

FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: _____ **AGENDA ITEM NUMBER:** _____

SUBJECT:-

- A. Request for Public Hearing on Zoning Text Amendment proposed by the City-County Inspections staff and City-County Planning Board staff to amend various sections of the UDO to make technical and clerical changes (UDO-116).
- B. Ordinance amending the Forsyth County Zoning Ordinance and Official Zoning Map.

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

See attached staff report.

After consideration, the Planning Board recommended approval of the zoning text amendment.

ATTACHMENTS:- X YES ___ NO

SIGNATURE: _____ **DATE:** _____

NOTE: Items to be added are indicated with an underscore.
 Items deleted are indicated with a ~~striketrough~~.

ACTION REQUEST FORM

DATE: June 23, 2004
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, AICP, Director of Planning

COUNCIL ACTION REQUEST:

Request for Public Hearing on zoning text amendment regarding technical and clerical changes to the UDO.

SUMMARY OF INFORMATION:

Zoning Text Amendment proposed by the City-County Inspections staff and City-County Planning Board staff to amend various sections of the UDO to make technical and clerical changes (UDO-116).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: UNANIMOUS
AGAINST: NONE
SITE PLAN ACTION: NOT REQUIRED

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STAFF REPORT

DOCKET #: UDO-116

STAFF: David. Reed

REPORT PER ITEM

The following UDO Text Amendments have been prepared and recommended by the City-County Planning Board Staff and the City-County Inspections Division Staff to accommodate grammatical, editorial, non-substantive changes, and clarifications throughout the UDO as specified in the attached ordinance.

CHAPTER A - "DEFINITIONS ORDINANCE"

REQUEST

1. To amend the Definitions Ordinance for CHILD CARE (DROP-IN).

ANALYSIS

When this use was created, the terms "intermittent, unscheduled basis" were used in the definition. This language is unnecessary and prohibits most after-school programs; therefore it should be removed.

STAFF RECOMMENDATION: APPROVAL.

REQUEST

2. To amend the Definitions Ordinance for STORAGE TRAILER (F,W,K,L).

ANALYSIS

Some of the uses listed in our definition of storage trailers cannot be used for storage as they conflict with the NC building code and should therefore be removed.

STAFF RECOMMENDATION: APPROVAL.

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CHAPTER B - "ZONING ORDINANCE"

REQUEST

3. To remove the stacking requirement from car wash establishments that are "hand wash only".

ANALYSIS

Car washes that are hand wash only facilities do not generate the same amount of traffic flow or vehicle stacking as automatic car washes and should not be held to the same standards. There also exists an opportunity to reduce impervious surface cover by eliminating this stacking requirement.

STAFF RECOMMENDATION: APPROVAL.

REQUEST

4. To remove the licensing requirement from a child care (drop in).

ANALYSIS

The State does not require licensing where childcare is provided for less than four hours; however when the use was created, it was understood by staff that licensing was required.

STAFF RECOMMENDATION: APPROVAL.

REQUEST

5. To remove the requirement of a closure bond for Land Clearing and Inert Debris Landfills (LCIDs) with the North Carolina Department of Environment and Natural Resources.

ANALYSIS

The North Carolina Department of Environment and Natural Resources (DENR) does not require or administer this action and there are other tools in place to insure compliance. The petitioner has to file a reclamation plan that the City-County Inspections Division enforces. They have the authority to fine the property owner if that is not completed as required. Additionally, the Erosion Control Ordinance requires the property owner completes reclamation with ground cover on the site. With these other tools in place, there is no need to keep the closure bond language in the UDO.

STAFF RECOMMENDATION: APPROVAL.

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REQUEST

6. To exempt transmission towers located in nonresidential zoning districts on nonresidential structures or incorporated into other nonresidential structures from any required Planning Board Review or Special Use Permit requirements.

ANALYSIS

Essentially, there is no item for the Planning Board to review, as there is no fence, buffer, or setback.

STAFF RECOMMENDATION: APPROVAL.

REQUEST

7. To include language within “Supplemental Dimensional Requirements” for consistency throughout the Ordinance.

ANALYSIS

This amendment will reconcile the language in this section with the definition of exempt structures in the Definition section. At present there are several items called out as being excluded from the definition of structure, however, in the Supplemental Dimensional Requirements section, the list is not as extensive. To effectively enforce the ordinance, the two lists must include the same exempt uses.

STAFF RECOMMENDATION: APPROVAL.

REQUEST

8. To alter language regarding “Private Access Easements and Private Streets” to convey the original intent of the regulation.

ANALYSIS

As the language exists, it is grammatically incorrect as it suggests the opposite of the Ordinance’s intent. By rewording the sentence, the language will be made clear and therefore easier to interpret and enforce.

STAFF RECOMMENDATION: APPROVAL.

REQUEST

9. To clarify the frontage and width requirements of flag lots and the calculable area of said lots.

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ANALYSIS

This amendment would require the flag lot width match the minimum twenty-five (25) foot access easement requirement and clarify what portion of a lot can be used in the lot area calculation.

STAFF RECOMMENDATION: APPROVAL.

REQUEST

10. To regulate the minimum lot frontage of a zoning lot.

ANALYSIS

This amendment would clarify the minimum lot frontage required for any zoning lot. This would also match the new frontage requirements for flag lots.

STAFF RECOMMENDATION: APPROVAL.

REQUEST

11. To amend and lessen lot size requirements for “Utility, Utility Service Area and Transmission Tower” sites.

ANALYSIS

This would allow a Utility to purchase or lease a piece of land to place a utility box and/or tower without having to meet the minimum lot dimensions for the district it is located in. Typically, these uses require smaller lots to meet ordinance requirements than other principal uses.

STAFF RECOMMENDATION: APPROVAL.

REQUEST

12. To add a regulation to clarify, in the event of conflict, which bufferyard standard within the Ordinance to observe.

ANALYSIS

This would eliminate conflict between the buffers section and any use or district requirements. The Bufferyard Standards section contains the basic standards for each of the zoning districts. Specific buffer standards called out for a specific use or district should take precedence over the basic standards.

STAFF RECOMMENDATION: APPROVAL.

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REQUEST

13. To amend Section 6-1.4

~~(C)~~(D) Procedure to be Used in Processing Special Use Permits ~~and~~ Variances and Appeals and Interpretations Authorized by the Board of Adjustment.

~~(D)~~(C) Appeals and Interpretations

ANALYSIS

This would add appeals and interpretations to this section. Appeals and interpretations have the same legal requirements and this will clarify the requirements in the UDO.

STAFF RECOMMENDATION: APPROVAL.

REQUEST

14. To add a new subsection under Special Use Permits (SUP) Authorized by the Zoning Board of Adjustment (ZBOA) that will establish a permit expiration date of two years in the event the terms of the permit are not exercised.

ANALYSIS

This change will allow the zoning officer a mechanism for preventing special use permit rights to continue indefinitely in the event the terms of the permit are not exercised.

Prior to UDO, the two year expiration date was in both the City and County Zoning Ordinances. The UDO did not include this section but does include sections on extension of approvals and how the board considers request for extensions. The problem is that it doesn't state when they expire.

Having an expiration period is important because circumstances change in areas. If the ZBOA has a public hearing and approves a SUP for a manufactured home, for example, and the applicant does not place the home on the property immediately and waits, for example, 5 years to exercise the permit. There may be opposition at the time the permit is exercised. The two-year expiration provision would require a new public hearing.

STAFF RECOMMENDATION: APPROVAL.

REQUEST

15. To codify a reversion clause so long as the petitioner agrees to such a clause as a condition for a special use zoning condition.

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ANALYSIS

The elected bodies have been using the reversion clause on Special Use zoning cases. This change will add and clarify the zoning reversion language in the ordinance.

STAFF RECOMMENDATION: APPROVAL.

UNIFIED DEVELOPMENT ORDINANCES – “ALL CHAPTERS”

REQUEST

16. To replace all references to "Superintendent of Inspections", "Inspections Superintendent", and "Zoning Officer" with "Director of Inspections".

ANALYSIS

This change will reflect the new position title of the head of the Inspections Department.

STAFF RECOMMENDATION: APPROVAL.

David Reed presented the staff report.

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

MOTION: Clarence Lambe moved approval of the zoning text amendment.

SECOND: Jimmy Norwood

VOTE:

FOR: Clark, Eickmeyer, Glenn, King, Lambe, Mullican, Norwood, Smith

AGAINST: None

EXCUSED: None

A. Paul Norby, AICP
Director of Planning

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UDO-116
AN ORDINANCE AMENDING
CHAPTER A *DEFINITIONS* AND
CHAPTER B *ZONING ORDINANCE*
OF THE *UNIFIED DEVELOPMENT ORDINANCES*
REGARDING MULTIPLE CLARIFICATIONS AND TECHNICAL CHANGES

Be it resolved, by the City Council of the City of Winston-Salem, North Carolina, that the *Unified Development Ordinances* (UDO) is hereby amended as follows:

Section 1. The definition of "Storage Trailer (F,W,K,L)" in Chapter A "Definitions" is hereby amended to read as follows:

"STORAGE TRAILER (F,W,K,L). A structure originally constructed with wheels in order to be transported over the highways but now no longer transported and now converted to use as a storage structure. ~~An uncoupled truck trailer, an inoperable travel trailer, and an uninhabitable manufactured dwelling all meet this definition if used for storage of materials of any kind.~~ An uncoupled truck trailer placed at a church, school, government building, or business for the acceptance of goods donated to charity or dropped off for recycling and towed away on a regular schedule or whenever full does not meet this definition. A construction trailer at a construction site, uncoupled truck trailer, inoperable travel trailer, and an uninhabitable manufactured dwelling does not meet this definition."

Section 2. Section 2-5.10 "Car Wash" of Chapter B "Zoning" is hereby amended by revising the first paragraph to read as follows:

"The following conditions shall apply to ~~all~~ car wash facilities with manually-operated equipment or automatic machinery (hand wash only facilities with no automated machinery do not have to meet these use conditions)."

Section 3. Section 2-5.13 "Child Care (Drop-In)" of Chapter B "Zoning" is hereby amended by deleting section (D) which currently reads as follows:

~~"(D) — Licensing
Licensing by the State is required."~~

Section 4. Section 3-1.2 "Supplementary Dimensional Requirements" of Chapter B "Zoning" subsection (C) is hereby amended to read as follows:

"(C) Improvements Permitted in Required Yards
The following improvements are permitted in required yards provided there is no interference with any recorded sight easement.

NOTE: Items to be added are indicated with an underscore.
Items deleted are indicated with a ~~striketrough~~.

- (1) Landscape Features. Landscape features, including, but not limited to, ornamental pools, planting boxes, sculpture, birdbaths, open terraces, at-grade slab patios, driveways, walkways, walls, or fences; and,
- (2) Other Improvements. Other constructed improvements specifically exempted in the definition of *Structure*, including, but not limited to, at-grade bridges, open stairs, recreational equipment, privies, burial vaults, cemetery markers or monuments, gate houses or bus shelters, mailboxes, pump houses or wells, shelter for pets, playhouses, outdoor fireplaces, flagpoles, underground fallout shelters not extending more than four (4) feet above grade, and wharves unless otherwise regulated under Section 3-11.2. Air conditioning compressors are exempted, subject to the provisions of Section 3-11.2."

Section 5. Section 3-1.2 "Supplementary Dimensional Requirements" of Chapter B "Zoning" subsection (N) is hereby amended to read as follows:

"(N) Width of Private Access Easements and Private Streets

An access easement, or private street, connecting a public street or highway to principal uses which depend upon such easement for access, shall be not less than twenty-five (25) feet in width (F, W, WA, C)/thirty (30) feet in width (K) for two-way access and shall be recorded in the office of the Register of Deeds.

In lieu of the twenty-five (25) foot access easement for two-way access, non-residential developments that are approved through a Special Use zoning process or Planning Board Review process may elect to provide separate one-way ingress and egress access easements each not less than twenty (20) feet in width. (W)

Any use abutting such easement shall be located on a zoning lot and shall comply with all dimensional requirements of the applicable district. No zoning permit shall be issued for a principal use ~~not~~ abutting upon a public street or a private street which does not comply with this provision. This width requirement does not apply to any driveway located on a zoning lot or to any alley."

Section 6. Section 3-1.2 "Supplementary Dimensional Requirements" of Chapter B "Zoning", subsection (Q)(1) is hereby amended to read as follows:

"(Q) Flag Lots (F, W, K, C)

- (1) ~~Driveway Access. Twenty-five (25) feet of the width of the "pole" or driveway access to the flag lot may not be used in the calculation of the lot area of the flag lot;~~
- (1) Frontage and Width. Flag lots must have at least twenty-five (25) feet of frontage on a street or private access easement. The "pole" of the flag lot

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from the frontage of the lot to the buildable area of the lot must be a minimum of twenty-five feet in width along its entire length and may not be used in the calculation of lot area of the flag lot;"

Section 7. Section 3-1.2 "Supplementary Dimensional Requirements" of Chapter B "Zoning", is hereby amended by adding a new subsection "(U)" to read as follows:

"(U) Minimum Lot Frontage. The minimum frontage of a zoning lot on a street or private access easement shall be twenty-five (25) feet."

Section 8. Section 3-5.2 "Determination of Bufferyard" of Chapter B "Zoning" is hereby amended by adding a new subsection "(F)" to read as follows:

"(F) Conflicting Bufferyard Requirements
If any conflict exists between the bufferyard requirements as identified in this section and any use conditions or zoning district regulations contained in other sections of this ordinance, the bufferyard requirements in the other section shall apply."

Section 9. Section 6-1.4 "Board of Adjustment" of Chapter B "Zoning" is hereby amended by reversing the order of Sections (C) and (D) and altering the titles to read as follows:

~~"(D)"~~ (C) Appeals and Interpretations

~~(C)"~~ (D) Procedure to be Used in Processing Special Use Permits, ~~and~~ Variances, and Appeals and Interpretations Authorized by the Board of Adjustment."

Section 10. Section 6-1.4(A) of Chapter B "Zoning" is hereby revised by adding a new subsection "(4)" as follows:

"(4) Permit Expiration. A special use permit shall become void if the terms of such permit, in the judgment of the Zoning Officer, are not exercised within a period of two (2) years from the date of approval. Special use permits are also subject to the provisions in Section 1-5.2 Vested Rights."

Existing subsections "(4) Extension of Permit", "(5) Review of Request for Extension" and "(6) Special Use District Zoning" are hereby renumbered to (5), (6) and (7), respectively.

Section 11. Section 6-2.2 "Special Use Districts" of Chapter B "Zoning" subsection (H) is hereby amended by adding a second paragraph to read as follows:

"(H) Conditions of Approval
In rezoning for a special use district, the Elected Body may impose additional reasonable conditions as provided in Section 6-2.2(D)(1)(b). If all requirements and conditions are accepted by the petitioner, the Elected Body shall rezone the

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property and issue a special use district permit, attaching thereto and incorporating therein the conditions mentioned immediately above. ~~Otherwise the petition shall be denied.~~

With approval of the petitioner, the conditions may include that upon the occurrence or nonoccurrence of a specified event or events, including a stated time period or time lapse, the property automatically reverts to its immediately preceding zoning classification without further notice, proceedings, hearings, or Board action."

Section 12. The *Unified Development Ordinances* is hereby amended by replacing all references to "Superintendent of Inspections", "Inspections Superintendent", and "Zoning Officer" with "Director of Inspections".

Section 13. This Ordinance shall be effective upon adoption.

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