUSTMENT, PLANNING BOARD, BOARD OF COMMISSIONERS AND COURTS ON MATTERS OF ADMINISTRATION.....	11
SECTION 501     ZONING ADMINISTRATOR.....	11
501.01 DUTIES.....	11
SECTION 502 CERTIFICATE OF ZONING COMPLIANCE REQUIRED .....	12
502.01 Applications for Certificate of Zoning Compliance .....	12
502.02 Fees .....	12
SECTION 503     BUILDING PERMIT REQUIRED.....	12
SECTION 504     CERTIFICATE OF OCCUPANCY REQUIRED.....	12
SECTION 505     CONSTRUCTION PROGRESS.....	13
SECTION 506     COMPLIANCE.....	13
SECTION 507     APPEAL FROM THE ZONING ADMINISTRATOR .....	13
SECTION 508 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS PLANS PERMITS AND CERTIFICATES OF ZONING COMPLIANCE.....	13
<b>ARTICLE VI ZONING BOARD OF ADJUSTMENT .....</b>	<b>14</b>
SECTION 600 ESTABLISHMENT OF ZONING BOARD OF ADJUSTMENT .....	14
SECTION 601     POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT.....	14
601.01 Interpretation .....	14
601.02 Administrative Review .....	14
601.03 Conditional Uses.....	14
601.04 Variances.....	15
SECTION 602     PROCEEDINGS OF THE BOARD OF ADJUSTMENT.....	17
602.01 Rules of Procedure .....	17
602.03 .....	18

Zoning Ordinances  
Town of East Bend, North Carolina

602.04	Quasi-Judicial Decisions and Judicial Review .....	18
602.05	.....	18
602.06	.....	18
602.07	Oaths .....	19
602.08	Subpoenas.....	19
602.09	"Conflict of Interest" .....	19
SECTION 603	EFFECTIVE APPLICATION OF ORDINANCE .....	19
<b>ARTICLE VII ESTABLISHMENT OF ZONING DISTRICTS AND MAP .....</b>		<b>20</b>
SECTION 700	USE DISTRICTS .....	20
SECTION 701	ESTABLISHMENT OF DISTRICT BOUNDARIES ON ZONING MAP .....	20
SECTION 703	RULES GOVERNING DISTRICT BOUNDARIES .....	20
703.01	.....	20
703.02	.....	20
703.03	.....	20
703.04	.....	20
703.05	.....	21
703.06	.....	21
703.07	.....	21
<b>ARTICLE VIII USE REQUIREMENTS BY DISTRICT .....</b>		<b>22</b>
SECTION 800	R1, R2, RMF, Residential Districts .....	22
800.03	.....	23
800.04	.....	23
800.06	UNCONFINED PETS .....	23
SECTION 801	HC & CS BUSINESS DISTRICTS.....	24
801.01	.....	24
801.02	.....	24
801.03	.....	25
801.04	.....	25
801.05	.....	25
801.09	Design Requirements for Metal Buildings .....	25
SECTION 802	I-1 INDUSTRIAL DISTRICT .....	26
802.01	.....	26
802.02	.....	26
802.03	.....	26

Zoning Ordinances  
Town of East Bend, North Carolina

802.04 .....	26
802.05 .....	26
TABLE OF PERMITTED USES .....	27
<b>TABLE OF PERMITTED USES .....</b>	<b>28</b>
<b>ARTICLE IX DIMENSIONAL AND LANDSCAPING REQUIREMENTS.....</b>	<b>32</b>
SECTION 900     USE .....	32
SECTION 901     HEIGHT AND DENSITY .....	32
SECTION 902     LOT SIZE.....	32
SECTION 903     DOUBLE FRONTAGE LOTS .....	32
SECTION 904     REQUIRED YARDS AND OTHER SPACES.....	32
SECTION 905     ONE PRINCIPAL BUILDING ON A LOT.....	32
SECTION 906     SCREENING REQUIREMENTS (Fencing, Retaining Walls, & Berms) .....	32
SECTION 907     R1, R2, RMF RESIDENTIAL DISTRICTS.....	33
907.01     Accessory Buildings.....	33
SECTION 908     HC & CS BUSINESS DISTRICTS.....	33
908.01     Side Yard Setback.....	33
908.02     Rear Yard Setback .....	34
SECTION 909     I-1 INDUSTRIAL DISTRICT.....	34
909.02     Rear Yard Setback .....	34
SECTION 910     TABLE OF DIMENSIONAL REQUIREMENTS BY DISTRICTS.....	35
<b>ARTICLE X SIGNS .....</b>	<b>36</b>
1000     INTENT .....	36
1001     APPLICABILITY .....	36
1002     GENERAL PROVISIONS .....	36
1002.01     Construction Standards .....	36
1002.02     Electrical Standards.....	37
1002.03     Maintenance of Signs.....	37
1002.04     Obstructions Prohibited.....	37
1002.05     Relation to Other Building Elements .....	37
1002.06     Sign Lighting .....	37
1003     SIGN HEIGHT COMPUTATION .....	38
1004     SIGN AREA COMPUTATION.....	38
1005     SIGN AREA COMPUTATION FOR MULTI-FACED SIGNS .....	38
1006     FORFEITURE OF ILLEGAL SIGNS PLACED ON OR OVER PUBLIC PROPERTY .....	38

Zoning Ordinances  
Town of East Bend, North Carolina

1007	MAINTENANCE AND REMOVAL OF SIGNS .....	38
1008	SIGN PLACEMENT.....	39
1008.01	In General.....	39
1008.02	Wall Signs .....	39
1008.03	Freestanding Signs .....	39
1008.04	Temporary Signs .....	40
1008.05	Sandwich or Menu Board Signs .....	40
1008.06	Monument Sign Design Requirements .....	45
1008.07	Pole Sign Design Requirements .....	46
1009	PERMANENT SIGNS LIMITED.....	47
1009.01	Application of Ordinance .....	48
1010	TEMPORARY SIGNS LIMITED .....	48
1010.01	Temporary Signs Permitted Without a Permit.....	48
1010.02	Temporary Signs Requiring a Permit .....	49
	1010.03 Application of Ordinance .....	51
1011	PROHIBITED SIGNS .....	51
1012	ENFORCEMENT OF REGULATIONS.....	52
	<b>ARTICLE XI GENERAL PROVISIONS .....</b>	<b>53</b>
SECTION 1100	NECESSARY REPAIRS PERMITTED.....	53
SECTION 1101	STREET ACCESS.....	53
SECTION 1102	VISIBILITY AT INTERSECTIONS .....	53
SECTION 1103	VACANT LOTS .....	53
SECTION 1104	TRAVEL TRAILERS AND RECREATIONAL VEHICLES .....	53
SECTION 1105	SEDIMENTATION CONTROL .....	53
SECTION 1106	NONCONFORMANCES.....	53
1106.01	Nonconforming Vacant Lots .....	54
1106.02	Nonconforming Occupied Lots .....	54
1106.03	Nonconforming Open Uses of Land.....	55
1106.04	Nonconforming uses of structures .....	55
1106.05	Nonconforming Structures .....	56
1106.06	Reconstruction of Damaged Buildings or Structures.....	56
1106.07	Continuation of Mobile Home Parks.....	56
1106.08	Continuation of Mobile Homes on Individual Lots .....	57
1106.09	Nonconforming Uses of Manufactured Homes .....	57

Zoning Ordinances  
Town of East Bend, North Carolina

1106.09 Nonconforming Manufactured Homes.....	58
1106.11 Reconstruction of Damaged Manufactured Homes .....	58
<b>ARTICLE XII PARKING AND OFF-STREET LOADING.....</b>	<b>60</b>
SECTION 1200 OFF-STREET PARKING.....	60
1200.01 Combined Parking Spaces.....	63
1200.02 Location on Other Property .....	63
SECTION 1201 OFF-STREET LOADING AND UNLOADING SPACE .....	64
<b>ARTICLE XIII EXCEPTIONS AND MODIFICATIONS .....</b>	<b>65</b>
SECTION 1300 FRONT YARD SETBACK FOR DWELLING .....	65
SECTION 1301 SIDE YARD SETBACK FOR DWELLING .....	65
SECTION 1302 HEIGHT LIMITATIONS.....	65
SECTION 1303 COMPLETION OF BUILDINGS UNDER CONSTRUCTION.....	65
SECTION 1304 TEMPORARY USES.....	65
SECTION 1305 PROJECTIONS INTO REQUIRED OPEN SPACE .....	66
SECTION 1306 RIGHTS-OF-WAY.....	66
SECTION 1307 GROUP DEVELOPMENTS.....	66
1307.01 .....	66
1307.02 .....	Error! Bookmark not defined.
1307.03 .....	Error! Bookmark not defined.
1307.04 .....	Error! Bookmark not defined.
1307.05 .....	67
1307.06 .....	67
1307.07 .....	67
<b>ARTICLE XIV AMENDMENTS .....</b>	<b>67</b>
SECTION 1400 AMENDMENTS .....	67
SECTION 1401 INITIATION AND REFERRAL OF AMENDMENTS.....	67
SECTION 1402 APPLICATION.....	67
SECTION 1403 PLANNING BOARD ACTION .....	68
SECTION 1404 PUBLIC HEARING .....	68
SECTION 1405 PROTEST PETITIONS .....	69
SECTION 1406. ACTION BY THE BOARD OF COMMISSIONERS .....	69
SECTION 1407 APPLICATION FEE .....	70
<b>ARTICLE XV VIOLATIONS, PENALTIES AND REMEDIES .....</b>	<b>71</b>

Zoning Ordinances  
Town of East Bend, North Carolina

SECTION 1500	GENERAL AUTHORITY FOR ENFORCEMENT OF ZONING ORDINANCES AND REGULATIONS .....	71
SECTION 1501	CIVIL PENALTY--PROCEDURE.....	71
SECTION 1502	INJUNCTION AND ABATEMENT.....	72
SECTION 1303	METHOD OF ENFORCEMENT .....	73
<b>ARTICLE XVI LEGAL STATUS PROVISIONS AND EFFECTIVE DATE.....</b>		<b>74</b>
SECTION 1600	SEVERABILITY .....	74
SECTION 1601	CONFLICT WITH OTHER LAWS .....	74
SECTION 1602	APPLICABILITY TO GOVERNMENTAL BUILDINGS .....	74
<b>ARTICLE XVII WATERSHED PROTECTION.....</b>		<b>75</b>
Section 1700 Establishment of a Watershed Overlay District .....		75
Section 1701	Definitions.....	75
1701.01	Agricultural Uses .....	75
1701.02	Animal Units.....	75
1701.03	Best Management Practices (BMP's).....	75
1701.04	Buffer .....	75
1701.05	Built-upon area .....	75
1701.06	Cluster or group development.....	75
1701.07	Development.....	76
1701.08	Discharging landfill.....	76
1701.09	Existing development.....	76
1701.10	Hazardous material.....	76
1701.11	Industrial development.....	76
1701.12	Landfill.....	76
1701.13	Non-residential development.....	76
1701.14	Protected Areas .....	76
1701.15	Residential development .....	77
1701.16	Structure .....	77
1701.17	Toxic substance .....	77
1701.18	Variance, major watershed.....	77
1701.19	Variance, minor watershed.....	77
1701.20	Water dependent structure.....	77
1701.21	Watershed Administrator .....	77
1701.22	Watershed.....	77

Zoning Ordinances  
Town of East Bend, North Carolina

Section 1702	Intent.....	78
Section 1703	Applicability.....	78
Section 1704	Exceptions to Applicability.....	78
Section 1705	Watershed Overlay District -WS-IV Protected Area .....	79
1705.01	Application .....	79
1705.02	Permitted Uses.....	79
1705.03	Prohibited Uses .....	79
1705.04	Density and built Upon Limits .....	79
Section 1706	Buffer Areas Are Required .....	80
Section 1707	Administration .....	80
1707.01	Recordkeeping .....	80
1707.02	Appeals.....	81
1707.03	Amendments.....	81
1707.04	Variances in the Watershed Overlay District .....	81
Section 1708	Notifications of Jurisdictions.....	82
Section 1709	Boundary Determinations.....	82
Section 1710	Effective Date .....	82
<b>ARTICLE XVIII MORATORIA.....</b>		<b>83</b>

Zoning Ordinances  
Town of East Bend, North Carolina

**Zoning Ordinances  
Town of East Bend, North Carolina**

**ARTICLE I  
TITLE**

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

**ARTICLE II  
AUTHORITY AND ENACTMENT**

In pursuance of the authority conferred by the North Carolina General Statutes, particularly Chapter 160A, Article 19, Part 3, the Board of Commissioners of the Town of East Bend, North Carolina, hereby ordains and enacts into law the following articles and sections for the purposes of lessening congestion in the streets; securing safety from fire, panic and other dangers; promotion health and the general welfare, providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; conserving the value of buildings and encouraging the most appropriate use of land through the Town of East Bend.

**ARTICLE III  
JURISDICTION**

The provisions of this ordinance shall apply within the corporate limits of the Town of East Bend specifically identified and delineated on the map entitled "The Official Zoning Map of the Town of East Bend, North Carolina." Said map and all explanatory material thereon is hereby made a part of this ordinance. The zoning ordinance and zoning map shall be maintained on file in the office of the Town Clerk.

**ARTICLE IV  
DEFINITIONS**

**SECTION 400 WORD INTREPRETATION**

Except as specifically defined herein, all words used in this ordinance shall have their customary dictionary definitions. For the purpose of this ordinance, certain words or terms used herein are defined as follows:

400.01        Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.

400.02        The word "Town" shall mean the Town of East Bend, North Carolina.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

- 400.03 The words "Board of Commissioners" shall mean the Board of Commissioners of the Town of East Bend, North Carolina.
- 400.04 The words "Planning Board" shall mean the Planning Board of the Town of East Bend, North Carolina.
- 400.05 The words "Board of Adjustment" or "Board" Shall mean the Zoning Board of Adjustment of the Town of East Bend, North Carolina.
- 400.06 The word "may" is permissive.
- 400.07 The word "shall" is mandatory.
- 400.08 The word "lot" includes the words "plot" or "parcel".
- 400.09 The word "structure" includes the word "building"
- 400.10 The words "used" or "occupied" as applied to any land or building shall be construed to include the meaning "intended, arranged or designed to be used or occupied".
- 400.11 The words "person" or "applicant" include a firm, association, organization, partnership, corporation, company, trust, individual, or government unit.
- 400.12 The word "street" includes the words "road" or "highway".
- 400.13 The words "ordinance" or "Zoning Ordinance" shall mean the Zoning Ordinance of the Town of East Bend, North Carolina.
- 400.14 The words "Zoning Map" shall mean "The Official Zoning Map of the Town of East Bend, North Carolina".

#### **SECTION 401 DEFINITIONS**

- 401.01 **Accessory Use or Structure** A use or structure customarily incidental and subordinate to the principal use or structure and located on the same lot with such principal use or structure.
- 401.02 **Alley** A public way which affords only a secondary means of access to abutting property and which is not intended for general traffic circulation.
- 401.03 **Apartment** A part of a building consisting of a room or rooms intended, designed or used as a residence by an individual or single family.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

- 401.04      **Apartment, Garage**    A part of a garage consisting of a room or rooms intended designed or used as a residence by an individual or single family.
- 401.05      **Bed and Breakfast** A dwelling unit or part thereof where the owner or operator shares a common facility, for profit, with individuals, on a temporary basis. Unlike a boarding house, individuals stay for a night or two rather than for weeks or months. This is a dwelling unit, not a commercial establishment such as a motel or hotel.
- 401.06      **Buffer Strip** A planting strip at least ten (10) feet in width, composed of evergreen trees or shrubs, which at maturity shall be not less than twelve (12) feet in height. The buffer strip shall be planted and maintained in healthy growing condition by the buffer strip. A fence with minimum height of six (6) feet, designed to obstruct the view may be required in some instances. No building or part of a building, no driveway or parking area shall occupy any part of the buffer strip.
- 401.07      **Buildable Area**        The portion of a lot remaining after required yards have been provided.
- 401.08      **Building**            Any structure having a roof supported by columns or walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such structure, with or without a roof, shall not be deemed to make them one building.
- 401.09      **Building, (Customary) Accessory**    A building located on the same lot with a principal building, subordinate to the principal building on the lot, and used for purposes clearly incidental to those of the principal building on the lot.
- 401.10      **Building Height**        The distance from the highest ground level at the foundation of the building to the highest point of the roof.
- 401.11      **Building Line**        A line fixed parallel to a lot line beyond which a building cannot extend under the terms of this ordinance. Included are front, side and rear building lines.
- 401.12      **Building, Principal**      A building in which is conducted the main or principal use of the lot on which said building is situated.
- 401.13      **Conditional Use**        A use, which is permitted in, specified zoning districts only after review by the Board of Adjustment and found to meet specific conditions and procedures as are now or hereafter set forth in this ordinance so as to maintain the safety and general welfare of the community. Such uses shall be permitted

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

only upon the issuance of a conditional use permit by the Board of Adjustment.

- 401.14      **Day Nurseries and Kindergartens**      A use of land and buildings to provide group care for children.
- 401.15      **District**      Any section of the Town of East Bend and its zoning jurisdiction within which regulations are uniform.
- 401.16      **Dwelling**      Any building or portion thereof which is designed for living and or sleeping purposes, excluding motels, hotels, rooming or boarding houses, tourist homes or other structures designed for transient residence.
- 401.17      **Dwelling, Multi-Family**      A building arranged or designed to be occupied by three (3) or more families living independently of each other.
- 401.18      **Dwelling, Single-Family**      A building arranged or designed to be occupied by one (1) family.
- 401.19      **Dwelling, Two-Family**      A building arranged or designed to be occupied by two (2) families living independently of each other.
- 401.20      **Dwelling Unit**      A building or portion thereof providing complete and permanent living facilities for one (1) family.
- 401.21      **Easement**      A grant by a property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.
- 401.22      **Family**      One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over five (5) persons.
- 401.23      **Fast Food**
- 401.24      **Flood**      A temporary rise in water levels or an accumulation of water runoff resulting in inundation of areas not ordinarily covered by water.
- 401.25      **Floodplain**      Any land susceptible to inundation by water from any source including, at a minimum, that area subject to a one-percent or greater chance of flooding in any given year.
- 401.26      **Floodway**      The channel of the stream and those portions of the adjoining floodplains which carry and discharge waters of a particular flood event.

Zoning Ordinances  
Town of East Bend, North Carolina

- 401.27      Flood Fringe      The area of a floodplain which is outside of the floodway.
- 401.28      Gross Residential Density The number of dwelling units to be built divided by the area of the tract being developed.
- 401.29      Group Care Facility      An establishment qualified for a license by the State of North Carolina to provide resident services to individuals of whom one or more are unrelated. Such individuals are handicapped, aged, and/or disabled, are undergoing rehabilitation or extended care, and are provided services to meet their needs by the group care facility. Group care facilities include group homes for all ages, halfway houses, and foster and boarding homes.
- 401.30      Group Development      A group of two (2) or more principal structures built on a single lot, tract or parcel of land not subdivided into the custom streets and lots and which will not be so subdivided, and designed for occupancy by separate families, businesses or other enterprises. Examples would be cluster-type subdivisions, row houses, apartment courts, housing projects, school and hospital campuses, shopping centers and industrial parks.
- 401.31      Home Occupation, Customary Incidental. An occupation conducted entirely within occupants thereof provided that a) The use of the dwelling unit for the home occupation shall be clearly incidental and secondary to the use of the dwelling for residential purposes, and such occupation shall be carried out solely within the main dwelling and shall not occupy more than twenty-five percent (25%) of the total floor space of the dwelling b) There shall be no display, no outside storage, no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than the signs permitted in each district; c) No more than two persons not in residence on the premises shall be employed in connection with the home occupation; d) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard; e) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot; f) In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- 401.32      Junkyard The use of six hundred (600) or more square feet of any lot or tract for the outdoor storage and/or sale of waste paper, rags, scrap, metal

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

or other such materials including storage or dismantling of motor vehicles or machinery.

- 401.33      **Lot** A parcel of land occupied or capable of being occupied by a building or group of building devoted to a common use, together with the customary accessories and open spaces belonging to the same.
- 401.34      **Lot, Corner** A lot which occupies the interior angle at the intersection of two (2) street lines. The street line forming the east frontage shall be deemed the front of the lot except where the two (2) street lines front equally, in which case the owner shall be required to specify the front of the lot when requesting a zoning compliance permit.
- 401.35      **Lot, Depth of** The average distance between front and rear lot lines.
- 401.36      **Lot Line** A line dividing one parcel of property from another parcel of property or from a street right-of-way.
- 401.37      **Lot Line, Front** The street right-of-way boundary at the front of the lot that is the line which separates the lot from the street at the front of the lot.
- 401.38      **Lot Line, Rear** That line of a lot, which is opposite and farthest from the front lot line. Where a lot abuts a street along the rear of the lot, the rear lot line shall be deemed to coincide with the street right of way boundary.
- 401.39      **Lot Line, Side** Any lot line which meets an end of a front lot line. Where a lot abuts a street along the side of the lot, the side lot line shall be deemed to coincide with the street right-of-way boundary.
- 401.40      **Lot of Record** Any lot for which a plat has been recorded in the Registry of Deeds of Yadkin County, or a lot described by metes and bounds, the description of which has been so recorded.
- 401.41      **Lot, Width of** The distance between side lot lines measured at the front building line.
- 401.42      **Manufactured Building** A building mass-produced in a factory either independently or as a module for combination with other elements to form a building onsite, and designed and constructed for transportation to a site for installation and use when connected to required facilities.
- 401.43      **Manufactured Home** A dwelling unit that (i) is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One-and Two Family Dwellings; (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

transported to the home site on its own chassis; and (iii) exceeds forty feet in length and eight feet in width.

401.44      **Manufactured Home** A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U. S. Department of Housing, Urban Development and the NCDOT that were in effect at the time of construction and that satisfies the following additional criteria:

CLASS A: The manufactured home has a length not exceeding four times its width; and

CLASS B: The manufactured home has a length not exceeding five (5) times its width; and

- (a) The manufactured home has never been titled or set up for occupancy; and
- (b) The manufactured home must have a shingle roof put in place by the manufacturer; and
- (c) The exterior consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint, wood, or hardwood; and
- (d) A continuous, permanent masonry curtain wall or foundation, unpierced except for ventilation and access, is installed under the manufactured home; and
- (e) The tongue, axles, removable towing apparatus, and transporting lights are removed after final placement on the site.

401.45      **Manufactured Home Class C** A manufactured home that does not meet the definition of either a Class A or a Class B manufactured home.

401.46      **Mobile building** A manufactured building constructed on a chassis and used for non-residential purposes. A mobile building shall be construed to remain a mobile building subject to all regulations applying thereto, whether or not wheels, axles, hitches or other appurtenances of mobility are removed, and regardless of the nature of the foundation provided.

401.47      **Mobile Home Park** A contiguous parcel of land under single ownership, which has been developed for the placement of, manufactured homes for non-transient use. Excluded from this definition are manufactured home sales lots on which unoccupied manufactured homes are parked for purposes of inspection and sale.

401.48      **Mobile Home Site** A plot of ground within a mobile home park designated for the accommodation and use of one (1) trailer or manufactured home and containing all improvements and utility connections required under this ordinance as well as all other applicable regulations.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

- 401.49      **Mobile Unit, Double Wide** For the purposes of this ordinance, a double wide mobile unit shall include only mobile buildings. A doublewide mobile unit consists of two (2) or more separate mobile buildings, which are designed to be connected on a site to form a single structure for one or more non-residential uses. The exterior dimensions of the doublewide mobile unit when assembled for use shall be not less than 32 x 24. Such a unit shall be placed on a permanent, enclosed foundation with the axles and pulling tongue removed.
- 401.50      **Modular home** A dwelling unit constructed in accordance with the construction standards of North Carolina Uniform Residential Building Code for One-and two- Family Dwellings and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly and placement on a permanent foundation. Without limiting the generality of the foregoing, a modular home may consist of two or more sections transported to the site on each one's own chassis or steel frame, or a series of panels or room sections transported to the site on a truck and erected, assembled, or joined there.
- 401.51      **Nonconformity or Nonconforming Use** Any parcel of land, use of land, building or structure, existing at the time of adoption or amendment of this ordinance, that does not conform to the requirements, use or dimensional of the district in which it is located.
- 401.52      **Parking Space** An area of not less than 200 square feet exclusive of necessary access and maneuvering space. Parking space(s) shall be provided with vehicular access to a street or alley, shall not be provided in a required front yard area, and shall always be located outside the dedicated street right-of-way.
- 401.53      **Restaurant** Any establishment selling prepared, ready to eat food.
- 401.54      **Retail Business** An establishment selling commodities and/or providing services directly to the consumer.
- 401.55      **Service Station** Any building or land used for the dispensing, sale, or offering for sale of any automobile fuels, lubricants, or tires, except that indoor car washing, minor motor adjustment, and tire repair may be performed only incidentally to the conduct of the facility.
- 401.56      **Setback** The required distance between any structure and the applicable lot line(s) (front, side or rear) of the lot on which the structure is located.

Zoning Ordinances  
Town of East Bend, North Carolina

- 401.57 **Shipping Container**. An article of transportation equipment, including one that is carried on a chassis, that is strong enough to be suitable for repeated use and is designed to facilitate the transportation of goods by one or more means of transportation and includes, but is not limited to, intermodal shipping containers, body of transport trailers, or straight truck boxes. These containers do not include any part of a motor vehicle.
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- 401.58 **Sign** Any outdoor notice containing words, letters, figures, numerals, emblems, devices, trademarks, or trade names, or combinations thereof.
- 401.59 **Sign Area** The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all elements of the matter displayed. However, in computing sign area only one (1) side of a double-faced sign structure shall be considered. Frames and structural members not bearing advertising matter shall not be included in computation of the surface area.
- 401.60 **Sign, Advertising** Any sign including a standard poster panel, either freestanding or attached to a structure which directs attention to a business, commodity, or service.
- 401.61 **Sign, Business Identification** A sign which directs attention to a business commodity, service, entertainment, or other activity conducted, sold or offered on the premises upon which the sign is located.
- 401.62 **Street** A public thoroughfare or right-of-way for vehicular traffic which affords a principal means of access to abutting properties.
- 401.63 **Street Line** The street right-of-way boundary, that is, the line which separates the street from the lot.
- 401.64 **Structure** Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something have a permanent location on the ground. The term “structure” includes, but is not limited to, buildings, fences, signs, sheds and towers.
- 401.65 **Temporary Use Structure** A non-residential structure intended for temporary offices headquarters or storage of materials on the same lot or tract of land being used or developed for a directly related permanent use.

Zoning Ordinances  
Town of East Bend, North Carolina

A temporary use structure shall require a temporary certificate of zoning.

- 401.66      Travel Trailer A structure that is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle, and (ii) is designed for temporary use as sleeping quarters, but that does not meet the definition of a manufactured home.
- 401.67      Travel Trailer Park A parcel of land designed and equipped to accommodate travel trailers and to serve as a campground.
- 401.68      Use The purpose or activity for which a piece of land or its structures is designed arranged, or intended, or for which it is occupied or maintained.
- 401.69      Use, Principal The main use of land or structures on a lot, as distinguished from an accessory use.
- 401.70      Variance A relaxation of the terms of the zoning ordinance which will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in an unnecessary and undue hardship. A variance may be granted only by the Zoning Board of Adjustment.
- 401.71      Yard A space on the same lot with a principal building which is open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.
- 401.72      Yard, Front A yard extending the full width of the lot on which a principal building is located and situated between the front lot line and a line parallel thereto passing through the nearest point of the building.
- 401.73      Yard, Rear A yard extending the full width of the lot on which a principal building is located and situated between the rear lot line and a line parallel thereto passing through the nearest point of the building.
- 401.74      Yard, Side A yard on the same lot as a principal building situated between the side lot line and a line parallel thereto passing through the nearest point of the building and extending from the front yard to the rear yard.
- 401.75      Zoning Administrator An official of, or person designated by the Town of East Bend, charged with enforcing and administering the zoning ordinance.

## **ARTICLE V**

### **ADMINISTRATION, ENFORCEMENT AND APPEALS**

## SECTION 500

# THE GENERAL PROCESS AND THE DUTIES OF THE ZONING ADMINISTRATOR, BOARD OF ADJUSTMENT, PLANNING BOARD, BOARD OF COMMISSIONERS AND COURTS ON MATTERS OF ADMINISTRATION

All questions arising in connection with the enforcement of this ordinance shall be presented first to the Zoning Administrator who shall be responsible for the day to day administration of this ordinance. The Board of Adjustment shall have the authority to rule on matters of interpretation of this ordinance, consider appeals from decisions of the Zoning Administrator, issue conditional use permits, and grant variances. Any appeal from a decision of the Board of Adjustment shall be to the courts as provided by law. The duties of the Board of Commissioners in connection with the ordinance shall not include the hearing and passing upon a disputed question that may arise in connection with the enforcement thereof, the procedure for determining such questions shall be as herein set out in this ordinance. The duties of the Board of Commissioners in connection with this ordinance shall consist of considering and passing upon the initial ordinance and any proposed amendments or repeal of this ordinance as provided by law, after receiving recommendations from the Planning Board.

## SECTION 501 ZONING ADMINISTRATOR

The Board of Commissioners shall appoint a Zoning Administrator. It shall be the duty of the duly appointed Zoning Administrator to administer and enforce the provisions of this ordinance.

## 501.01 DUTIES

The Zoning Administrator shall issue certificates of zoning compliance and certificates of occupancy as prescribed herein. The Zoning Administrator shall serve as clerk to the Board of Adjustment, and all applications for variances and conditions use permits shall first be presented to the Zoning Administrator who in turn shall refer the applications to the Board of Adjustment.

If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures, removal of illegal buildings or structures, or of additions, alterations or structural changes thereto di continuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a

**Zoning Ordinances  
Town of East Bend, North Carolina**

ruling of the Zoning Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

## **SECTION 502 CERTIFICATE OF ZONING COMPLIANCE REQUIRED**

No building or other structure shall be erected, moved, added to or structurally altered, nor shall any change in the use of any building or land be made until a certificate of zoning compliance shall have been issued by the Zoning Administrator. No certificate of zoning compliance shall be issued except in conformity with the provisions of this ordinance. Upon approval of a conditional use permit or variance by the Board of Adjustment, the Zoning Administrator shall issue certificate of zoning compliance for the specified purpose.

502.01 Applications for Certificate of Zoning Compliance All applications for certificates of zoning compliance shall be accompanied by plans showing the actual dimensions of the plot to be built upon, and the location on the lot of the building or structure proposed to be erected or altered, and such other information as may be necessary to provide for the enforcement of the provisions this ordinance.

502.02 Fees Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice, and similar material may be charged to applicants for zoning permits, zoning amendments, appeals, variances, and other administrative relief. The amount of such fees shall be fixed by the Town Board.

## **SECTION 503 BUILDING PERMIT REQUIRED.**

Upon receiving a certificate of zoning compliance, a building permit shall be obtained pursuant to the requirements of the North Carolina State Building Code.

## **SECTION 504 CERTIFICATE OF OCCUPANCY REQUIRED.**

A certificate of occupancy issued by the Zoning Administrator is required in advance of

- (1) Occupancy or use of a building hereafter erected, altered or moved.
- (2) Change of use of any building or land.

A certificate of occupancy, either for the whole or part of a building, shall be applied for coincident with the application for a certificate of zoning compliance and shall be issued within ten (10) days after the erection or structural alterations of such building, or part, shall have been completed in conformity with the provisions of this ordinance. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance. If the

**Zoning Ordinances  
Town of East Bend, North Carolina**

certificate of occupancy is denied, the Zoning Administrator 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 administrator and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved. In addition to the requirements of this section, a certificate of compliance is also required to be issued under the provisions of the North Carolina State Building Code.

**SECTION 505 CONSTRUCTION PROGRESS.**

If no construction progress has been made within six (6) months of the date of the issuance of the certificate of zoning compliance, the building permit becomes invalid.

**SECTION 506 COMPLIANCE**

In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building or land issued in violation of this ordinance, the Zoning Administrator or any other appropriate Town authority, in addition to other remedies, may institute an action for injunction or mandamus, or other appropriate action or proceedings to prevent such a violation.

**SECTION 507 APPEAL FROM THE ZONING ADMINISTRATOR**

All questions arising in connection with the enforcement of the ordinance shall be presented first to the Zoning Administrator, and such questions shall be presented to the Board of Adjustment only on appeal from a ruling of the Zoning Administrator. Any other, requirement, decision or determination made by the Zoning Administrator may be appealed to the Board of Adjustment pursuant to the procedure found in the rules of procedure of the Board of Adjustment. If anyone does not agree with the findings of the enforcement officer, and wants to appeal the decision to the Board of Adjustment, there will be \$50.00 fee paid to the Town of East Bend.

**SECTION 508 CONSTRUCTION AND USE TO BE AS PROVIDED IN  
APPLICATIONS PLANS PERMITS AND CERTIFICATES OF ZONING COMPLIANCE**

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use arrangement of construction at variance with that authorized shall be deemed a violation of his ordinance and punishable by Article XV.

## ARTICLE VI ZONING BOARD OF ADJUSTMENT

### SECTION 600 ESTABLISHMENT OF ZONING BOARD OF ADJUSTMENT

A Zoning Board of Adjustment is hereby established. The Zoning Board of Adjustment shall consist of five (5) regular members and two (2) alternate members. All Board members shall be citizens of the Town of East Bend and shall be appointed by the Board of Commissioners. Initial appointments to the Board shall be made as follows one (1) member for a term of three (3) years, two (2) members each for terms of two (2) years and two (2) members, each for terms of one (1) year. Two (2) alternate members shall also be appointed to serve three (3) years each shall be made. Vacancies occurring for reasons other than expiration of appointed terms shall be filled as they occur by the Board of Commissioners for the period of the unexpired term. Members shall serve without pay, but may be reimbursed for any expenses incurred while representing the Board. Regular attendance of the meetings of the Board is considered a prerequisite for maintenance of membership on the Board. Each alternate member, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

### SECTION 601 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT

The powers and duties of the Board of Adjustment shall be as follows.

601.01 Interpretation To interpret zoning maps and pass upon disputed questions of lot lines or district boundary lines and any other questions of interpretation that may arise in the administration of this ordinance.

601.02 Administrative Review To hear and decide special and conditional use permits, appeals from any other requirement decision or determination made by the Zoning Administrator in the enforcement of this ordinance.

601.03 Conditional Uses To grant in particular cases and subject to appropriate condition and safeguards following quasi-judicial procedures as provide by state statute permits for conditional uses as authorized by this ordinance and set forth as conditional uses under the various use districts. [G.S.160A-381(c)]

(1) When a conditional or special use permit is required by the terms of this ordinance application for such a permit shall accompany the application for a zoning compliance permit. The application shall be transmitted immediately to the Board of Adjustment which shall refer it to the Planning Board for review and recommendations prior to the public hearing.

(2) If the Board of Adjustment shall find, after a public hearing, that in the circumstances of the particular application, the use for which the conditional use permit is sought; a) will not adversely affect the health or safety of

Zoning Ordinances  
Town of East Bend, North Carolina

persons residing or working in the neighborhood of the proposed use, b) will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood and c) conforms to the conditions specified for the particular use under Article VIII of this ordinance, it shall issue a conditional use permit. In granting such a permit the Board of Adjustment shall designate such conditions in connection therewith as will in its opinion, assure that the use will conform to the requirements of this ordinance.

- (3) If at any time after a conditions use permit has been issued for any conditional or special use, the Board of Adjustment finds that the conditions imposed the agreements made have not been or are not being fulfilled by the holder of the permit, the permit shall immediately be terminated and the operation of such a use discontinued. If the permit is terminated for any reason it may be reinstated only after a public hearing is held.
- (4) The Board of Adjustment shall describe, in its rules of procedure, the specific procedure, which shall be utilized for the purpose of processing an application for a conditional use permit.

601.04 Variances To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will, in an individual case, result in practical difficulty or unnecessary hardship, and so that the spirit of the ordinance shall be observed, public safety and welfare secured , and substantial justice done Such variance may be granted in such individual case of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist:

- (a) A written application for a variance is submitted demonstrating:
  1. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of these regulations such that no reasonable use of the property can be made without a variance. This shall be construed to mean:
    - a) There are extraordinary and exceptional conditions pertaining to the particular place or property in question because of its location, shape or topography that are unrelated to personal circumstances and/or hardships that are conditions common to the neighborhood or general public;
    - b) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located;
    - c) A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other-residents of the district in which the property is located;

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

- d) The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare;
  - e) The special circumstances are not the result of the actions of the applicant or property owner;
  - f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure;
  - g) The variance is not a request to permit a use of land, building or structure which, is not permitted by right or by conditional use in the district involved; AND/OR
  - h) A nonconforming use of neighboring land, structures or buildings in the same district, and permitted uses of land, structures or buildings in other districts will not be considered grounds for the issuance of a variance.
- (b) Notice of public hearing shall be given as required by state statute for quasi-judicial decisions, as stated in NC G.S. 160A-388(a2). At the public hearing any party may appear in person or by agent or by attorney.
  - (c) The Board of Adjustment shall make findings that all requirements have been met for a variance.
- (d) The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum one that will make possible the reasonable use of the land, building or structure.
  - (e) 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 ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- (f) In granting any variance, the Board of Adjustment may prescribe appropriate, reasonable conditions and safeguards in conformity with this ordinance. Violation of the conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance.
  - (g) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in the district involved. {G.S. 160A-381(bl);160a-388(d)}

Zoning Ordinances  
Town of East Bend, North Carolina

**SECTION 602 PROCEEDINGS OF THE BOARD OF ADJUSTMENT.**

- 602.01 Rules of Procedure The Board of Adjustment shall adopt rules of procedure separate from this ordinance which shall, at a minimum, provide for a) general rules, b) officers and duties, c) alternate members, d) rules of conduct for members, e) meetings, f) zoning appeals and applications, and g) amendments. Such rules of procedure shall accompany but shall not be made part of this zoning ordinance. Such rules shall be consistent both with this ordinance and the provisions of Chapter 160A, Article 19, Part 3 of the North Carolina General Statutes. All meetings of the Board shall be open to the public and minutes shall be kept of all meetings.
- 602.02 Appeals The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by the zoning Administrator. The Zoning Administrator shall forthwith notify the affected property owner via personal delivery, electronic mail, or first-class mail about the Board of Adjustment's decision regarding their property. An appeal may be taken by any person aggrieved or by an officer, department, board, or bureau of the town. Affected parties have thirty (30) days from receipt of the written notice of the Board of Adjustment's ruling(s) to appeal the decision. Appeals must be filed with the Town Clerk and specify the grounds of the appeal. The affected property owner may elect to erect sign on the property of subject that reads "Zoning Decision". This sign shall have letters at least six (6) inches in height and the contact information of the Town's Zoning Administrator, provided the sign is erected for ten (10) days or longer. The sign must conform with the requirements of temporary signs, as specified in Article X, Section 10.

The Zoning Administrator shall transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment, after notice of appeal has been filed with him, that because of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the ordinance. In that case, proceedings shall not be stayed except by a restraining order which may be granted by the Board of Adjustment or by court of record on application, on notice to the Zoning Administrator, and on due cause shown. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after the request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board of Adjustment may grant a stay of a

Zoning Ordinances  
Town of East Bend, North Carolina

final decision of permit applications or building permits affected by the issue being appealed.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide it within a reasonable time. The Zoning Administrator and other officials who made the original decision being appealed shall be present at the hearing as a witness. It is unnecessary for the hearing be dedicated solely to the matter being appealed. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order requirement, decision or determination appealed from, and shall make any order requirement, decision or determination that in its opinion ought to be made in the premises. To this end the Board shall have all the powers of the Zoning Administrator.

602.03 A simple majority of the members shall be required for any other quasi-judicial matters or determine an appeal made in the nature of certiorari. The concurring vote of four-fifths of the members of the Board of Adjustment shall be necessary to grant a variance. Vacant positions on the board and members who are disqualified from voting on a matter pursuant to this section shall not be considered 'members of the board' for calculation of the requisite majority if there are no qualified alternates available to take the place of such members. [G.S. 160A-388(e); *updated 2015*]"

**602.04 Quasi-Judicial Decisions and Judicial Review**

The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, affected property owner(s), and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. The Zoning Administrator shall certify that proper notice has been made.

602.05 All decisions and findings of the Board of Adjustment shall in all cases be final administrative decisions, subject to review as provided in section 601.06.

602.06 Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NC G.S. 160A-393. Any petition for review shall be filed with the clerk of superior court no later than 30 days after the decision of the Board is effective, or after a written copy thereof is delivered in accordance with Section 601.04 When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

Zoning Ordinances  
Town of East Bend, North Carolina

**602.07 Oaths**

The chair of the Board of Adjustment or any member acting as chair and the clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

**602.08 Subpoenas**

The Board of Adjustment, through the chair, or in the chair's absence, anyone acting as chair, and the clerk to the board may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under NC G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be observed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

**602.09 "Conflict of Interest"** A member of the Board of Adjustment shall not participate in or vote on any matter as provided, 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 member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. [G.S. 160A-388(el)]"

**SECTION 603 EFFECTIVE APPLICATION OF ORDINANCE**

The responsibilities and roles details in this ordinance shall be effective immediately upon its adoption by the Town of East Bend Board of Commissioners.

## **ARTICLE VII**

### **ESTABLISHMENT OF ZONING DISTRICTS AND MAP**

#### **SECTION 700 USE DISTRICTS**

For the purpose of this ordinance, the Town of East Bend, is hereby divided into the following districts:

R1	Residential District
R2	Residential District
RMF	Residential Multi-Family District
HC	Highway Commercial District
CS	Community Shopping District
I-1	Industrial District
WSO-WS-N Protected Area (pa) Yadkin River Watershed Overlay District	

#### **SECTION 701 ESTABLISHMENT OF DISTRICT BOUNDARIES ON ZONING MAP**

The boundaries of the use districts are hereby established as shown on the "Official Zoning Map of the Town of East Bend, North Carolina."

A zoning map entitled the "Official Zoning Map of the Town of East Bend" clearly setting forth all approved use districts and their respective boundaries is hereby made a part of this ordinance and shall be maintained in the office of the Town Clerk of the Town of East Bend. This map shall be available for inspection by interested persons during normal business hours of the Town Clerk. It shall be the duty of the Zoning Administrator of the Town of East Bend to maintain the said map and post any changes thereto as they may be made.

#### **SECTION 703 RULES GOVERNING DISTRICT BOUNDARIES**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following shall apply:

- 703.01 Boundaries indicated as approximately following the centerlines of streets, highways, railroad rights-air-way, alleys, streams, rivers or other bodies of water, shall be construed to follow such lines.
- 703.02 Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- 703.03 Boundaries indicated as approximately following town limit lines shall be construed as following such town limit lines.
- 703.04 Where district boundaries are so indicated that they are approximately parallel to the center lines of street, highways, or railroads, or right-of-ways of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is give, such dimension shall be determined by the use of the scale shown on said zoning map.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

- 703.05 Where a district boundary line divides a lot of single ownership, the district requirements for the lease restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such for more than thirty-five (35) feet beyond the district boundary lines.
- 703.06 Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsection 703.01 through 703.05, the Board of Adjustment shall interpret the district boundaries.
- 703.07 On a corner lot in any residential district, no planting, structure, sign, fence, wall or obstruction to vision more than three (3) feet in height measured from the center line of the street shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said street right-of-way lines each of which is thirty-five (35) feet distant from the point of intersection.

## **ARTICLE VIII**

### **USE REQUIREMENTS BY DISTRICT**

## SECTION 800 R1, R2, RMF, Residential Districts

800.01 The uses permitted in these districts are depicted in Appendix I.

800.02 The following uses shall be permitted by the Board of Adjustment as conditional uses subject to the provisions of Section 602.03 of this ordinance and subject to a finding by the Board of Adjustment that the additional conditions listed below shall be met:

- (1) Public works and public utility facilities such as distribution lines, transmission lines and towers, electric substations, water tanks and towers, pumping stations, water treatment plants, sewage lagoons and plants, and telephone exchanges, provided:
    - a) Plans clearly indicating the developer's intention to comply with the provisions of this section shall be submitted to and approved by the Board of Adjustment. Such plans must show the ownership and use of neighboring properties; all proposed entrances, exits, driveways, walkways, off-street parking spaces, and building location and dimensions.
    - b) All Buildings and facilities shall be set back at least thirty (30) feet from all property lines, and shall be designed and landscaped in such a way as to blend in with the surrounding area; and
    - c) All dangerous apparatus shall be enclosed by a chain link fence at least eight (8) feet in height.
  - (2) Group or cluster housing projects or subdivisions subject to the provisions of Section 1307 of this ordinance.
  - (3) Multi-family dwellings, provided:
    - a) A site plan of the proposed project shall be submitted to the Board of Adjustment for review;
    - b) Where a multi-family dwelling abuts a lot in a residential district, there shall be provided and maintained (by the multi-family dwelling) along the abutting property line a continuous visual buffer strip as defined in Article IV;
    - c) Mobile home, whether single- or doublewide and whether located on temporary or permanent foundations, shall not be permitted.

Zoning Ordinances  
Town of East Bend, North Carolina

800.03 Off-street parking, loading and unloading space for the residential districts shall be provided as required in Article XII of this ordinance.

800.04 Dimensional requirements for the residential district shall be as specified in Article IX.

800.06 UNCONFINED PETS

(A) Animals Creating a Nuisance Prohibited

It shall be unlawful for any owner or custodian to permit his or her animal, or an animal in his or her care, to create a public nuisance. In such cases, and only in such cases, the owner or custodian must keep the animal that has been determined by the Yadkin County animal control department to be creating a public nuisance on his or her own property at all times unless the animal is under physical restraint. If the Yadkin County animal control department declares an animal to be a public nuisance the Town of East Bend will assert the authority to instruct the animal's owner or custodian in writing to confine the animal in a secure enclosure when the animal is on the owner's or custodian's property and to restrain the animal by means of a leash, chain, or other like device when the animal is off the owner's or custodian's property. Failure to comply with this ordinance will enact the Town's nuisance ordinance and its penalties.

(B) Running At-Large Prohibited

(1) Unlawful conduct. It shall be unlawful for any person owning or having possession, charge, custody or control of an animal to allow that animal to run at large. Hunting dogs shall be excluded from the provisions of this section while the dogs are engaged in hunting, provided the hunting complies with North Carolina law and the hunters are not trespassing.

(2) Estrous period. It shall be unlawful for any person owning or having possession, charge, custody or control of a female dog or female cat to allow that animal to be at large during its estrous period. During this period, the owner or person having possession of the animal must restrain the animal in a secure enclosure in such a manner that will prevent the animal from coming in contact with a male of its species. This section shall not be construed to prohibit the intentional breeding of animals on the premises of the owners or keepers of the animals involved.

(C) Confinement of Pets

Animals may be kept as pets on all parcels zoned for residential and agricultural use. All animals kept for domestic use and not used to generate profit from associated animal products including, but not limited to, milk, eggs, and hides, shall be kept such that their activities do not adversely impact other property owners or endanger members of the Town of East Bend. Animals kept for

Zoning Ordinances  
Town of East Bend, North Carolina

agricultural purposes are not affected by this ordinance. Any animal not prohibited by the Yadkin County ordinance for Dangerous Exotic and Wild Animals shall be permitted to be kept indoors. Animals kept outdoors must not violate the conditions of Yadkin County's Nuisance Ordinance. The following table identifies the concentration of animals permitted in the Town of East Bend.

Table of Animal Confinement Regulations of East Bend, NC		
Animal Type	# Animals Permitted (per acre)	Exclusion Buffer From Adjacent Properties (feet)
Fish	No Limit	Not Applicable
Poultry	8	3
Mammal (<10 lbs.)	12	3
Mammal (10><50 lbs.)	8	3
Mammal (50<>100 lbs.)	2	6
Mammal <td style="text-align: center;">1</td> <td style="text-align: center;">12</td>	1	12

**(D) Application of Ordinance**

Any individual who is not in compliance with the terms of this ordinance when it is adopted by the Town of East Bend Board of Commissioners shall have 365 days from the date of its adoption to take measures to satisfy its terms. At that time, any property owners with properties violating the terms of this ordinance shall be deemed to be non-compliant with municipal codes and shall be dealt with as specified in Article XV.

**SECTION 801 HC & CS BUSINESS DISTRICTS**

801.01 The uses permitted in these districts are depicted in Appendix I.

801.02 Off-street loading and unloading space shall be provided as required in Article XII of this ordinance.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

801.03 Where a use created in this district abuts a lot in a residential district, there shall be provided and maintained (by the use created in this district) along the abutting property line a continuous visual buffer strip as defined in Article IV.

801.04 Customary accessory uses or structures, excluding open storage, are permitted, provided that:

- (a) Such uses or structures shall be located in the rear yard;
- (b) Such uses or structures shall maintain a minimum set back of five (5) feet from rear lot lines and shall observe setback requirements from all other lot lines as specified in Article IX;
- (c) No accessory use or structure situated on a corner lot shall extend beyond the front yard line required in abutting property on the side street.

801.05 Off-street parking, loading, and unloading space for the business districts shall be provided as required in Article XII of this ordinance.

801.06 Motor vehicle sales establishments must have a minimum of one half acre lot, with no more than 25 vehicles per one half acre.

801.07 Motor vehicle sales establishments must have a paved lot with adequate outside sodium vapor lighting.

801.08 Businesses in HC and CS districts must display hours of operation and an after-hours contact telephone number.

**801.09 Design Requirements for Metal Buildings**

In order to beautify, enhance compatibility and continue and maintain the historic development pattern of downtown East Bend, the following standards shall apply to all new construction of commercial buildings, and additions or substantial modifications to commercial metal buildings requiring a building permit located within the Community Shopping Zoning District. The Board of Adjustment may modify or waive these requirements as appropriate:

(a) All building elevations facing a public street shall have a wall façade of one of the following finishes, extending a minimum of seven (7) feet up from ground level, or one-third of the building height, whichever is greater.

(b) Required exterior finishes:

1. Masonry: Brick, stone (real or cultured), stucco, textured and painted CMU
2. Wood: Sheet or lap type siding; field painted, prefinished or bonded color.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

3. Metal: Prefinished architectural metal panels, flashing and miscellaneous metals to be approved only with full disclosure of design and appearance prior to issuance of permit.

- (c) The following exterior finishes are not approved for commercial metal buildings under this ordinance:

1. Unfinished CMU or standard concrete CMU.
2. Sheet plywood, treated lumber or raw lumber not specifically intended for siding.
3. Standard ribbed galvanized or prefinished metal siding.
4. Vinyl siding, flashing and miscellaneous profiles.

While not required, use of a wall façade of similar look and construction on the sides of the buildings is encouraged, as is use of façade design and construction compatible in quality, color, texture and finish to those common in the downtown area on buildings constructed prior to 1950.

*Effective January 10, 2011*

**SECTION 802**

**I-1 INDUSTRIAL DISTRICT**

802.01 The uses permitted in this district are depicted in Appendix I.

802.02 Customary accessory uses or structures, including open storage are permitted provided that:

- (a) Such uses or structures shall be located in the rear yard;
- (b) Such uses or structures shall maintain a minimum set back of five (5) feet from rear lot lines and shall observe setback requirements from all other lot lines as specified in Article IX;
- (c) No accessory use or structure situated on a corner lot shall extend beyond the front yard line required in abutting property on the side street.

802.03 Off-street parking, loading and unloading space shall be provided as required in Article XII of this ordinance.

802.04 Where a non-residential use created in this district abuts a lot in a residential district there shall be provided and maintained (by the use created in this district) along the butting property line a continuous visual buffer strip as defined in Article IV.

802.05 Businesses in Industrial districts must display hours of operation and an after-hours contact telephone number.

Zoning Ordinances  
Town of East Bend, North Carolina

**TABLE OF PERMITTED USES**

Use Requirements by Districts:

R1, R2=Residential  
RMF=Residential Multifamily  
HC=Highway Commercial  
CS=Community Shopping

I-1=Industrial  
P= Permitted  
C=Conditional

Manufactured and constructed homes shall be so oriented to ensure that the longest side is parallel to the front lot line and the manufacturer or builder's designated front door or entrance shall be so oriented to face the front lot line.

Zoning Ordinances  
Town of East Bend, North Carolina

USE	TABLE OF PERMITTED USES TOWN OF EAST BEND					
	R1	R2	RMF	HC	CS	I-1
Accessory uses and structures to any permitted principal use (examples: private garages/workshops and similar activities). In residential districts, accessory uses shall not be used for commercial (for profit) activities.	P	P	P	P	P	P
Agricultural uses including on-premise retail sale of products grown on the property				P	P	P
Animal hospitals and clinics with outside runs				P		P
Animal hospitals and clinics without outside runs				P		P
Auditoriums or other buildings for dramatic, musical, or other cultural activities	P			P	P	P
Bed and Breakfast houses	P	P				
Cemeteries	P	P				
Child and Day Care facilities	P	P		P	P	C
Churches, including educational buildings and similar church related activities	P	P	P	P	P	P
Civic clubs including grounds for games and sports provided activity such as a refreshment stand shall be incidental to the primary activity	P	P			P	
Dwellings: Single family	P	P	P		P	
Dwellings: Multifamily			C			
Dwellings: Two family			P			
Fire stations, police stations, rescue squads, and similar public or quasi-public facilities provided: (a) small vehicles and equipment shall be stored indoors or under a shelter whenever possible, (b) all buildings shall be set back at least (20) feet from all property lines and shall be designed and landscaped in such a way as to blend in the surrounding area.	C	C	C	C	C	C

Zoning Ordinances  
Town of East Bend, North Carolina

<b>TABLE OF PERMITTED USES TOWN OF EAST BEND</b>						
USE	R1	R2	RMF	HC	CS	I-1
Funeral homes/Mortuaries	P			P	P	
Government office buildings and post offices				P	P	
Home Occupations, Incidental: provided: (a) such occupations shall be clearly incidental to the residential use of the lot, (b) activities conducted by the residents of the dwelling; (c) not more than one fourth of the area shall be used for such operations; (d) no display of products shall be visible from the street; & no accessory buildings shall be used for such home occupations	P	P	P	P	P	
Industrial and manufacturing uses not otherwise prohibited by law. However, the following are specifically not permitted:						
a) abattoirs						
b) stock yard						
c) distillation of bones						
d) fat rendering						
e) garbage offal or dead animal reduction						
f) tannery						
g) manufacturing, processing, and/or refining of acetylene gas, acid, cement, chlorine dextrin, disinfectant, explosives, fertilizer, fish, fireworks, gas, gelatin, glucose, glue, gunpowder, gypsum, hair, hides (raw), matches, paper, pulp, and petroleum products						
h) junkyards						P
Industrial parks, provided the requirements of Article VIII are met						C
Junkyards (not permitted in any district)						
Laundry, dry cleaning plants, and Laundromats				P	P	P
Libraries	P	P				

Zoning Ordinances  
Town of East Bend, North Carolina

USE	TABLE OF PERMITTED USES TOWN OF EAST BEND					
	R1	R2	RMF	HC	CS	I-1
Manufactured Homes, Class A (on individual lots)	P	P				
Manufactured Homes, Class B (on individual lots)		P				
Manufactured home parks, provided: a) they comply with the State of North Carolina Regulations for Manufactured Homes and Modular Housing, and (b) all buildings shall be setback at least twenty feet from all property lines and shall be designed and landscaped in such a way as to blend in with the surrounding area.						
Modular homes	P	P				
Nonconforming structures and uses which were so used and occupied at the time of adoption of this ordinance as a result of an amendment to this ordinance	P	P	P	P	P	P
Nursing homes, homes for the aged, rest homes	C					
Offices: Professional				P	P	
Offices: other				P	P	P
Office and professional center subject to off-street parking or loading areas required by this ordinance and serving a use in the same district in which these areas are situated.				C	C	
Off street parking, commercial	P	P	P	P	P	P
Plant nurseries, retail or wholesale				P		
Printing shops				P		P
Public Utility stations or substations, provided the provisions of Section 800.02 (1) are met	C	C	C	C	C	C
Public utility transmission lines	P	P	P	P	P	P
Parks, playgrounds, and community centers (publicly owned)		P	P	P		
Restaurants				P	P	C

Zoning Ordinances  
Town of East Bend, North Carolina

<b>USE</b>	<b>TABLE OF PERMITTED USES TOWN OF EAST BEND</b>					
	<b>R1</b>	<b>R2</b>	<b>RMF</b>	<b>HC</b>	<b>CS</b>	<b>I-1</b>
Retail sale of any item not otherwise prohibited by law and not otherwise listed in this ordinance				P	P	P
Schools, businesses, parochial, and trade	P	P	P			
Services, personal, professional, business or recreational not otherwise prohibited in this ordinance				P	P	P
Shipping container structures				C		C
Signs	P	P	P	P	P	P
Used Car Lots				P		P
Wholesale sales, incidental to a retail activity				P	P	P
Wholesale sales, principal uses				P	P	P

## Zoning Ordinances

## **ARTICLE IX**

### **DIMENSIONAL AND LANDSCAPING REQUIREMENTS**

## SECTION 900 USE

No building or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this ordinance for the district in which it is located.

## SECTION 901 HEIGHT AND DENSITY

No building shall hereafter be erected or altered so as to exceed the height limit or to exceed the density regulations of this ordinance for the district in which it is located.

No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per dwelling unit, or other requirements of this ordinance are not maintained.

This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

## SECTION 903 DOUBLE FRONTAGE LOTS

In the event that a lot abuts a street at both the front and rear of the lot, the owner shall be required to specify the front of the lot when requesting a zoning compliance permit.

## SECTION 904 REQUIRED YARDS AND OTHER SPACES

No part of a yard or open space, or off-street parking or loading space required in Article XII, or required in connection with any building for the purpose of complying with this ordinance, shall be included as a part of a yard, open space, or off- street parking or loading space similarly required for any other building.

Every building hereafter erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than one (1) principal building or structure and its customary accessory buildings on the lot, except in the case of mobile home parks and group projects pursuant to the provisions of Sections 1307 and 800.02 (1) of this ordinance.

Within any principal building, more than one use may exist provided all such uses comply with the regulations applicable to the district in which the principal building is located. The requirements of Article XII of this ordinance shall be observed strictly with respect to each use, which exists within a principal building. Where more than one dwelling exists within a principal building, such uses shall be combined for the purpose of determining the status of the use as either a single-family, two-family, or multi-family dwelling pursuant to Section 401.

## SECTION 906 SCREENING REQUIREMENTS (Fencing, Retaining Walls, & Berms)

Screening may be comprised of a fence, wall, hedge or other natural planting of sufficient density to minimize the physical or visual intrusion generated by an existing or future use as stated below. Screens shall be applied to any new use of land, change in use or expansion of use occurring in accordance with the regulations set forth in this article. All fences not conforming to these terms at the time of adoption of this ordinance shall not be considered in violation of the ordinance. However, should any modifications and/or replacements of the

## Zoning Ordinances

### Town of East Bend, North Carolina

fence be necessary, the fence shall be treated as a non-conforming accessory structure and repairs must meet the conditions specified in §906.

Fences, retaining walls and berms that are used within yards shall be located within the interior of the yard and the vegetation may be required on both sides of the fence or wall. Fences shall be solid.

- (a) All fences and retaining walls shall have the finished side facing out, with no structural supports visible from adjoining properties or public street right-of-way unless the fence is designed so that such supports are visible from both sides.
- (b) Fences, retaining walls and berms shall be permitted within all districts.
- (c) Height and location limits on fences are as follows:
  - 1) In business, industrial, and institutional districts a three (3) foot minimum height limit on fences shall apply. No fence shall be located within a street right-of-way or within 15 feet of the edge of a publicly maintained street or road, whichever is greater.
  - 2) In residential districts, fences in the front yard shall have a six (6) foot height limit; fences in the rear and side yard shall have an eight (8) foot height limit. No fence shall be located within a street right-of-way or within 15 feet of the edge of a publicly maintained street or road, whichever is greater.
  - 3) These height requirements will apply to retaining walls and berms with or without plant vegetation.
- (d) All fences and retaining walls shall be constructed of durable materials and shall be installed to withstand the natural weather conditions and shall be maintained in good condition at all times.
- (e) Fences for agricultural purposes are exempt from the requirements of this section.

## SECTION 907 R1, R2, RMF RESIDENTIAL DISTRICTS.

### 907.01 Accessory Buildings

Accessory buildings shall not be located in a front yard of any principal building or within twenty (20) feet of any street right-of-way or within five (5) feet of any lot line not a street right-of-way line.

## SECTION 908 HC & CS BUSINESS DISTRICTS

### 908.01 Side Yard Setback

No side yard is required for commercial uses if the property abuts another commercial or industrial use or district; should a side yard however be desired, it shall not be less than five (5) feet. Should future expansion of these business districts encroach into a prior residential area, a ten (10) foot side yard shall be required.

For residential uses in a Community Shopping District, a ten (10) foot side yard shall be required.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

**908.02 Rear Yard Setback**

No rear yard setback is required for commercial uses if the property abuts another commercial or industrial use or district; should a rear yard however be desired, it shall not be less than five (5) feet. Should future expansion of these business districts encroach into a prior residential area, a twenty (20) foot rear yard shall be provided. For residential uses in a Community Shopping District, a twenty (20) foot rear yard shall be required.

**SECTION 909**

**I-1 INDUSTRIAL DISTRICT**

**909.01 Side Yard Setback**

No side yard is required for industrial uses if the property abuts another commercial or industrial use or district. Should future expansion of this district encroach into a residential area, a fifteen (15) side yard shall be required. Should a side yard however be desired, it shall not be less than five (5) feet.

**909.02 Rear Yard Setback**

No rear yard setback is required for industrial uses if the property abuts another commercial or industrial use or district. Should future expansion of this district encroach into a residential area, a twenty (20) foot rear yard shall be required.

Zoning Ordinances  
Town of East Bend, North Carolina

SECTION 910

TABLE OF DIMENSIONAL REQUIREMENTS BY DISTRICTS

R1, R2=Residential

CS=Community Shopping

RMF=Residential Multifamily

I-1=Industrial

HC=Highway Commercial

District	Minimum Lot Area (feet)	Lot Area Per dwelling unit (feet)	Minimum Lot Width at building line (feet)	Minimum Setback Yard Front (feet)	Minimum Setback Yard Side (feet)	Minimum Setback Yard Rear (feet)	Maximum Height (feet)
R1	20,000	20,000	100	40	15	20	35
R2	20,000	20,000	100	40	15	20	35
RMF	20,000	20,000 for first unit, 5,000 for each additional unit	100	40	15	20	35
HC	None <sup>1</sup>	None	None	None	None	None	None
CS	20,000	20,000	100	40*	15*	20*	35
I-1	43,560 (1 acre)	None	200	50*	15*	20*	None

\*No setbacks are required if a property is adjacent to a property zoned HC, CS, or I-1

<sup>1</sup>Motor Vehicle sales establishments must have a minimum of .5 acre or 21,780 feet.

No more than 25 vehicles per 1/2 acre (801.06)

## ARTICLE X SIGNS

### 1000 INTENT

This section is intended to regulate and control signs and their placement throughout the Town of East Bend for the following purposes:

- (a) To provide a pleasing overall environmental setting and good community appearance, which is deemed vital to the continued economic attractiveness of the town;
- (b) To create a more productive, enterprising, professional business atmosphere;
- (c) To allow signs appropriate to the planned character and development of each zoning district;
- (d) To ensure that permitted signs do not become a hazard or nuisance;
- (e) To promote traffic safety;
- (f) To prevent business and advertising signs from conflicting with public safety signs; and
- (g) To protect and enhance the value of properties.

### 1001 APPLICABILITY

- 1001.01 With the exception of those signs authorized in Sections 1008.04 and 1008.05, it shall be unlawful to construct, enlarge, modify, move or replace any sign or cause the same to be done, without first obtaining a zoning permit for such sign from the town or its designee.
- 1001.02 Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign so as to render it in violation of this ordinance.

### 1002 GENERAL PROVISIONS

The following regulations shall apply to all signs.

#### 1002.01 Construction Standards

- (a) All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building Code.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

- (b) All temporary signs shall be constructed of materials and printed on by inks and paints capable of withstanding normal weather conditions.
- (c) All signs, except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this ordinance, shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

**1002.02      Electrical Standards**

All illuminated signs shall be installed in accordance with the applicable provisions of the North Carolina State Electrical Code and all illuminated detached signs shall be illuminated by an underground electrical source.

**1002.03      Maintenance of Signs**

All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance.

**1002.04      Obstructions Prohibited**

No sign shall be placed so as to obstruct the clear sight triangle at a street intersection nor shall any sign obstruct the view of motorists entering or leaving an off-street parking area.

**1002.05      Relation to Other Building Elements**

- (a) Signs shall relate in their placement and size to other building elements without obscuring building elements such as windows, cornices, or decorative details, except that signs may be placed on the inside of windows.
- (b) Sign material, style and color shall complement the building façade in terms of design, scale, color, and materials.
- (c) Individual shop signs in a single storefront shall relate to each other in terms of design, size, color, placement on the building, and lettering style.
- (d) Signs placed on the inside of the window areas shall conceal no more than 25% of the area of the window on which the signs are located.

**1002.06      Sign Lighting**

- (a) Neon, argon and similar lighting fixtures shall not be used anywhere on the exterior of a building; however, such signs may be mounted on the inside of store windows.
- (b) Signs shall be lighted with indirect light sources (e.g. backlighting); knockout signs are encouraged. Ground mounted floodlights may also be used if the light is directed only on the sign and not onto adjacent properties or roadways

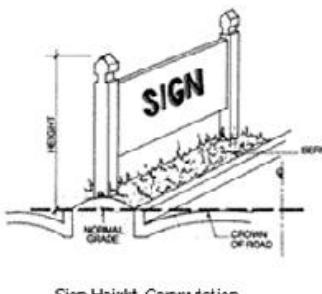
Zoning Ordinances  
Town of East Bend, North Carolina  
and the light fixtures are fully shielded from view through the use of  
landscaping.

#### 1003 SIGN HEIGHT COMPUTATION

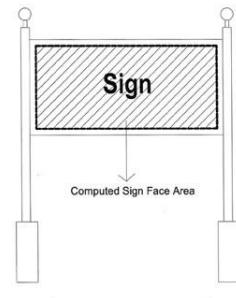
Sign height shall be computed as the lower of: 1) existing grade prior to construction, or 2) the newly established grade after construction, exclusive of any filling, berthing, mounding, or excavating solely for the purpose of locating the sign. The calculation of the height of any sign placed upon a berm or mound shall include the height of the berm or mound.

#### 1004 SIGN AREA COMPUTATION

The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.



Sign Height Computation



Area Computation of Individual Signs

#### 1005 SIGN AREA COMPUTATION FOR MULTI-FACED SIGNS

The sign area for a sign with multiple faces shall be computed by adding together the area of all sign faces visible from any one (1) point. When a sign is composed of two (2) or more sign faces, only one (1) of which can be viewed from any one (1) point, and when such sign faces are part of the same structure, the sign area shall be computed by the measurement of one (1) of the faces.

#### 1006 FORFEITURE OF ILLEGAL SIGNS PLACED ON OR OVER PUBLIC PROPERTY

Any sign installed or placed on or over public property, except in conformance with the requirements of this section, shall be forfeited to the public and be subject to confiscation and disposal. In addition to other remedies provided by this section and the Town Code of Ordinances, the town shall have the right to recover from the sign owner and/or installer the full costs of removal and disposal of such sign.

#### 1007 MAINTENANCE AND REMOVAL OF SIGNS

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance.

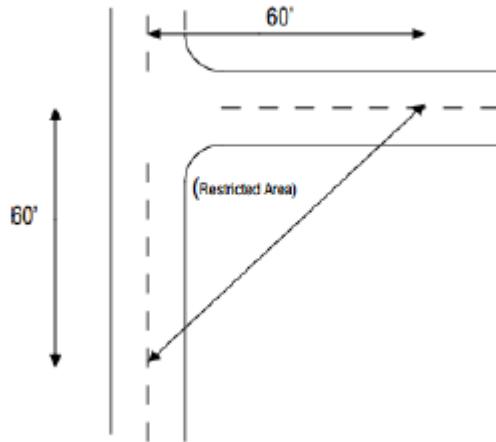
Within six (6) months after the termination of business at a particular location, the owner of the property shall remove or eliminate all signage related to the terminated or relocated business. If the property owner fails to remove the signage within the specified time, the outstanding condition shall be considered a nuisance by the Town of East Bend and treated as specified under its relevant ordinance and authority.

## 1008 SIGN PLACEMENT

The following provisions shall apply to the placement of all signs in all districts.

### 1008.01 In General

- (a) Signs must be located entirely on private property, unless otherwise permitted by this section.
- (b) No sign may be located so that it blocks the sight triangle at any driveway or public street intersection.



### 1008.02 Wall Signs

Wall mounted signs shall not extend above the eave or parapet of any building.

### 1008.03 Freestanding Signs

- (a) All parts of freestanding signs must be set back a minimum of five (5) feet from the property line.
- (b) No freestanding sign shall be located closer than fifteen (15) feet from another structure on the same zoning lot.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

- (c) No portion of a freestanding sign, including projections, may extend into or over an existing public right-of-way, unless expressly permitted by this article.

**1008.04 Temporary Signs**

- (a) Temporary signs shall be located on private property unless expressly permitted by this section to be posted on public property.
- (b) All temporary signs shall be anchored, attached, or otherwise affixed to a structure or support so that the sign cannot be easily dislodged by strong winds or heavy rains.

**1008.05 Sandwich or Menu Board Signs**

- (a) Sandwich or menu board signs shall be placed on the sidewalk directly in front of the associated use and within four (4) feet of the curb.
- (b) No portable sandwich or menu board signs shall be located on a sidewalk where the sidewalk is less than nine (9) feet in width.
- (c) Sandwich or menu board signs shall be at least ten (10) feet from any intersection and at least five (5) feet from any crosswalk or fire hydrant.
- (d) Sandwich or menu board signs shall be displayed only during operational hours of the business being advertised, removed each day at the close of business, and shall not be lighted.
- (e) Sandwich or menu board signs shall be constructed of materials that present a finished appearance. Rough cut plywood is not acceptable. The sign lettering shall be professionally painted or applied. Chalkboard signs shall be permitted. The written message of the sign shall be kept to the minimum necessary to communicate the name of a business or a special message of the business.
- (f) Any person erecting a sandwich or menu board sign shall indemnify and hold harmless the Town and its officers, agents, and employees from any claim arising out of the presence of the sign on Town property or rights-of-way. The person erecting a sandwich or menu board sign shall sign an indemnification agreement, approved by the Town Attorney, prior to the issuance of a sign permit. The indemnification agreement shall be accompanied by evidence of insurance covering the liability assumed in this subsection and the agreement.

Zoning Ordinances  
Town of East Bend, North Carolina

**Town of East Bend**  
**Table of Permitted Signs**

SIGN TYPE	ZONES PERMITTED	SIGN AREA (sq ft)	MAX SIGN HEIGHT (ft)	SIGN ILLUMINATION	MIN LETTER SIZE (in)	DENSITY	MIN SETBACK (ft)	OTHER REQUIREMENTS
Blade/Projecting 								Only one sign (blade, V-type or flat sign) allowed per occupancy per street or parking frontage
V-Type 	R1, R2, RMF, HC, CS, I-1							One square foot of signage for each one square foot of occupancy frontage up to the maximum allowed
Flat/Wall 	HC, CS, I-1	32		Ambient External	6	1/street OR 1/business		Internally-illuminated signs – not more than 50% of sign face can be illuminated  No attached signage above second story. Wall signs may exceed the 32 SF requirements up to a maximum of 5% of the wall façade size (square footage).

Zoning Ordinances  
Town of East Bend, North Carolina

SIGN TYPE	ZONES PERMITTED	SIGN AREA (sq ft)	MAX SIGN HEIGHT (ft)	SIGN ILLUMINATION	MIN LETTER SIZE (in)	DENSITY	MIN SETBACK (ft)	OTHER REQUIREMENTS
Window	R1, R2, RMF, HC, CS, I-1	8	12*	Ambient	N/A	1/100 sq ft display/doorway/window area, or fraction thereof		A maximum allowance of three signs per street or parking frontage per occupancy
Directional				Ambient External Internal	4"	N/A		Not more than 25% of sign face shall contain a logo or commercial message  *Only allowed for signs placed above a common entrance shared by multiple tenants of the same building; one sign per entrance
Directory				Ambient External	N/A	One per street or parking frontage per building		

Zoning Ordinances  
Town of East Bend, North Carolina

SIGN TYPE	ZONES PERMITTED	SIGN AREA (sq ft)	MAX SIGN HEIGHT (ft)	SIGN ILLUMINATION	MIN LETTER SIZE (in)	DENSITY	MIN SETBACK (ft)	OTHER REQUIREMENTS
Awning	R1, R2, RMF, HC, CS, I-1	6		Ambient	4"	One per street or parking frontage per awning		Not more than two awning signs per occupancy per street or parking frontage.
Canopy	RMF, HC, CS, I-1	16		Ambient Internal	6"	One per canopy*		Properties fronting on more than one street may have one canopy sign per street frontage
Monument	R1, R2, RMF, HC, CS, I-1	48	8'	Ambient External Internal	6"	One per street frontage having access to the site	5 ft	Monument signs shall comply with the design requirements of Article IX
Pole	R1, R2, RMF, HC, CS, I-1	32	10'	Ambient External Internal	6"	One per street frontage providing access to the site	10 ft	Pole signs shall comply with the design requirements of Article IX

Zoning Ordinances  
Town of East Bend, North Carolina

SIGN TYPE	ZONES PERMITTED	SIGN AREA (sq ft)	MAX SIGN HEIGHT (ft)	SIGN ILLUMINATION	MIN LETTER SIZE (in)	DENSITY	MIN SETBACK (ft)	OTHER REQUIREMENTS
Community Identification 	R1, R2, RMF, HC, CS, I-1	32	6'	Ambient		One per each gateway or primary entrance	0 ft*	Shall comply with design requirements for monument signs
Directory 		16	6'	Ambient External Internal	4"	One per street frontage having access to the site	25 ft	Only allowed for sites with multiple buildings Shall not be displayed so as to be prominently visible from off-site locations
Directional 		3	3'	Ambient External Internal	4"	Two per each driveway access to the site	0 ft*	Not more than 25% of sign face shall contain a logo; no other commercial message is allowed

\*May encroach into adjoining street right-of-way pursuant to an encroachment agreement.

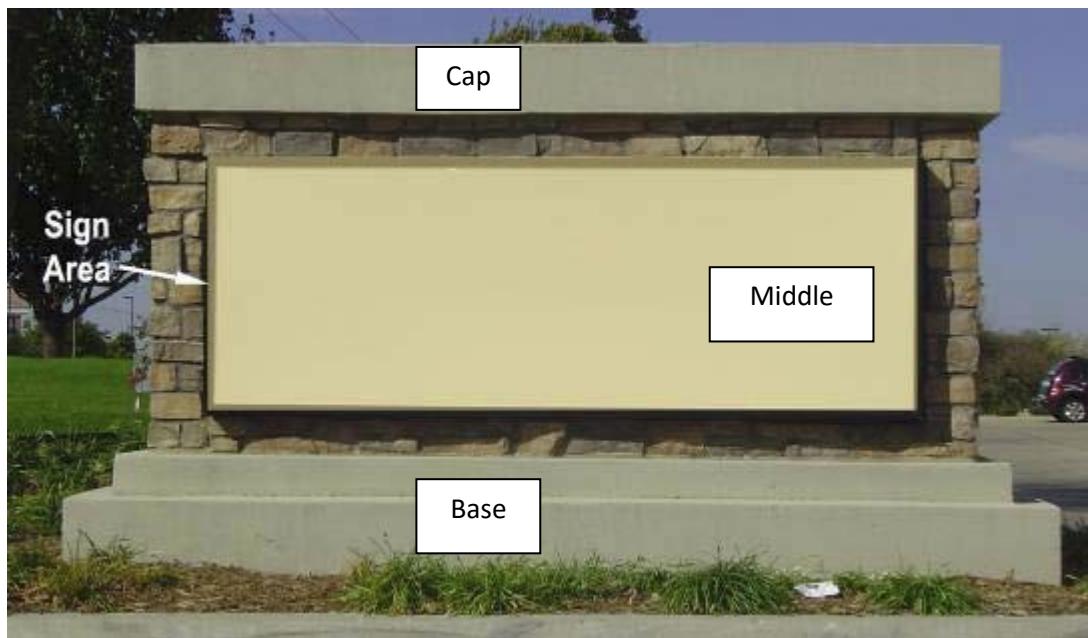
Zoning Ordinances  
Town of East Bend, North Carolina

1008.06 Monument Sign Design Requirements

Monument signs are intended to serve a wider range of aesthetic and architectural purposes than pole signs. Consequently, the following design requirements are established for monument signs.

- (a) General design requirements and sign area measurement for monument signs. As in traditional building design, monument signs shall be designed to include a base, middle, and cap. The following illustration shows a monument sign having these architectural characteristics, as well as how sign area is to be measured on a monument sign.

**Monument Sign Design Elements**



- (b) Sign structure materials. In general, monument sign structures should be constructed of materials that are similar to or complementary to the principal building(s) on the premises where they are located. Only the following materials shall be used in monument sign structure construction, singly or in combination:

- Brick, painted or unfinished
- Wood
- Concrete or stucco
- Natural stone or manufactured stone having a natural appearance
- Metal
- Glass

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

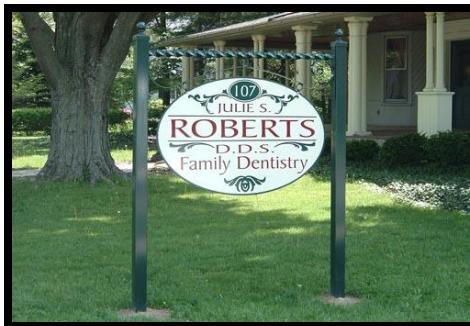
- (c) Sign copy materials. Sign copy materials for monument signs shall include the sign structure materials listed above. For internally illuminated monument sign copy, acrylic may be utilized, provided not more than 50% of the sign face is illuminated.

**1008.07      Pole Sign Design Requirements**

The following design requirements are established for pole signs:

- (a) General design requirements. Pole signs in East Bend have traditionally been supported by two posts or suspended from a single post as shown in the following illustrations. Pole signs shall use one of these two forms of design.

**Examples of Allowable Types of Pole Signs**



- (b) In general, pole signs should use materials that complement the principal building(s) on the premises where they are located. The following materials are acceptable for use in pole signs, singly or in combination:

- Wood
- Metal
- Brick, painted or unfinished

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

- Concrete or stucco
- Natural stone or manufactured stone having a natural appearance

**1009 PERMANENT SIGNS LIMITED**

Notwithstanding Section 1008 and in addition thereto, the following permanent signs shall be permitted without a zoning permit:

- (a) Historical markers, regulatory signs, public interest signs, and warning signs erected and maintained by the town or state or an agent of such.
- (b) On-premises directional signs not exceeding four (4) feet in height nor four (4) square feet in area.
- (c) Identification signs not exceeding two (2) square feet in area nor two (2) feet in height.
- (d) Incidental signs.
- (e) Flags on permanent poles.
- (f) Any sign not legible or easily noticeable from public property or a public right-of-way and obviously not intended to attract the attention of the public.
- (g) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance
- (h) Traffic control signs on private property, the face of which meets Department of Transportation standards and which contain no commercial message of any kind.
- (i) Electronic changeable reader boards
  1. Electronic changeable reader boards may be allowed on part of a free-standing sign provided the sign is included in the overall area calculations for that sign and complies with the following:
    1. The minimum time in between message changes shall be ten (10) seconds.
    2. No animation shall be allowed.
    3. No directional references shall be allowed.
    4. The electronic changeable reader board shall not exceed 20% of the total area of the sign face.
    5. The sign shall in no way flash, blink, rotate, or use lights of varying intensities that may distract a driver.
    6. The light emitted from such signs shall not exceed 5,000 nits during the day and 500 nits during nighttime hours.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

2. Notwithstanding Section 1008 and in addition thereto, the following permanent signs shall be permitted upon the issuance of a valid zoning permit:

- a. Any sign not expressly listed as permitted without a permit shall require the issuance of a valid zoning permit prior to installation.

**1009.01 Application of Ordinance**

Any permanent sign existing prior to the adoption of this ordinance by the Town of East Bend Board of Commissioner that does not conform with the terms of Article X shall be permitted to remain in place as a nonconforming use. Its condition and placement shall be addressed under the requirements for nonconformances within the Town, as detailed in Article XI, §1106. Any actions to improve signs that are declared prohibited by Article X shall be prohibited; signs requiring such action(s) shall be removed at the responsibility of the property and/or sign owner. Sign owners are encouraged to modify or replace nonconforming permanent signs. Failure to comply with the terms of Article X and this compliance term shall be addressed as detailed in Article XV.

**1010 TEMPORARY SIGNS LIMITED**

**1010.01 Temporary Signs Permitted Without a Permit**

The following temporary signs are permitted without a zoning permit in all zoning districts, but shall be in conformance with all other requirements of this ordinance:

- (a) Campaign or election signs shall be permitted provided that:

1. Individual signs shall not exceed 16 square feet in area nor four (4) feet in height.
2. All signs shall be removed with seven (7) days after the election for which they were made.
3. No signs shall be permitted in the public right-of-way.

- (b) Real estate signs, excluding temporary development signs provided that:

1. Signs advertising all residential lots, buildings, units, or spaces for sale or for lease shall not exceed six (6) square feet in area nor four (4) feet in height.
2. Signs advertising all non-residential lots, buildings, units, or spaces for sale or for lease shall not exceed a sign face area of 32 square feet or exceed a height of six (6) feet.
3. Only one (1) sign per street front of the advertised property shall be erected.
4. Signs shall not be illuminated.
5. Signs shall be removed within seven (7) days after the sale is closed or rent or lease transaction finalized.

Zoning Ordinances

Town of East Bend, North Carolina

(c) Construction signs are permitted provided that:

1. Signs located in residential lots, excluding multi-family sites, shall not exceed six (6) square feet in area. The maximum height of such signs shall be six (6) feet.
2. Signs for all multi-family development sites and non-residential uses shall not exceed a sign face of 32 square feet or a height of six (6) feet.
3. Signs are confined to the site of construction.
4. Only one (1) sign per street front of the property under construction shall be erected.
5. Signs shall not be illuminated.
6. Signs shall be removed within seven (7) days after the completion of the project.

(d) Temporary farm product signs are permitted provided that:

1. Signs are located on the premises where the products are sold.
2. Signs advertise products produced on-site only.
3. Signs shall not exceed 24 square feet in area nor five (5) feet in height.
4. Only one (1) sign shall be erected.
5. Signs shall be removed within seven (7) days of the termination of sale activities.

(e) Temporary special event signs or banners for religious, charitable, civic, fraternal, or similar organizations, are permitted provided that:

1. Signs shall not exceed 32 square feet in area nor five (5) feet in height.
2. Signs shall be erected no sooner than 14 days prior to and removed no later than seven (7) days following the event.

(f) Holiday lights and decorations.

(g) Any sign not legible or easily noticeable from public property or a public right-of-way and obviously not intended to attract the attention of the public.

(h) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.

1010.02 Temporary Signs Requiring a Permit

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

Temporary signs permitted upon issuance of a valid zoning permit shall be limited as follows:

(a) Temporary banners in commercial districts, provided that:

1. Only one (1) banner per establishment shall be allowed at a time.
2. All banners shall be attached in total to a building wall or permanent canopy extending from a building.
3. No paper banners shall be allowed.
4. Banners shall be erected for a period not to exceed two (2) weeks.
5. No more than six (6) such signs per establishment shall be erected within a calendar year.
6. No banner shall extend above the second occupiable floor level of a building.

(b) Temporary off-premise signs or banners for special community events, open to the general public and sponsored by non-commercial civic, charitable, community, or similar organizations, provided that:

1. Temporary signs shall be located outside of the public right-of-way or at least 11 feet from the edge of any public street if the right-of-way cannot be determined.
2. Every temporary off-premise sign or banner shall be separated by a distance of 400 feet from any other such temporary off-premise sign on the same side of a street, and by a distance of 200 feet from any other sign on the opposite of the street.
3. Nothing in this provision shall be construed to authorize the posting of such signs or banners upon trees, utility poles, traffic control signs, lights or devices in any place or manner prohibited by the provision herein, nor on private property without written consent of the owner.
4. Any temporary sign not expressly permitted without a permit.

(c) Temporary off-premise signs for commercial use, provided that:

1. Temporary signs shall be located outside of the public right-of-way or at least 11 feet from the edge of any public street if the right-of-way cannot be determined.
2. Every temporary off-premise sign or banner shall be separated by a distance of 400 feet from any other such temporary off-premise sign on the same side of a street, and by a distance of 200 feet from any other sign on the opposite of the street.
3. Signs shall be erected for a period not to exceed thirty (30) days.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

4. No more than two (2) signs are erected per each permit and cycle.
5. No more than two (2) permits per commercial business shall be issued within a calendar year, allowing no more than four (4) signs per commercial business to be erected per calendar year.
6. Nothing in this provision shall be construed to authorize the posting of such signs or banners upon trees, utility poles, traffic control signs, lights or devices in any place or manner prohibited by the provision herein, nor on private property without written consent of the owner.
7. Any temporary sign not expressly permitted without a permit.

**1010.03 Application of Ordinance**

Any temporary sign existing prior to the adoption of this ordinance by the Town of East Bend Board of Commissioner that does not conform with the terms of Article X shall be permitted to remain in place as a nonconforming use until January 1, 2016. Failure to comply with the terms of Article X and this compliance term shall be addressed as detailed in Article XV.

In the interim period, the condition and placement shall be addressed under the requirements for nonconformances within the Town, as detailed in Article XI, §1106. Any actions to improve signs that are declared prohibited by Article X shall be prohibited; signs requiring such action(s) shall be removed at the responsibility of the property and/or sign owner. Sign owners are encouraged to modify or replace nonconforming permanent signs.

**1011 PROHIBITED SIGNS**

Notwithstanding Section 1008 and in addition thereto, the following signs, both permanent and temporary, are prohibited in all zoning districts:

- (a) Signs extending into the public right-of-way other than those expressly permitted by this article or otherwise approved by the Board of Commissioners, if placed along public streets.
- (b) Roof signs.
- (c) Flashing, fluttering, swinging, wind-activated, rotating, animated signs and other digital or electronic message boards, excluding flashing time and/or temperature signs that are not otherwise permitted in Article X.
- (d) Any signs which obstructs the view of motorists, pedestrians, or cyclists using any street, sidewalk, bike path, or driveway, or which obstructs the approach to any street intersection or railroad crossing, or which interferes with the effectiveness of any traffic sign, device, or signal.
- (e) Illuminated or highly reflective signs which hamper the vision of motorists or cyclists.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

- (f) Any sign that resembles traffic signals, traffic signs, or emergency vehicle lights and any other sign not erected by a public authority which may be erroneously construed as governmental signs or emergency warning signs.
- (g) Beacons, pennants, and strings of lights not permanently mounted to a rigid background, except those permitted as temporary signs.
- (h) Any sign that interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light or air except for permitted window signs.
- (i) Any sign placed on any curb, sidewalk, post, pole, hydrant, bridge, tree, or other structure or surface located on, over, or across any public street right-of-way or property unless expressly authorized by this article or the Board of Commissioners.
- (j) Off-premises signs advertising adult establishments.
- (k) Off-premises signs on parcels of land that are zoned residential, used primarily for residential purposes, or which do not include an active permitted use as established by this article.
- (l) Inflatable devices or balloons.
- (m) High intensity searchlights.
- (n) Any non-sign object displayed in a manner which is effectively serving the purpose of a sign and is not explicitly permitted within this Article.
- (o) Any sign not conforming with the dimensions specified in the Table of Permitted Signs.
- (p) Any sign not expressly permitted by this article.

**1012 ENFORCEMENT OF REGULATIONS**

Any sign, structure, or other form of advertising defined as a sign herein that is erected or placed anywhere in the Town of East Bend after adoption of this ordinance that is not in compliance with the provisions of this section and its articles shall be subject to enforcement provisions outlined in Article XV of this Zoning Ordinance.

## **ARTICLE XI GENERAL PROVISIONS**

### **SECTION 1100                   NECESSARY REPAIRS PERMITTED**

Nothing in this ordinance shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared to be unsafe or unlawful.

### **SECTION 1101                   STREET ACCESS**

No building shall hereafter be erected on a lot, which does not abut a publicly dedicated, publicly approved or publicly maintained street for a distance of at least forty (40) feet.

### **SECTION 1102                   VISIBILITY AT INTERSECTIONS**

Sight distances at intersections must meet the standards for secondary roads established by the North Carolina Department of Transportation. On corner lots, no planting, structure, sign, fence, wall or other obstruction shall be erected so as to interfere with said sight distance.

### **SECTION 1103                   VACANT LOTS**

Vacant lots and open spaces located adjacent to major thoroughfares shall be maintained. Vegetation shall be neatly trimmed, and the accumulation of unsightly debris shall be prohibited.

### **SECTION 1104                   TRAVEL TRAILERS AND RECREATIONAL VEHICLES**

Travel trailers and/or recreational vehicles may be used as a temporary single family dwelling only in those districts that may now or hereafter permit travel trailer parks, and only within such parks. In no case shall a travel trailer or recreational vehicle be used as a single family dwelling on an individual lot or in conjunction with a primary residence on an individual lot.

### **SECTION 1105                   SEDIMENTATION CONTROL**

Where applicable, all proposed development projects or land disturbing activities shall comply with G.S. 113A-54, and Rules and Regulation for Erosion and Sediment Control as established by the North Carolina Sedimentation Control Commission, North Carolina Department of Natural Resources and Community Development.

### **SECTION 1106                   NONCONFORMANCES**

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

Any parcel of land, use of land, building or structure existing at the time of the adoption of this ordinance, or any amendment thereto, and any manufactured home located within the corporate limits of the town of East Bend at the time of the enactment of this zoning ordinance of September 27, 1989, that does not conform to the use or dimensional, class, category or other requirements of the district in which it is located, may be continued and maintained subject to the following provisions:

**1106.01      Nonconforming Vacant Lots**

This category of nonconformance consists of vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds of Yadkin County, which at the time of adoption of this ordinance fail to comply with the minimum area and/or width requirements of the districts in which they are located. Any such nonconforming lot may be used for any of the uses permitted in the district in which it is located provided that:

- (a) Where the lot area is not more than twenty (20) percent below the minimum specified in this ordinance, and other dimensional requirements are otherwise complied with, the Zoning Administrator is authorized to issue a zoning compliance permit.
- (b) Where the lot area is more than twenty (20) percent below the minimum specified in this ordinance or other dimensional requirements cannot be met the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions.
- (c) Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots which meet the minimum requirements of this ordinance for the district in which such lots are located.

**1106.02      Nonconforming Occupied Lots**

This category of nonconformance consists of lots, occupied by buildings or structures at the time of the adoption of this ordinance, that fail to comply with the minimum requirements for area, width, yard and setbacks for the district in which they are located. These lots may continue to be used.

Zoning Ordinances  
Town of East Bend, North Carolina

1106.03

Nonconforming Open Uses of Land

This category of nonconformance consists of lots used for storage yards, used car lots, auto wrecking, junkyards, and similar open spaces where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this ordinance, in the district in which is located. A legally established nonconforming open use of land may be continued except as follows:

- (a) When a nonconforming open use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use;
- (b) Nonconforming open uses of land shall be changed only to conforming use;
- (c) A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming;
- (d) When any nonconforming open use of land is discontinued for a period in excess of one hundred eighty (180) days, any future use of the land shall be limited to those uses permitted in the district in which the land is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

1106.04

Nonconforming uses of structures

This category of nonconformance consists of buildings or structures used at the time of enactment of this ordinance for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:

- (a) An existing nonconforming use may only be changed to conform to the requirements of the district in which it is located.
- (b) When a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
- (c) A nonconforming use may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except as follows:

**Zoning Ordinances**

**Town of East Bend, North Carolina**

- 1) Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.
- 2) Maintenance and repair necessary to keep a structure containing a nonconforming use in sound condition are permissible.
- 3) When any nonconforming use of a building or structure is discontinued for a period in excess of one hundred eighty (180) days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located.

**1106.05 Nonconforming Structures**  
This category includes any structure not in conformance with the restrictions of this ordinance after the effective date of adoption. Such nonconformances shall include, but not a limited to, height, bulk, and setback. Such nonconforming structures shall be allowed to remain with the following conditions:

- (a) A nonconforming structure may not be enlarged or altered except where maintenance and repair are necessary to keep the structure in sound condition.
- (b) When any nonconforming structure is damaged, repair must follow the guidelines listed in the following section.
- (c) Structural alterations are required by law or ordinance to secure the safety of the structure are permissible.

**1106.06 Reconstruction of Damaged Buildings or Structures**  
Any nonconforming use, which has been damaged by fire, wind, flood or other causes, may be required and used as before provided:

- (a) Repairs are initiated within twelve (12) months and completed within two (2) years of such damage. Failure to complete repairs within the specified time shall have the effect of terminating the nonconforming use.
- (b) The total amount of space devoted to a nonconforming use may not be increased.
- (c) Reconstructed buildings may not be more nonconforming with respect to dimensional restrictions.

**1106.07 Continuation of Mobile Home Parks**

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

Mobile home parks that become nonconforming uses shall be permitted to continue operation, and existing spaces within the mobile home park may continue to be occupied by mobile homes even after a space has been vacated, however, these mobile home park shall not be expanded or increased in size and no additional spaces designed for occupancy by a mobile home shall be added to the site after the adoption of this ordinance. A mobile home park that is discontinued for 180 days shall not be reestablished.

- 1106.08      **Continuation of Mobile Homes on Individual Lots**  
All manufactured homes located on individual lots within the corporate limits of the town of East Bend on September 27, 1989 may be continued as nonconforming manufactured home and as nonconforming uses of manufactured homes subject to the provisions of this zoning ordinance, as amended. July 1994.
- 1106.09      **Nonconforming Uses of Manufactured Homes**  
This category of nonconformance consists of manufactured homes located within the corporate limits of the town of East Bend at the time of the enactment of this Zoning Ordinance on September 27, 1989, and used at that time for purposes of use not permitted in the district in which they are located. Such uses may continue as follows:
- (a) An existing nonconforming use may only be changed to the requirement of the district in which it is located.
  - (b) When a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
  - (c) A nonconforming use may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except as follows:
    - 1) Structural alterations to a manufactured home as required by law or ordinances to secure the safety of the structure are permissible
    - 2) Maintenance and repair necessary to keep a manufactured home containing a nonconforming use in sound condition are permissible.
  - (d) When any nonconforming use of a manufactured home is discontinued for a period of one hundred eighty (180) days, the manufactured home shall not thereafter be used except in conformance with the regulations of the district in which it is located.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

1106.09

**Nonconforming Manufactured Homes**

This category includes any manufactured home located within the corporate limits of the Town of East Bend at the time of the enactment of this Zoning Ordinance on September 27, 1989 which was not in conformance with the restrictions of this Zoning Ordinance on or after September 27, 1989. Such non-conformances shall include, but not be limited to, height, bulk, setback, date of manufacture, class of manufactured home as defined in this ordinance and other non-conformances not herein specifically set out. Such nonconforming manufactured homes shall be allowed to remain with the following conditions:

- (a) A nonconforming manufactured home may not be enlarged or altered except where maintenance and repair are necessary to keep the manufactured home in sound condition.
- (b) When any nonconforming manufactured home is damaged, repair must follow the guidelines listed in Article XI of this ordinance.
- (c) Structural alterations as required by law or ordinance to secure the safety of the manufactured home are permissible.
- (d) When any nonconforming manufactured home is unoccupied for a period of one hundred eighty (180) days, the manufactured home shall not thereafter be located within corporate limits of the Town of East Bend except in conformance with the provisions of this ordinance.

1106.11

**Reconstruction of Damaged Manufactured Homes**

Any nonconforming use of a manufactured home or any nonconforming manufactured home, which has been damaged by fire, wind, flood or other cause, may be required and used as before provided:

- (a) Repairs are initiated within six (6) months and completed within one (1) year of such damage. Failure to complete repairs within the specified time shall have the effect of terminating the nonconforming use and of terminating the nonconforming statues of the manufactured home.
- (b) Neither the total amount of space devoted to a nonconforming use nor the size of the nonconforming use nor the size of the nonconforming manufactured home may be increased.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

- (c) Reconstructed or repaired manufactured homes may not be more nonconforming with respect to any provision of this ordinance.

Zoning Ordinances  
Town of East Bend, North Carolina

**ARTICLE XII**  
**PARKING AND OFF-STREET LOADING**

**SECTION 1200**      **OFF-STREET PARKING**

Off-street automobile parking or storage space shall be provided on every lot at the time any principal building is enlarged or increased in capacity or at the time one type of use is converted to another, or whenever any of the following uses are hereafter established, except within the C-S Community Shopping District. Such space shall be provided with vehicular access to a street or alley and shall not be provided in a yard required by the provisions of Article IX. When application of the provisions of the section results in a fractional space requirement, the next larger requirement shall prevail. Each lot abutting a major thoroughfare, as determined by the Zoning Administrator, shall be provided with a vehicular access thereto in accordance with all applicable federal, state or local laws and/or regulations, and shall be provided with adequate space for turning so that no vehicle shall be required to back into the thoroughfare. No certificate of occupancy (as provided in Section 504 of this ordinance) shall be issued unless all required off-street parking and loading requirements shall be in place, ready for use, and conform to the requirements of this ordinance. The number of spaces shall be equal in number to at least the minimum requirements for the uses below:

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

<u>Use Classification</u>	<u>Required Parking</u>
Single-family dwellings	Two (2) spaces for each dwelling unit
Multi-family dwelling	One and one-half (1 1/2) spaces for each dwelling unit
Rooming houses; boarding houses; hotels	One (1) space for each two (2) guest rooms, plus one (1) additional space for each three (3) employees
Motels' tourist courts	One (1) space for each guest room, plus one (1) additional space for each three (3) employees
Manufactured homes	Two (2) spaces for each manufactured home
Mobile home parks	Two (2) spaces for each manufactured home space.
Customary incidental home occupations	One (1) space in addition to other applicable parking requirements.
Churches; community centers/fraternal organizations; public associates; clubs; lodges; stadiums; assembly halls; auditoriums; coliseums; gymnasiums; indoor theaters; and similar places of public assembly	One (1) space for each two (2) seats in the main assembly room
Hospitals; nursing homes; convalescent homes; and group care facilities	One (1) space for each two beds (exclusive of bassinets), plus one (1) space for each staff or visiting doctor, plus one (1) space for each two (2) employees on shift of greatest employment
Medical and dental offices, Clinics and laboratories	Four (4) spaces for each practitioner at the facility, plus one (1) space for each additional employee
Service stations for motor vehicles	Three (3) spaces for each grease rack or similar facility, plus two (2) spaces for each gas pump
Schools: public or private high	One (1) space for each classroom and administrative office
Schools; public or private, elementary, middle and junior high; public kindergartens	One (1) space for each ten (10) students for whom the school was designed, plus one (1) space for each classroom and administrative office

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

Trade schools (including business, vocational, and special schools)	One (1) space for each three (3) students
Banks and other financial institutions	One (1) space for each 150 square feet or gross floor space
Libraries	One (1) space for each four (4) seats provided for patron use
Museums and art galleries	One (1) space for each 200 square feet or gross floor space
Mortuaries and funeral parlors	One (1) space for each four (4) seats in the assembly room or chapel
Offices: business or professional	One (1) for each 300 square feet of gross floor space
Restaurants: indoor	One (1) space for each three (3) seats or stools, plus one (1) space for each two (2) employees on the shift with the largest employment
Sales establishments: automobiles, trailers, farm equipment outdoor equipment, machinery, mobile homes, and similar items; commercial nurseries; greenhouses; monument works and sales	Four (4) spaces for each salesperson, plus one (1) space or each two (2) employees
Restaurants: drive-in	Parking space equivalent to five (5) times the floor space in the main building
Animal hospitals & veterinary clinics	One (1) for each 200 square feet of gross floor space
Kennels	One space for each four (4) pens
Motor vehicle and farm equipment maintenance and repair	One (1) space for each two (2) employees on the shift with the largest employment, plus two (2) spaces for each 30 square feet of repair or maintenance space
Automobile washing establishments	One (1) space for each two (2) employees on the shift with the largest employment. Reserve spaces equal to five (5) times the capacity of the facility at the location of both ingress and egress.
Retail stores, businesses, shops and services of all kinds, except those otherwise specified	One (1) for each 100 square feet of gross floor space
Manufacturing, industrial and wholesaling establishment, except those otherwise specified	One (1) space for each two (2) employees on the shift with the largest employment

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

Shopping centers	Three (3) square feet of parking space for each square foot of gross floor space
<b>RECREATIONAL FACILITIES PARKING REQUIREMENTS</b>	
Tennis, squash, racquetball and handball courts, or similar facilities	Two (2) spaces per court
Swimming Pools	One (1) space per 140 square feet of pool area
Shooting ranges	One (1) space per target area
Physical fitness	One (1) space per 5 square feet
Athletic fields and playgrounds	Ten (10) spaces per field or playground
Golf courses or country clubs	Two (2) spaces per tee
Skating rinks and bowling alleys	One (1) space per 200 square feet
Miniature golf courses	One (1) space per 50 square feet of course area
Other places of recreation or assembly without fixed seats	One (1) space per 200 square feet
Day nurseries and private kindergartens	One (1) space for each staff member plus one (1) space for each five (5) students
Public and semi-public buildings (not otherwise specified)	One (1) space for each 200 square feet of gross floor

1200.01      Combined Parking Spaces

The required parking space for any number of separate uses may be combined in one lot, but the required space for one use may not be assigned to another use, except that at one-half of the parking spaces required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or Sundays.

1200.02      Location on Other Property    If the off-street parking space required cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided within four hundred (400) feet of the main entrance to such principal use, provided such land is in the same ownership as the principal use. Said land shall be used for no other purpose so long as no other adequate provisions for parking space meeting the requirements of this ordinance have been made for the principal use. In such case, the applicant for a certificate of zoning compliance or the principal use shall submit with his application an instrument duly executed and

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

acknowledged, which it is made available. Upon the payment of the necessary fee and the issuance of a building permit, the Town Clerk shall cause the said instrument to be registered in the Registry of Deeds of Yadkin County.

**SECTION 1201 OFF-STREET LOADING AND UNLOADING SPACE**

Every lot on which a business, trade or industry use is hereafter established shall provide space as indicated herein for the loading and unloading of vehicles off the street. Such space shall have access to a street or alley. For the purpose of this section, an off-street loading space shall have minimum dimensions of twelve (12) feet by forty (40) feet and an overhead clearance of fourteen (14) feet in height above the alley or street grade.

- (a) Retail Business: one (1) space for each five thousand (5,000) square feet of gross area.
- (b) Wholesale and Industry: One (1) space for each fifty thousand (50,000) square feet of gross floor area.
- (c) Truck Terminals: Sufficient space to accommodate the maximum number of trucks to be stored or to be loaded or unloaded at the terminal at any one time.

## **ARTICLE XIII EXCEPTIONS AND MODIFICATIONS**

Compliance with the requirements of this ordinance is mandatory; however, under the specific conditions enumerated in the following sections, the requirements may be waived or modified as so stated.

### **SECTION 1300        FRONT YARD SETBACK FOR DWELLING**

The front yard setback requirements of this ordinance for dwellings shall not apply on any lot where the average setback of existing buildings located wholly or in part within one hundred (100) feet on each side of such lot within the same block and zoning district and fronting on the same side of the street is less than the minimum required setback. In such cases, the setback may be less than the required setback, but not less than the average of the setback of the aforementioned existing buildings.

### **SECTION 1301        SIDE YARD SETBACK FOR DWELLING**

Where a side yard abuts a street, said side yard requirements shall be the same as the front yard requirements for abutting property on the side street. In no case, however, all said side yard requirements be less than those specified in Article IX.

### **SECTION 1302        HEIGHT LIMITATIONS**

The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flag poles, radio towers, television towers, masts, aerials and similar structures.

### **SECTION 1303        COMPLETION OF BUILDINGS UNDER CONSTRUCTION**

Nothing in this ordinance shall require any change in the plans, construction or designated use of a building which is both under construction at the date of the passage of this ordinance, and in compliance with all applicable development regulations in effect in the Town of East Bend at the time of issuance of the building permit, provided that construction of such building is diligently pursued and the entire building is completed within eighteen (18) months from the date of passage of this ordinance. A building shall be deemed to be under construction upon the effective date of this ordinance if a building permit has been issued.

### **SECTION 1304        TEMPORARY USES**

Temporary uses such as real estate sales field offices or shelter for materials and equipment being used in the construction of a permanent structure may be permitted by the Zoning Administrator, provided they do not create health, safety or nuisance hazards. A temporary permit however must be obtained to allow a manufactured home to occupy a lot while a site built house is under construction. It is expected that construction will begin within three (3)

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

months after obtaining the temporary permit and conclude within eighteen (18) months thereafter. Decisions of the Zoning Administrator regarding temporary uses and permits shall be subject to review by the Zoning Board of Adjustment on appeal.

**SECTION 1305 PROJECTIONS INTO REQUIRED OPEN SPACE**

Every part of a required yard shall be open from its lowest point to the sky unobstructed, except as follows:

- (1) The ordinary projection of sills, belt courses, cornices, buttresses, ornamental features and eaves; provided, however that none of the above shall project into a minimum side yard more than twenty-four (24) inches.
- (2) Open or enclosed fire escapes, fireproof outside stairways and balconies projecting into a minimum yard not more than three and one-half (3 1/2) feet, and the ordinary projections of chimneys and flues may be permitted by the Zoning Administrator where same are so placed not to obstruct the light and ventilation.

**SECTION 1306 RIGHTS-OF-WAY**

Street and highway rights-of-way shall not constitute a part of a lot or any required yard or open space.

**SECTION 1307 GROUP DEVELOPMENTS.**

In the case of two (2) or more buildings to be constructed on a plot of ground of at least two (2) acres not subdivided into the customary streets and lots and which will not be so subdivided, the application of the terms of this ordinance may be modified by the Board of Adjustment in a manner that will be in harmony with the character of the neighborhood, provided:

- 1307.01 Such uses are limited to those permitted within the zoning district in which the project is located. In no case shall the Board authorize a use prohibited in the district in which the project is to be located.
- 1307.02 The overall intensity of land use is no higher and the standard of open space is no lower than that permitted in the district in which the project is located.
- 1307.03 The distance of every building from the nearest property line shall meet the front, rear and side yard requirements of the district in which the project is located.
- 1307.04 Minimum lot widths shall be double these required in the district in which the project is located.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

- 1307.05 In those cases where a group development is created which either lies within a residential district or abuts a residential district, there shall be provided and maintained (by the group development) a continuous visual buffer strip, as defined in Article IV, along the side and rear lot lines of the group development.
- 1307.06 A site plan, showing the manner in which the requirements of subsections 1307.01 through 1307.05 will be met, is submitted along with the application for a group development.
- 1307.07 An application for the establishment of a group development shall be submitted for consideration by the Zoning Board of Adjustment.

**ARTICLE XIV**  
**AMENDMENTS**

**SECTION 1400 AMENDMENTS**

This zoning ordinance, including the zoning map, may be amended by the Board of Commissioners in accordance with the provisions of this article.

**SECTION 1401 INITIATION AND REFERRAL OF AMENDMENTS**

Proposed changes or amendments may be initiated by the Board of Commissioners, the Planning Board, the Board of Adjustment, or one or more owners or renters of property within the area proposed to be changed or affected. All proposed amendments shall be referred to the Planning Board for its review and recommendation to the Board of Commissioners.

**SECTION 1402 APPLICATION**

Before any action on a proposed change or amendment, an application for an amendment shall be submitted to the office of the Zoning Administrator at least ten (10) days prior to the Planning Board's meeting at which the application is to be considered. The application shall contain the name(s) and address(es) of the owner(s) of the property in question, the location of the property, and a description and/or statement of the present and proposed zoning regulation or district as shown on the application forms supplied by the town. All applications requesting a change in the zoning map shall include a description of the property in question. The Planning Board and the Board of Commissioners will not consider an application for property for which an amendment was denied within the preceding twelve (12) months by the Board of Commissioners. "For all proposed rezonings

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

of land totaling twenty-five (25) acres or less, the applicant shall provide a written statement analyzing the reasonableness of the proposed rezoning. [G.S. 160A-382(b)]"

#### **SECTION 1403 PLANNING BOARD ACTION**

"Subsequent to initial adoption of a zoning ordinance, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report. The Board of Commissioners is not bound by the recommendation, if any, of the planning and zoning board. [G.S. 160A-387].

Members of the Planning Board shall not vote on any recommendation regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. [G.S. 160A-381(d)].

The Planning Board shall advise and comment on whether the proposed amendment is consistent with the intent of this ordinance, with any comprehensive plan that has been adopted by the Town and with any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. [G.S. 160A-3S3]"

#### **SECTION 1404                    PUBLIC HEARING**

Before enacting any amendment to this ordinance, the Board of Commissioners shall hold a public hearing. A notice of such public hearing shall be published in a newspaper of general circulation in Yadkin County once a week or two (2) successive calendar weeks. The first publication shall appear not less than ten (10) days nor more than twenty-five (25) days prior to the date fixed for the public hearing. The notice shall include the time, place and date of the hearing, and include a description of the property or the nature of the change or amendment to the ordinance and/or map.

"Prior to a public hearing for any proposed map amendment, the owners of all properties adjacent to the subject property shall be notified by first-class mail of the place, date, time and nature of the hearing. The person mailing these notices shall certify in writing that he/she has done so. Provided, however, that the first class mail notice required under this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to either make the mailed notice provided for in this section or may as an alternative elect to publish notice of the hearing as required by G.S. 160A-364, but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

property tax listing for the affected property, shall be notified according to the provisions of subsection (1) of this section. [G.S. 160a-384(b)]

When a zoning map amendment is proposed, the Town shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. 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. 60A-384 (c)]"

**SECTION 1405 PROTEST PETITIONS**

"Zoning ordinances may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the Board of Commissioners. Vacant positions on the Board and members who are excused from voting shall not be considered 'members of the Board' for calculation of the requisite three-fourths supermajority. To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each district or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer that shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the "owners" of potentially qualifying areas. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district." (160A-385 (a)]

No protest against any change in or amendment to a zoning ordinance or zoning map shall be valid or effective for the purposes of G.S.160A-38 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, and unless it shall have been received by the town clerk in sufficient time to allow the town at least two normal work 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. The town council may by ordinance that all protest petitions be on a form prescribed and furnished by the town, and may prescribe any reasonable information deemed necessary to determine the sufficiency and accuracy of the petition. A person who has signed a petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in G.S.160A-385 at the time of the vote in the zoning amendment shall trigger the supermajority voting requirement.[G.S. 160A- 86]"

**SECTION 1406. ACTION BY THE BOARD OF COMMISSIONERS**

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

The Board of Commissioners shall make a decision on the proposed amendment within sixty (60) days after the public hearing. A simple majority of the Town Board of Commissioners shall be required to amend this ordinance when such action has been recommended by the Planning Board, a four-fifths (4/5) vote by the Town Board of Commissioners shall be required to amend this ordinance when the Planning Board recommends against such.

A member of the Board of Commissioners shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. [G.S.160A-381 (d); 160A-75]

Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with the intent of this ordinance and with any adopted comprehensive plan or other adopted development plan, and explaining why the board considers the action taken to be reasonable and in the public interest. [G.S. 160A-383]"

**SECTION 1407                    APPLICATION FEE**

A fee of fifty dollars (\$50.00), to cover costs of administrative expenses, shall be paid by the applicant to the Town of East Bend for each application for an amendment to the zoning ordinance.

## ARTICLE XV

### VIOLATIONS, PENALTIES AND REMEDIES

#### SECTION 1500 GENERAL AUTHORITY FOR ENFORCEMENT OF ZONING ORDINANCES AND REGULATIONS

- (a) Civil Penalty. The town has the power to impose fines and penalties for violation of any provision of the Town's Zoning Ordinances, as they may be amended from time to time, and may secure injunctions and abatement orders to further insure compliance with the Zoning Ordinances as provided by N.C. Gen. Stat. 160A-175.
- (b) Criminal Penalty. Violation of any of the Zoning Ordinances is a misdemeanor as provided by NC Gen. Stat 14-4. The offender shall be subject to the maximum fine, term of imprisonment, and infraction penalty as provided in N.C. Gen. Stat. 14-4 et seq.

#### SECTION 1501 CIVIL PENALTY--PROCEDURE

- (a) Offender An offender is any person or entity that the Zoning Enforcement Officer reasonable believes has violated any Zoning Ordinance. An offender may be the occupant, owner, lessee, lessor, or any person or entity having beneficial use of the affected property, or any or all of the above
- (b) Warning Citation Prior to issuing a Civil Citation for violation of these Zoning Ordinances, the Zoning Enforcement Officer shall issue and serve upon the offender a Warning Citation which shall provide the following information: (i) nature of the violation(s); (ii) the ordinances(s) violated, (iii) a reasonable period of time within which the violation(s) shall be cured, which reasonable time shall be deemed to be thirty (30) days from the date of service of the Warning Citation unless there is risk to public safety or health, in which case the Warning Citation can require violations to be cured immediately; (iv) if the violations are not cured within the prescribed time, that subsequent citation(s) shall be issued causing the offender to incur penalties in the amount of \$50.00 per day until the violations are cured; and (v) a time, place and date for a hearing to be held before the Zoning Enforcement Office, which is not more than thirty (30) days from the date of the Warning Citation.
- (c) Warning Citation Hearing At the hearing notice in the Warning Citation, the offender and any party in interest shall have the right to appear before the Zoning Enforcement Office and give evidence concerning the alleged violations. Rules of evidence applicable in courts law and equity shall not apply. At the hearing, the Zoning Enforcement Officer can rescind, modify, or take no action with respect to the Warning Citation. If no action is taken, or if the offender fails to attend the hearing, the Warning Citation

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

shall remain in full force and effect and the violations cited therein must be cured with the time prescribed by the original Warning Citation.

- (d) **Civil Citation** If the violations are not cured within the time prescribed by the Warning Citation, the Zoning Enforcement Officer may issue a Civil Citation, which shall be served upon the offender requiring the offender to pay the sum of \$50.00 on or before the date that is fifteen (15) days after the date of service of the Civil Citation.
- (e) **Subsequent Civil Citations** Each day's continuing violation shall be a separate and distinct offence. Provided, however that once a Warning Citation has been issued for a continuing violation, subsequent Civil Citations may be issued to the offender concerning the violation without issuing additional Warning Citations or without having additional Warning Citation hearings
- (f) **Failure to Comply** If the offender fails to pay the fine assessed in the Civil Citation within fifteen (15) days from the date of service, the Town may institute a civil action in the nature of debt, and shall be entitled to collect the fine or fines upon which the suit is brought, interest at the legal rate, costs, and attorney's fees.
- (g) **Service.** Warning Citations and Civil Citations shall be served upon the offenders by any manner allowed under Rule 4 of North Carolina Rules of Civil Procedure. Additionally, if the identities or whereabouts of any offenders are unknown and cannot be ascertained by the Zoning Enforcement Officer after due diligence or if the offenders refuse service, and the Zoning Enforcement Officer makes an affidavit to that effect feet, then service of the Warning Citation or Civil Citation may be made by posting the Citation in a conspicuous place on the affected property. With respect to the issuance of a Warning Citation, service must be perfected ten (10) days prior to the hearing scheduled therein, unless the Zoning Enforcement Officer deems that public health and safety are at risk, in which case service must be perfected twenty-four (24) hours prior to the time of the hearing.

**SECTION 1502                    INJUNCTION AND ABATEMENT**

- (a) Any provision of the Zoning Ordinances may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction, in such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Town for equitable relief that there is an adequate remedy at law.
- (b) Any provision of the Zoning Ordinances or any other Town ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction or order of abatement by a General Court of Justice. When a violation of such a provision occurs the Town may apply to the appropriate division of the General Court of Justice for a mandatory

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

- (c) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this ordinance.
- (d) If the defendant fails or refuses to comply with an injunction or with an order of abatement with the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material man's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction.
- (e) Whenever any violation is denominated a misdemeanor under any provision of the Zoning Ordinances, or under Part 5, Article 9 of Chapter 160A of the North Carolina General Statutes, the Town, wither in addition to or in lieu of other remedies, may initiate any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved as provided in N.C. Gen. Stat. 160A-432.

**SECTION 1303                   METHOD OF ENFORCEMENT**

These Zoning Ordinances may be enforced by any one, all or a combination of the remedies authorized and prescribed herein.

## **ARTICLE XVI**

### **LEGAL STATUS PROVISIONS AND EFFECTIVE DATE**

#### **SECTION 1600 SEVERABILITY**

It is the legislative intent of the Board of Commissioners in adopting this ordinance that all provisions and sections thereof shall be liberally construed to protect and preserve the health, safety and general welfare of the inhabitants of the Town of East Bend, and, further, that should any provision, portion, section or subsection of this ordinance be held to be invalid by a court of competent jurisdiction such ruling shall not be construed as affecting the validity of any of the remaining provisions, portions, sections, subsections, it being the intent of the Board of Commissioners that this ordinance shall stand, notwithstanding the invalidity of any provision, or section or part thereof.

#### **SECTION 1601 CONFLICT WITH OTHER LAWS**

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

#### **SECTION 1602 APPLICABILITY TO GOVERNMENTAL BUILDINGS**

The provisions of this ordinance are applicable to the erection, construction and use of buildings by the State of North Carolina and its political subdivisions.

This ordinance shall take effect and be in force from and after September 27, 1989.

Duly adopted by the Board of Commissioners of the Town of East Bend, North Carolina, this the 27<sup>th</sup> day of September 1989.

## ARTICLE XVII WATERSHED PROTECTION

**Adopted September 13, 1993- Effective October 1, 1993**

This amendment to the Town of East Bend Zoning Ordinance and Map is made pursuant to Article XIII of the Zoning Ordinance and by the authority conferred by the North Carolina General Statutes, Chapter 160A, article 19.

### DRINKING WATER SUPPLY WATERSHED PROTECTION

#### Section 1700 Establishment of a Watershed Overlay District

Within the Town of East Bend Planning Jurisdiction the following watershed overlay district shall be established:

#### Yadkin River Watershed- WS-IV- Protected Area (PA) Watershed Overlay District

#### Section 1701 Definitions

The following definitions apply specifically to the drinking water supply watershed overlay district.

- 1701.01 **Agricultural Uses.** The use of waters for stock watering, irrigation, and other farm purposes.
- 1701.02 **Animal Units.** A unit of measurement developed by the US Environmental Protection Agency that is used to compare different types of animals operations.
- 1701.03 **Best Management Practices (BMP's).** A structural or non-structural management based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.
- 1701.04 **Buffer.** An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that runoff does not become channelized and provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams and rivers.
- 1701.05 **Built-upon area. (impervious surface)** Built upon areas shall include that portion of development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities, (e.g. tennis courts) etc. (Wooden slated decks and the water area of a pool are considered pervious)
- 1701.06 **Cluster or group development.** The grouping of buildings in order to conserve land and resources and provides for innovation of design in the project. This term includes nonresidential development as well as single family residential subdivisions and multi-family developments that do not involve the subdivision of land.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

- 1701.07 Development. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area of which otherwise decreases the infiltration of precipitation into the soil.
- 1701.08 Discharging landfill. A facility with liners, monitoring equipment and other measures to detect and or prevent leachate from entering the environment and in which the leachate is treated on site and discharged into a receiving stream.
- 1701.09 Existing development. Those projects that are built or those projects that at a minimum have established a vested right under NC zoning law as of the effective date of this ordinance and based on at least one of the following criteria:
- (1) substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received valid local government approval to proceed with the project, or
  - (2) having an outstanding valid building permit as authorized by the General Statutes (G. S. 153A-344.1), or
  - (3) having expended substantial resources (time, money, labor) and having an approved site specific or phased development plan as authorized by General Statutes (G.S 153A-344.1)
- 1701.10 Hazardous material. Any substance listed as such in SARA section 302, extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).
- 1701.11 Industrial development. Any non-residential development that requires an NPDES permit for industrial discharge and/or requires the use and storage of any hazardous materials for the purpose of manufacturing, assembling and finishing, cleaning or developing any product or commodity.
- 1701.12 Landfill. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 120 A Article 9 of the NC General Statutes. For the purposes of this ordinance this term does not include composting facilities.
- 1701.13 Non-residential development. All development other than residential development, agriculture and silviculture.
- 1701.14 Protected Areas. The area adjoining and upstream of the critical area in a WS IV water supply in which protection measures are

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

required, with the boundaries to be the ten miles upstream and draining to the intake located directly in the river or to the watershed ridge line (whichever comes first).

- 1701.15 Residential development. Buildings for the residence such as attached and detached single family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, and customary home occupations.
- 1701.16 Structure. Anything constructed or erected, including but not limited to buildings, which requires a location on the land or attachment to something having permanent location on the land.
- 1701.17 Toxic substance. Any substance or combination of substances (including disease-causing agents) which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through the food chain, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions or physical deformities in such organisms or their offspring or other adverse health effects.
- 1701.18 Variance, major watershed. Variances of a significant nature in unique circumstances on a case by case basis shall be reviewed by the Zoning Board of Adjustment serving as the Watershed Review Board, and approved by the NC Environmental Management Commission. More specifically, major variances would completely eliminate a management requirement or reduce a management requirement with a numerical standard by more than 10%.
- 1701.19 Variance, minor watershed. Any variance not considered a major one shall be reviewed or approved by the Board of Adjustment serving as the Watershed Review Board through the standard appeals process as described in Section 507 of this ordinance.
- 1701.20 Water dependent structure. Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks or bulkheads.
- 1701.21 Watershed Administrator. An official of or persons designated by the Town of East Bend charged with enforcing and administering the drinking water supply watershed overlay district requirements as Zoning Administrator.
- 1701.22 Watershed. The entire land area contributing to surface drainage to a specific point (e.g. the water supply intake).

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

**Section 1702 Intent**

The watershed overlay district is established to impose higher development standards around and upstream from drinking water supplies than general imposed on land uses in the planning area. The intent is to maintain current development patterns in order to prevent the risks of pollution from more intensive land uses.

The classification of watersheds are based on current and expected development patterns. WS IV will have moderate to high land-use intensity pattern.

**Section 1703 Applicability**

The watershed overlay district regulations shall apply to land-use activities with the area designated as Public Water Supply Watershed by the NC Environmental Management Commission and shall be defined and established on the map entitled "Watershed Protection Zoning Overlay Map" which is adopted simultaneously herewith as part of the "Official Zoning Map of the Town of East Bend, North Carolina". The Watershed Map and all the explanatory matter contained thereon accompanies and is hereby made part of these regulations.

Within the Town of East Bend a portion of the Winston-Salem Drinking Water Supply Watershed is located. It is part of the WS IV Yadkin River Basin.

**Section 1704 Exceptions to Applicability.**

- (a) The watershed overlay district imposes an additional layer of regulations over existing zoning requirements. When a conflict occurs between the zoning district standards and the overlay district standards, the more restrictive will apply. No situations shall allow development to violate the Watershed Protection Rules (15 A NCAC 2B.014) that fall within this designation.
- (b) It is not the intent of the watershed overlay district or regulations to interfere with any easement, covenants or other agreements between parties. However, if these regulations impose a greater restriction or higher standard, then these restrictions shall control.
- (c) All land use activities shall be regulated by the watershed protection regulations in the designated watershed overlay district except existing development as defined in Section 1701, above, is not subject to the requirements of this Article, Expansions to structures classified as existing development must meet the requirements of this Article; however, the built upon area of the existing development is not required to be included in the density calculations. Redevelopment is allowed if the rebuilding activity does not have a net increase in the built-upon area or provides equal or greater storm water

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

controls than the previous development. There is no restriction on single-family residential redevelopment.

**Section 1705 Watershed Overlay District -WS-IV Protected Area**

**1705.01 Application**

Only new development activity that requires a soil erosion/sedimentation control plan under G.S. 113. A-54 and Rules and Regulations for Erosion and Sediment Control as established by the NC DENR or approved local program is required to meet the provisions of these regulations when located in the WS-IV watershed.

**1705.02 Permitted Uses**

- (1) All Uses allowed in the underlying zoning districts when the watershed overlay district is located, unless prohibited below.
- (2) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- (3) Silviculture, using Best Management Practices required to implement the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-0209).

**1705.03 Prohibited Uses**

Included the storage of toxic or hazardous materials unless a spill containment plan is implemented.

**1705.04 Density and built Upon Limits**

- (1) Single Family Residential development shall not exceed one dwelling unit per one-half (1/2) acre (21,780 sq. ft.). Projects utilizing curb and gutter shall not exceed this density. Projects not using curb and gutter shall not exceed one dwelling unit per one-third (1/3) acre (14,520sq.ft.), except within and approved cluster or group development.
- (2) All other Residential and Non-Residential development shall not exceed twenty-four percent (24%) built upon area on a project basis with a curb and gutter street system, or thirty-six (36%) built upon area, without curb and gutter system. For purposes of calculating built upon area, the total project area shall include acreage in the tract on which the project is developed.
- (3) Clustering or grouping of development is allowed in the Watershed Areas under the following conditions:
  - (a) Minimum lot sizes are not applicable to single family cluster development projects; however, the total

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

number of lots shall not exceed the number of lots allowed for single family detached developments in Section 1705.04(1). Built upon area or storm water control requirements of the project shall not exceed that allowed for the protected area (PA) as designated by this overlay district.

- (b) All built upon area shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water flow.
- (c) The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

**Section 1706 Buffer Areas Are Required**

- (1) Stream Buffers shall be a minimum thirty (30) foot undisturbed vegetative buffer along all perennial waters indicated on the most recent versions of the USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.
- (2) No new development is allowed in the buffer except for water dependent and public projects such as local roads, federal or state highways, public utilities and greenways where no practical alternative exist. These activities shall minimize built upon surface area, direct runoff away from the surface waters and maximize the utilization of storm water Best Management Practices.

**Section 1707 Administration**

The Zoning Enforcement Officer shall enforce the provisions of the zoning ordinance as specified in Article V, section 501. Within the watershed overlay district the following additional duties are required as Watershed Administrator:

**1707.01 Recordkeeping**

- (1) Submit copies of all amendments to the watershed overlay districts upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management.
- (2) Keep separate records of variances to the watershed overlay district and related sections of the ordinance. This record shall

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

be submitted to the above cited office on an annual basis and include a description of the variance and the reasons for granting the variance.

- (3) Monitor land use activities in the watershed overlay district to identify situations that may threaten water quality. These situations would be reported to the regulatory agency responsible for these activities.

**1707.02 Appeals**

As specified in Article V, Section 507, all appeals from the decision of the Zoning Enforcement Officer/Watershed Administrator shall be submitted to the Board of Adjustment which shall serve as the Watershed Review Board for the purposes of this Article.

**1707.03 Amendments**

All amendments to the watershed regulations shall be handled as specified in Article XII. Under no circumstances shall the Town of East Bend supplement or change the watershed overlay district and related regulations to violate the Watershed Protection Rules (15A NCAC2B.OI04). All amendments shall be filed with the NC Environmental Management Commission, NC Division of Environmental Health and the NC Division of Community Assistance.

**1707.04 Variances in the Watershed Overlay District**

- (1) The Board of Adjustment shall handle minor variances as specified in Article VI, Section 602.04
- (2) If a major variance (as defined in Section 1701.18) is requested, the Board of Adjustment, after making a favorable decision to grant the request shall prepare a preliminary record of the hearing including:
  - a. the application;
  - b. the hearing notice;
  - c. the evidence presented;
  - d. motions, offers of proof, objections to evidence and ruling on them;
  - e. proposed findings and exceptions;
  - f. the recommended decisions, including specific conditions proposed to be added to the approval.

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

The record is submitted in a timely manner to the Environmental Management Commission (EMC) for its review. The EMC shall review the record and determine the following:

- a. the request qualifies as a major variance
- b. the property owner can secure not reasonable return from or make any practical use of the property unless the proposed variance is granted.
- c. The variance will not pose a serious threat to the water supply.

Based on its findings, the Environmental Management commission will approve the variance and authorize the Town to issue the variance, deny the variance, or approve with conditions. Upon written receipt of the EMC decision, the Board of Adjustment, based on the EMC ruling, shall prepare a final decision at its next regular meeting. Appeals of the EMC decision are made to Superior Court.

#### **Section 1708 Notifications of Jurisdictions**

In the designated drinking water supply watershed regulated by this overlay district, the Zoning Enforcement Officer/Watershed Administrator shall notify any jurisdictions within the watershed of a proposed variance to the watershed regulations. Local governments may submit any comments to the Zoning Enforcement Officer/Watershed Administrator before public hearing by the Board of Adjustment.

#### **Section 1709 Boundary Determinations**

The watershed boundaries of the watershed overlay district are delineated on the town of East Bend Official Zoning Map. As specified in the Water Supply Watershed Protection Rules (15A NCAC 2B.O1 04), boundaries follow roads, ridges and property lines as closely as possible. Boundaries are drawn to avoid dividing tracts in single ownership. If a property owner can demonstrate his land drains into another watershed or into a receiving stream below the intake of the same watershed, the Zoning Enforcement Officer may exempt that area from these regulations.

#### **Section 1710 Effective Date**

Adopted by the East Bend Board of Commissioners on September 13, 1993. The effective date of these amendments to the Town of East Bend Zoning Ordinance shall be October 1, 1993.

## **ARTICLE XVIII**

### **MORATORIA**

The Town may adopt temporary moratoria on any development approval required by law. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the Board of Commissioners shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. 160A-364. Absent of imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to G.S. 160A-417 is outstanding, to any project for which a conditional use permit application or special use permit application has been accepted, to development set forth in a site-specific or phased development plan approved pursuant to G.S. 160A-385.1, to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the Town prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the Town prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium. Any ordinance establishing a development moratorium must expressly state the time of adoption each of the following;

- (1) A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the Town and why those alternative courses of action were not deemed adequate.
- (2) A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- (3) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- (4) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the Town during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

No moratorium may be subsequently renewed or extended for any additional period unless the Town shall have taken all reasonable and feasible steps proposed to be taken by the Town in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a

**Zoning Ordinances**  
**Town of East Bend, North Carolina**

development moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions 1 through 4 of this subsection, including what new facts or conditions warrant the extension.

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action the Town shall have the burden of showing compliance with the procedural requirements of this subsection. [G.S.160A-3381(e)]