

**ZONING ORDINANCE**  
**TOWN OF WEBSTER, NC**

**April 5, 2012**

ZONING ORDINANCE OF THE  
TOWN OF WEBSTER, NC

Prepared for:

TOWN OF WEBSTER

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April, 2012

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Town of Webster  
Guiding Principles

We believe that in order to help maintain what we cherish about Webster and still accommodate growth, we have to create safe and friendly streets for pedestrians, bicyclists and motorists and to encourage protection of the rural nature of our town. That being said, we view these principles as enhancing choices of where to live or how to travel, rather than limiting them.

**Principle #1. *An Attractive Community with a Strong Sense of Place***

We desire to maintain and create a high quality environment which reflects the unique character of our community. To accomplish this goal:

- a) We should be sure that future development is encouraged to employ good principles of design.
- b) We should encourage pedestrian interaction, where appropriate, and the use of such things as landscaping, vistas, art and other landmarks to build unique character for the Town of Webster.
- c) We should care for historic properties by encouraging the establishment of National Register and local historic districts, where appropriate, to preserve the unique character of Webster.
- d) We should also encourage good stewardship of our natural resources that have always been a treasured part of our town.

**Principle #2. *Broad-based Community Participation***

- a) Facilitate the creation of community organizations
- b) Conduct periodic public information meetings
- c) Foster a sense of community among residents

**Principle #3. *Enhanced Public Places***

The term “public places” includes all those environments where citizens are invited to travel, congregate and conduct public business. Thus, public places include streets, sidewalks, public parking lots, parks and civic buildings. We desire that Webster should provide ample public places that are attractive and conducive to personal interaction. We also encourage green spaces that preserve the river and the mountains that define our town.

**Principle #4. *Integrated Transportation Choices***

We believe that our citizens should have multiple modes of transportation choices (automobile travel, walking bicycling and public transit), which serve multiple users and work together to achieve maximum efficiency and mobility.

- a) Transportation planning should be integrated with land use planning.
- b) To ensure safety for all motorists, bicyclists and pedestrians, encourage roadway designs other than 5-lane, undivided highways, when expansion or widening projects are being considered.

- c) In order to have a safer environment for all citizens, Webster should encourage the utilization of good access management techniques for roadways, where feasible and appropriate.

**Principle #5. *Maximize Use of Existing Infrastructure and Ensure Proper Maintenance***

We desire to be good stewards of the limited infrastructure that our town oversees, including but not limited to our roads, sidewalks, lighting and signage. Any infrastructure developed in the future will receive like attention.”

**ARTICLE 1 - AUTHORITY**

**Section 1.1 - Authority and Enactment Clause**

The Legislature of the State of North Carolina has in Article 8, Section 174, General Ordinance Authority, and Section 175, Enforcement; Article 19, Part 1, General Provisions, and Part 3, Zoning, delegated the responsibility of adopting regulations to promote the public health, safety and general welfare of its citizenry to local government. The Board of Commissioners of the Town of Webster does hereby ordain and enact into law the following sections as the Zoning Ordinance of the Town of Webster.”

**Section 1.2 - Jurisdiction**

The provisions of this ordinance shall apply within the entire corporate limits of the Town of Webster ("the Town") and the entire extraterritorial area which shall be defined and established on the map entitled, "Zoning Map of the Town of Webster, North Carolina" ("the Zoning Map"), which is adopted simultaneously herewith. The Zoning Map and all explanatory matter thereon accompanies and is hereby made a part of this ordinance and, together with a copy of this ordinance, shall be permanently kept on file in the office of the Town Clerk.”

**ARTICLE 2 – DEFINITIONS**

**Section-2.1 – General**

(a) Except as specifically defined within this section or elsewhere within this ordinance, all words shall be construed to have their customary dictionary definitions.

(b) Words used in the present tense shall include where appropriate, the past and future tense. Where appropriate, words in the singular shall include the plural, and words used in the plural shall conversely include the singular.

(c) The word "shall" is always mandatory; the word "may" is permissive.

(d) The words "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

**Section 2.2 – Individual Words or Terms**

For the purposes of this ordinance, certain words or terms used herein are defined as follows:

**Accommodation:** Any part of a building used as or constituting a unit used as temporary lodging for an individual or a single family.

**Apartment:** One or more rooms with private bath and kitchen facilities constituting an independent, self-contained dwelling unit in a building containing another dwelling unit.

**Bed and Breakfast:** Overnight accommodations and a morning meal in a dwelling unit provided to transients for compensation.

**Building:** Any structure having a roof supported by columns or walls and intended for the housing, shelter or enclosure of persons, animals, process, equipment, goods or property of any kind. The term “building” includes sheds, carports, garages, guest cottages and other accessory buildings, and also includes any extension and extrusion of the building structure such as balconies, decks and porches.

**Building, Accessory:** A building detached from a principal building located on the same parcel of land and customarily incidental and subordinate to the principal building or use. This definition includes private garages and non-commercial structures such as greenhouses and workshops.

**Building height:** the vertical distance measured from the lowest grade point adjacent to the building wall to the highest point of the roof surface or parapet for flat and shed roofs, to the highest break line of mansard/gambrel roofs, and to the median height between edge of eave and the highest ridge for pitched/gable and hip roofs. See sketch “A” in the Appendix.

**Commercial vehicle:** Any motor vehicle having three or more axles or which has a length in excess of 47 feet. For purposes of clarification, but without limitation, this definition includes dump trucks, tractor-trailers, tankers, tank trucks, buses, large panel vans, trailers, and construction equipment or any part thereof.

**Dwelling unit:** A single residential unit where complete, independent living facilities, including provisions for living, sleeping, eating, cooking and sanitation, are provided on a permanent basis.

**Family:** An individual, or two or more persons related by blood, marriage or adoption living together as a single household unit; or a group of not more than four persons, who need not be related by blood, marriage or adoption, living together in a dwelling unit as a single housekeeping unit. For purposes of this ordinance, ‘family’ does not include any society, club, fraternity, sorority, association, lodge, federation, or like organizations; or any group of individuals who are in a group living arrangement as a result of criminal offenses.

**Family care home:** A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities, as defined and regulated in G.S. 168-21, 168-22, and related sections.

**Gross floor space:** The entire area of a building, including storage areas, garages, closets, hallways and restrooms, but excluding basement or attic storage areas.

**Home occupation:** Any activity conducted entirely within a dwelling and carried out for gain by the occupants thereof.

**Lot:** A parcel of land whose boundaries have been established by some legal instrument, such as a recorded deed or a recorded map, and which is recognized as a separate legal entity for purposes of transfer of title.

**Manufactured/Mobile Home:** A structure composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own permanent chassis in one or more sections; which, in the traveling mode, is eight feet or more in width or is 40 feet or more in length, or when erected on site, is 320 or more square feet; which is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein; and which is regulated as outlined in the “North Carolina Regulations for Manufactured/Mobile Homes” published by the NC Department of Insurance.

**Modular home:** A dwelling unit constructed in accordance with the construction standards of the 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, each of which is transported to the site on its 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.

**Outdoor storage.** The keeping or display, outside of a building, of any goods, material, or merchandise, in the same place for more than 24 hours.

**Parking, shared:** Joint utilization of a parking area for more than one use.

**Person:** An individual, corporation, partnership, firm, association, trust and any other legally recognized entity.

**Political sign:** A sign attracting attention to political candidates or political issues or any lawful non-commercial message that does not direct attention to a business operated for profit or to a commodity or service for sale.

**Right-of-way:** An area owned or maintained by the Town of Webster or the North Carolina Department of Transportation for the placement of roads or utilities.

**Sight Visibility Triangle:** The triangle formed by a ten-foot side measured along the right-of-way of the minor approach from the right-of-way of the major approach, and a 35-foot side measured along the right-of-way of the major approach from the right-of-way of the minor approach. See sketch “A” in the Appendix.

**Sign:** A visual display designed to advertise, identify, direct, promote or in any way attract attention to a product, service, business, event, person or specific location.

**Sign, Free-standing:** A sign that is not attached to or supported by any building or structure. Such signs shall include ground signs and signs mounted on poles or other supports.

**Sign, Indirectly illuminated:** A sign that is illuminated by a white light source that is shielded and directed solely at the sign face.

**Sign, Off-premises Advertising:** A commercial sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

**Sign surface area:** The entire display area of a sign, including any border or accessory area, but excluding any base supports, posts, roofs or other structural elements provided they do not serve primarily to attract attention. In the case of three dimensional letters or letters painted directly on the wall surface, the surface area shall be defined as the total of the areas within the perimeter of each letter.

**Sign, Temporary:** A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time.

**Structure:** A building.

**Trailer:** A structure standing on wheels, towed or hauled by another vehicle, and used for carrying materials, goods, or objects.

**Trees, street:** shade trees planted along street frontages to improve the pedestrian environment and enhance the urban streetscape.

**Underground Utilities:** The placement of electric, telephone, cable, and other utilities customarily carried on poles, in underground vaults or trenches.

## **ARTICLE 3 – GENERAL REGULATIONS**

### **Section 3.1 – Designated Planning Agency**

The Town of Webster Board of Commissioners hereby established the Planning Board under the authority granted by the General Statutes of the State of North Carolina, Chapter 160-361. The board shall constitute, function and may be referred to as the Town of Webster Planning Board. (Adopted February 11, 1998).

### **Section 3.2 - Exemptions to Applicability**

#### **3.2.1 Other Laws and Ordinances**

Nothing contained herein shall repeal, modify or amend any Federal or State law or regulation, or any county ordinance or regulation pertaining thereto; nor shall any provision of this ordinance amend, modify or restrict any provisions of the Code of Ordinances of the Town of Webster, North Carolina; however, the adoption of this ordinance shall and does amend by substitution all previously enacted zoning ordinances for the Town and any amendments made thereto; and any and all ordinances, resolutions and regulations in effect in the Town as of the time of the adoption of this ordinance that may be construed to impair or reduce the effectiveness of this ordinance or to conflict with its provisions.

### 3.2.2 Easements or Other Agreements

It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if this ordinance imposes greater restrictions or higher standards for the use of a building or land, then the provisions of this ordinance shall control.

### 3.2.3 Construction of Buildings

These regulations shall not prevent the construction of any structure for which a building permit has been secured prior to the effective date of this ordinance or any amendment thereto, so long as the building permit has not been revoked or allowed to expire. However, once constructed, any structure so erected will be subject to any and all regulations set forth in this ordinance.

### 3.2.4 Suits and Prosecutions

All suits at law or in equity and all prosecutions resulting from the violation of any ordinance provisions which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this amended ordinance, but shall be prosecuted to their finality the same as if this amended ordinance had not been adopted; and any and all violations of this or the previously existing zoning ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending or which may heretofore be instituted or prosecuted.

## **Section 3.3 - Non-conforming Lots, Uses, Buildings, Premises and Manufactured Homes**

### 3.3.1 Non-conforming Lots

Any single lot that does not meet the minimum density and set-back requirements described in Section 3.1.2 and 3.1.3 may nevertheless be used as a building site provided that the lot was in existence at the time of the adoption of this ordinance, or, alternatively, complied with the single-family site density requirements of the ordinance in effect at the time it was recorded, as evidenced by a recorded plat or as described in a conveyance recorded among the public records of Jackson County.

### 3.3.2 Non-conforming Uses.

Consistent with Section 3.3.4 the lawful use of any building or premises at the time of the enactment of this ordinance, or immediately preceding any applicable amendment thereto, may be continued even though the use does not conform with the provisions of this ordinance, as

amended. However, the non-conforming use shall not be enlarged, changed to another non-conforming use or reestablished after its discontinuance for a period of 12 consecutive months.

3.3.3 Non-conforming Buildings and Premises.

Buildings and premises (including parking areas and other parts thereof) which existed at the time of the enactment of this ordinance, or immediately preceding any applicable amendment thereto, shall be deemed in compliance herewith, except in the following cases:

3.3.3.1 Additions

If an addition is made to any existing building or premises, such addition shall comply with the current provisions of this ordinance.

3.3.3.2 Alterations or Repairs

If alterations or repairs costing in excess of 50 percent of the physical value of an existing building are made to that building within any 12 month period, such building and premises shall be made to conform to the current requirements of this ordinance.

3.3.3.3 Change of Use

If the use of a building changes so that the requirements for the new use are in any way more stringent than the requirements for the previous use of the building, such building and premises shall be made to conform to the current requirements of this ordinance.

3.3.3.4 Discontinuance of Use

If the conforming use of any building or premises has been discontinued for a period of 12 consecutive months, the use shall not be reestablished until said building and premises is made to conform as much as possible to the current requirements of this ordinance.

3.3.3.5 Damage or Destruction of Single-family Homes, Manufactured/Mobile Homes, and Historic Structures

Any single family home that is non-conforming due to not meeting dimensional requirements that has been damaged or destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, shall be allowed to be rebuilt on its original footprint, so long as such reconstruction does not increase the nonconformity of the original structure.

Any structure located in any historic district, designated as a local landmark, or individually listed on the North Carolina study list or the National Register of Historic Places that has been damaged or destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, shall be allowed to be rebuilt on its original footprint, so long as such reconstruction does not increase the nonconformity of the original structure.

Any single-wide manufactured/mobile home that has been damaged or destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, shall not be allowed to be replaced by another single-wide

manufactured/mobile home, but rather shall be replaced by a  
manufactured/mobile home meeting the requirements of Section 5.8

3.3.4 Non-conforming Manufactured Homes

Manufactured homes which existed at the time of the enactment of this ordinance, or immediately preceding any applicable amendment thereto, shall be deemed in compliance herewith.”

**Section 3.4 - Vested Rights**

In accordance with G.S. 160A-385.1(f)(3), a landowner may establish a vested right with respect to property upon the approval of a Zoning Certificate or a Special Use Permit, or otherwise may seek appropriate relief from the Superior Court Division of the General Court of Justice.

**Section 3.5 – Uses**

Uses not designated as permitted or subject to development standards shall be prohibited.

**Section 3.6 – One Principal Building Per Lot**

Every building hereafter erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than one principal building and its customary accessory buildings on the lot, except for buildings in the Government District that are part of approved developments.

**Section 3.7 – Conflicts of Interest**

3.7.1 Planning Board

Members of the Planning Board providing advice to the Town Board of Commissioners shall not vote on recommendations 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.

3.7.2 Town Board of Commissioners

A member of the Town 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.

**Section 3.8 – General Design Standards**

3.8.1 – Sidewalks for New Development and Expansion/Improvement of Existing Development

It is the intent of this section that sidewalks shall be provided for new, non-residential development, including offices, commercial, and houses of worship.

3.8.1.1 Sidewalks Required. Sidewalks shall be required along new and existing streets fronting the following new development and expansions of and improvements to existing development, and through the parking lot(s) to the front entrance(s) of such development to provide safe connections from parking to the entrance(s):

- (a) All new office/commercial or institutional development

- (b) Expansions to an existing office/commercial or institutional development or use where the gross floor area of the expansion is equal to or greater than 50 percent of the gross floor area of the pre-expansion development or use.
- (c) Improvements to an existing office/commercial or institutional development or use when the cost of the improvement is equal to or greater than 50 percent of the value of the existing development (building) or use as determined by the Jackson County Tax Office.
- (d) Along at least one side of private drives serving office/commercial uses in the B-1 and G-1 Districts to provide a pedestrian connection from the building entrance(s) to a public street or road.

3.8.1.2 Construction Standards. Sidewalks must have a minimum five foot width and meet all current Americans with Disabilities Act (ADA) standards. NCDOT will allow sidewalks within their right-of-way by encroachment and will not accept responsibility for maintenance.

#### 3.8.2 – Underground Utilities

All utilities customarily carried on poles such as electric, telephone, and cable for new, non-residential development shall be installed underground except where extreme conditions of topography make this requirement unreasonable, or where inconsistent with flood protection requirements.

#### 3.8.3 – Height Regulations

The existing natural grade of the property may not be raised around a new building or foundation in order to comply with the height requirements of this ordinance.

#### 3.8.4 – Required Yards and Other Spaces

No part of a yard or open space required in connection with any building, structure or use shall be considered to be part of a required yard or open space for any other building, structure or use.

#### 3.8.5 – Sight Visibility Triangle

In order to ensure visibility at intersections, sight visibility triangles shall be maintained at all intersections of public streets, private streets, and driveway access points. This is defined as that triangle formed by a ten-foot side measured along the right-of-way of the minor approach from the right-of-way of the major approach, and a 35-foot side measured along the right-of-way of the major approach from the right-of-way of the minor approach. Within this triangle nothing shall be erected, placed, planted, or allowed to grow in such manner as to impede vision between a height of two and one-half feet and ten feet. Driveways shall be located so that motorists can see far enough in both directions to be able to safely enter the public roadway. Please refer to the illustration in the Appendix for more information.

#### 3.8.6 Satellite Dish Antennas

Satellite dish antennas greater than one meter in diameter shall be installed on the ground and in the rear yard but only to the extent feasible.

#### 3.8.7 – Fuel Storage Tanks

Above-ground fuel storage tanks shall be screened from public view by plantings or fencing.

3.8.8 – Vehicle Storage

All vehicles not having current inspection, license plates and registration, will be given 90 days notice to be garaged or screened from public view.

3.8.9 – Water Quality Measures

Ground cover for all parcels of land shall be designed and installed in a manner consistent with minimizing erosion and maximizing control of stormwater runoff; this includes yards, walkways and driveways. All sites are required to comply with applicable regulations relating to soil, sedimentation and erosion control as well as stormwater management.

3.8.10 – Outdoor Lighting

Outdoor lighting shall comply with the standards established by Jackson County, which can be found at [http://library.municode.com/HTML/14666/level2/CD\\_ORD\\_CH25OULI.html](http://library.municode.com/HTML/14666/level2/CD_ORD_CH25OULI.html).

They can also be found by going to the Planning Department page on the Jackson County website and clicking ordinances; look in chapter 25 of the County Code of Ordinances.

(<http://www.jacksonnc.org/planning-ordinances.html>)

**Section 3.9 – Municipal Corporation and Public Utilities Companies**

3.9.1 – Construction, Installation or Operation of Facilities

The construction, installation or operation of facilities necessary to furnish public utility services or municipal services by the Town or by any public utility company serving or franchised to serve the community shall be permitted in all zoning districts. Utility services shall not include business offices in the R-1 Residential District.

3.9.2 – Where Permitted

Radio, microwave and television transmitting facilities, towers and similar equipment shall be permitted provided the use is in compliance with the Jackson County ordinance regulating wireless telecommunications facilities. In the locating of transmitting facilities and similar equipment, the use of stealth technology shall be the first option. In applying for approval of permits for transmitting facilities, those facilities not proposing the use of stealth technology shall submit proof that they have investigated this option and no opportunities for use of stealth technology were available.

**ARTICLE 4 - DISTRICT REGULATIONS**

**Section 4.1 – Use Districts and Table**

For the purpose of this Ordinance, the Town of Webster, NC, and the area comprising its extraterritorial jurisdiction are divided into use districts. Following is a list of the use districts authorized by this ordinance, and a summary Table of Uses:

- R-1 Residential
- B-1 Business
- G-1 Government

**Table 1**  
 Town of Webster Table of Uses

<b>Use</b>	<b>R-1 Residential District</b>	<b>B-1 Business District</b>	<b>G-1 Government District</b>
Site-built single-family dwellings and modular homes	P	P	P
Manufactured homes	DS	DS	DS
Family care homes	DS	DS	DS
Accessory buildings appurtenant to single-family dwellings	DS	DS	DS
Apartments and rooms for rent	DS	DS	DS
Bed and breakfasts	DS	DS	DS
Day care homes	P	P	P
Day care centers	X	P	X
Government buildings and related uses	DS	DS	DS
Home occupations	DS	DS	DS
Houses of worship	DS	DS	DS
Professional offices or studios (accountants, architects, artists, attorneys, contractors, dentists, engineers, investment/insurance agents, land surveyors, musicians, photographers, medical providers and health care practitioners, real estate agents)	X	P	X
Banks without drive-through facilities	X	P	X
Any use intended to further the educational mission of Southwestern Community College	X	X	DS
Governmental uses and accessory uses, excluding correctional facilities and waste and recycling facilities	X	X	P

P Permitted by right; use shall comply with the development standards for the relevant zoning district.

DS Permitted by right subject to development standards; same as above except that the use shall comply with one or more additional standards not required of other permitted uses in the district. These additional standards are located in Article 5 in the zoning ordinance.

X Not permitted in that particular zoning district.

**Section 4.2 - R-1 Residential District**

*Section 4.2.1 General Description; Permitted Uses*

The R-1 Residential District is a medium-density residential district for single-family dwellings with accessory, including manufactured/mobile homes and specified home occupations, together with such other related uses which are of a residential character or contribute to the residential character of the district. It is the intent of this ordinance to provide standards to ensure compatibility of manufactured/mobile homes, home occupations, apartments

and rooms for rent, and accessory buildings with other permitted uses as well as clearly establishing their secondary or incidental use so the use, value, and quiet enjoyment of adjacent residential properties is not impaired. It is emphasized the primary use of the parcel of land is for dwelling purposes, and thus the residential character of the neighborhood and R-1 District will be preserved.

Within the R-1 Residential District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes:

4.2.1.1 Single-family dwellings, including the following:

- (a) Site-built and modular homes.
- (b) Manufactured/mobile homes placed in the Town of Webster after September 1, 1998 , provided they meet the development standards found in Article 5.
- (c) Family care homes shall meet the development standards found in Article 5.

4.2.1.2 Any accessory outbuildings appurtenant to single-family dwellings, provided they meet the development standards found in Article 5. Such buildings include private garages and non-commercial structures, for example, greenhouses and workshops.

4.2.1.3 Home occupations, provided they meet the development standards found in Article 5.

4.2.1.4 Apartments and rooms for rent, provided they meet the development standards found in Article 5.

4.2.1.5 Bed and Breakfasts, provided they meet the development standards found in Article 3.

4.2.1.6 Day care homes, as defined by the North Carolina Department of Health and Human Services.

Section 4.2.2 Minimum District Standards

- 4.2.2.1 Minimum lot size  
1.0 acres per dwelling unit
- 4.2.2.2 Minimum lot width at building line  
100 feet
- 4.2.2.3 Minimum frontage  
100 feet
- 4.2.2.4 Structure height

Maximum height in the R-1 Residential District shall be 30 feet. Please refer to illustrations in Appendix B for additional information.

Section 4.2.3 Setbacks

4.2.3.1 Rights-of-way

No structure within the R-1 Residential District shall be erected within 25 feet of the right-of-way line of any public or private road, or if no right-of-way line is defined among the public records of Jackson County, within 40 feet of the road centerline.

4.2.3.2 Adjoining ownership

No structure shall be erected within 20 feet of the property line of an adjoining ownership.

4.2.3.3 How measured

For the purpose of this section, the setback distance shall be measured horizontally from the right-of-way line, road centerline or adjoining property line to the nearest projection of the structure, including any eave, dormer, deck or other part attached thereto, and any portion of the building located below grade. However, doors, windows, marquees, canopies and awnings shall be permitted to encroach on the setback area.

Section 4.2.4 Height Regulations

Maximum height is specified in Section 4.2.2.4. The existing natural grade of the property may not be raised around a new building or foundation in order to comply with the height requirements of this ordinance. Chimneys may not extend more than an additional ten feet above the highest point of the roof.

Section 4.2.5 Sign Regulations

The sign regulation as set forth in Article 6 shall apply to the R-1 Residential District.

Section 4.2.6 Off-Street Parking

The minimum requirements for off-street parking are set forth in Article 7. These requirements shall apply to all new buildings and uses and to additions to existing buildings and uses.

Section 4.2.7 Required Yards and Other Spaces

No part of a yard, open space or off-street parking space required in connection with any building, structure or use shall be considered to be part of a required yard or open space or for any other building, structure or use.

**Section 4.3 – B-1 Business District**

4.3.1 – General Description; Permitted Uses

The district regulations are designed to promote convenient access to professional services, while also allowing residential uses.

Within the B-1 Business District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes.

4.3.1.1 Professional offices or studios, including those of accountants, architects, artists, attorneys, contractors, dentists, engineers, investment/insurance agents, land surveyors, musicians, photographers, medical providers and health care practitioners, and real estate agents.

4.3.1.2 Banks without drive-through facilities,

4.3.1.3 Day care centers, as defined by the NC Department of Health and Human Services.

4.3.1.4 Houses of worship, provided they meet the requirements of Article 5.

4.3.1.5 All uses permitted in the R-1 Residential District.

*4.3.2 – District Standards for Uses Other Than Residential*

4.3.2.1 Minimum lot size

Two acres

4.3.2.2 Minimum lot width at building line

200 feet

4.3.2.3 Minimum frontage

200 feet

4.3.2.4 Structure height

30 feet; chimneys may not extend more than an additional ten feet above the highest point of the roof. Please refer to illustrations in Appendix A for additional information.

*4.3.3 Setbacks*

4.3.3.1 Rights-of-way

No structure within the B-1 Residential District shall be erected within 25 feet of the right-of-way line of any public or private road, or if no right-of-way line is defined among the public records of Jackson County, within 40 feet of the road centerline.

4.3.3.2 Adjoining ownership

No non-residential structure shall be erected within 20 feet of the property line of an adjoining ownership that is in business/office/institutional use.

No non-residential structure shall be erected within 50 feet of the property line of an adjoining ownership that is in residential zoning or use.

4.3.3.3. How measured

For the purpose of this section, the setback distance shall be measured horizontally from the right-of-way line, road centerline or adjoining property line to the nearest projection of the structure, including any eave, dormer, deck or other part attached thereto, and any portion of the building located below grade. However, doors, windows, marquees, canopies and awnings shall be permitted to encroach on the setback area.

4.3.3.4 No parking in setbacks

Parking shall be located to the side and/or rear of all non-residential buildings, and no parking space shall be located closer to the main access road than the building. No parking shall be located in any side or rear setback.

4.3.4 Other Regulations

Please refer to the standards in Section 3.8 for requirements for sidewalks, underground utilities, outdoor lighting, water quality, vehicle storage, fuel storage tanks, and other issues.

4.3.5 – District Standards for Residential Uses

4.3.5.1 Minimum lot size

1.0 acres per dwelling unit

4.3.5.2 Minimum lot width at building line

100 feet

4.3.5.3 Minimum frontage

100 feet

4.3.5.4 Structure height

30 feet; chimneys may not extend more than an additional ten feet above the highest point of the roof. Please refer to illustrations in Appendix A for additional information.

4.3.6 – Standards for Single-family Dwellings Converted to Business Use

When a single-family dwelling is converted to a business use, then it shall meet all the standards as specified in Section 4.3.2, 4.3.3, and 4.3.4 such as minimum lot size, lot dimensions, height, setbacks, parking, lighting, buffering, and all other requirements.

**Section 4.4 – G-1 Government District**

4.4.1 – General Description; Permitted Uses

The district regulations are designed to promote the educational mission of Southwestern Community College, and to provide for governmental uses. They are also intended to allow residential uses.

Within the G-1 Government District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes.

- 4.4.1.1 Any use intended to further the educational mission of Southwestern Community College as determined by the College Board of Trustees, the State of North Carolina, or other appropriate governing or oversight bodies, provided it meets the development standards found in Article 5.
- 4.4.1.2 Governmental uses including governmental uses and accessory uses, excluding correctional facilities, and waste and recycling facilities.
- 4.4.1.3 Houses of Worship
- 4.4.1.4 All uses permitted in the R-1 Residential District.

4.4.2 – District Standards for Government Uses

- 4.4.2.1 Minimum lot size  
Two acres
- 4.4.2.2 Minimum lot width at building line  
200 feet
- 4.4.2.3 Minimum frontage  
200 feet
- 4.4.2.4 Structure height  
Maximum height shall be 60 feet. Please refer to illustrations in Appendix A for additional information. In order to avoid overshadowing residential properties, for buildings that are located adjacent to property zoned residential or in residential use, for each additional one foot in height above 30 feet, the building is required to be set back an additional two feet from the property line.

4.4.3 Setbacks

- 4.4.3.1 Rights-of-way  
No structure within the G-1 Government District shall be erected within 25 feet of the right-of-way line of any public or private road, or if no right-of-way line is defined among the public records of Jackson County, within 40 feet of the road centerline.
- 4.4.3.2. Adjoining ownership  
No non-residential structure shall be erected within 20 feet of the property line of an adjoining ownership that is in government/office/institutional use.  
No non-residential structure shall be erected within 50 feet of the property line of an adjoining ownership that is in residential zoning or use.
- 4.4.3.3. How measured

For the purpose of this section, the setback distance shall be measured horizontally from the right-of-way line, road centerline or adjoining property line to the nearest projection of the structure, including any eave, dormer, deck or other part attached thereto, and any portion of the building located below grade. However, doors, windows, marquees, canopies and awnings shall be permitted to encroach on the setback area.

4.4.3.4 No parking in setbacks

Parking shall be located to the side and/or rear of all non-residential buildings, and no parking space shall be located closer to the main access road than the building. No parking or access to parking, such as driveways, shall be located in any side or rear setback.

4.4.4 Other Regulations

Please refer to the standards in Section 5.8 for requirements for sidewalks, underground utilities, outdoor lighting, water quality, vehicle storage, fuel storage tanks, and other issues.

4.4.5 – District Standards for Residential Uses

4.4.5.1 Minimum lot size

1.0 acre per dwelling unit

4.4.5.2 Minimum lot width at building line

100 feet

4.4.5.3 Minimum frontage

100 feet

4.4.5.4 Structure height

Maximum height shall be 30 feet; chimneys may not extend more than an additional ten feet above the highest point of the roof. Please refer to illustrations in Appendix A for additional information.

4.4.6 Setbacks

4.4.6.1 Rights-of-way

No structure within the G-1 Government District shall be erected within 25 feet of the right-of-way line of any public or private road, or if no right-of-way line is defined among the public records of Jackson County, within 40 feet of the road centerline.

4.4.6.2. Adjoining ownership

No residential structure shall be erected within 50 feet of the property line of an adjoining ownership that is in government /office/institutional use.

No residential structure shall be erected within 20 feet of the property line of an adjoining ownership that is in residential use.

4.4.6.3. How measured

For the purpose of this section, the setback distance shall be measured horizontally from the right-of-way line, road centerline or adjoining property line to the nearest projection of the structure, including any eave, dormer, deck or other part attached thereto, and any portion of the building located below grade. However, doors, windows, marquees, canopies and awnings shall be permitted to encroach on the setback area.

## **Article 5 – Development Standards**

### **Section 5.1 – Accessory Buildings Appurtenant to Single-family Dwellings**

#### 5.1.1 Zoning Districts

R-1, B-1, G-1

#### 5.1.2 Development Standards

(a) Accessory buildings shall be limited in size to 1,000 square feet total.

### **Section 5.2 – Apartments and Rooms for Rent**

#### 5.2.1 Zoning Districts

R-1, B-1, G-1

#### 5.2.2 Development Standards

- (a) No private home shall convert space for an apartment until a Certificate of Compliance has been issued by the Zoning Administrator.
- (b) The primary residence of the owner of the property and the apartment shall be located in the same building.
- (c) No more than one apartment with not more than two bedrooms may be provided at any location.
- (d) Parking shall be provided as required in Article 6.
- (e) No signs shall be posted indicating the existence of an apartment.
- (f) The dwelling shall meet all applicable codes and ordinances.

### **Section 5.3 – Bed and Breakfasts**

#### 5.3.1 Zoning Districts

R-1, B-1, G-1

#### 5.3.2 Development Standards

- (a) No private home shall be converted to a bed and breakfast until a Certificate of Compliance has been issued by the Zoning Administrator.
- (b) The owner shall reside on the property.
- (c) The bed and breakfast may be identified by a sign complying with Section 6.5.3.
- (d) No more than two bedrooms may be provided for accommodations in any bed and breakfast.
- (e) Parking shall be provided as required in Article 6 and shall be located at the side or rear of the principal structure; no parking space shall be located closer to the main access road than the principal structure.

- (f) The dwelling serving as the bed and breakfast shall be inspected by the Jackson County Health Department and Building Inspections.
- (g) Services provided to guests shall be limited to overnight accommodation, breakfast and afternoon tea, and no services shall be provided to other than paying guests.

## **Section 5.4 – Family Care Homes**

### 5.4.1 Zoning Districts

R-1, B-1, G-1

### 5.4.2 Development Standards

- (a) Family care homes are permitted as defined and in accordance with G.S. 168-21, 168-22, and related sections.

## **Section 5.5 – Government Buildings**

### 5.5.1 Zoning Districts

R-1, B-1 G-1

### 5.5.2 Development Standards

- (a) Minimum lot size is 1 acre in the R-1 District
- (b) Minimum lot size is 2 acres in the B-1 and G-1 Districts
- (c) uses shall be limited to offices and related accessory uses in the R-1 District
- (d) Maximum building size in the R-1 District is 2,000 square feet
- (e) As noted in Section 8.6, in any zoning district, when a new, non-residential use is proposed to be constructed next to land either zoned residential or in residential use, then a buffer 10 feet in width is required along the property line.

## **Section 5.6 – Home Occupations**

### 5.6.1 Zoning Districts

R-1, B-1, G-1

### 5.6.2 Development Standards

- (a) Only occupants of the dwelling shall work at the home occupation.
- (b) The use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.
- (c) No mechanical equipment is installed or used except as is normally used for domestic purposes.
- (d) Not over 25 percent of the total floor space of any structure is used for the occupation.
- (e) No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, etc., and any such vehicle shall not be visible from a public street.
- (f) There shall be no structural additions, enlargements or exterior alterations changing the residential appearance of the dwelling or the parcel of land or other visible indications of the conduct of the home occupation except for a sign complying with Section 6.5.2.

- (g) There shall be no structural alterations to the interior of the dwelling to accommodate a home occupation which would render the dwelling undesirable for residential use.
- (h) There shall be no equipment or process used in the home occupation which creates noise, vibration, glare, smoke, fumes, odors, or electrical interference detectable to the normal senses at any point beyond the lot line in such a manner as to annoy, disturb, frighten or otherwise interfere with the use and quiet enjoyment of adjacent properties, or which creates water usage or the production of sewage other than domestic in nature.
- (i) There shall be no outdoor storage of any kind related to the home occupation.
- (j) No retail sales shall be allowed at the home occupation.
- (k) Pre-planning Conference for Home Occupations. Those considering establishing a home occupation are encouraged to meet with the Zoning Administrator to review applicable regulations, thus avoiding unnecessary expense and preserving neighborhood character, livability and enjoyment.

#### 5.6.3 Additional Information

By way of example, the following uses, when conducted in compliance with the conditions set forth above, qualify as permitted home occupations: artist's, musician's, or writer's studio; barber/beauty shop (limited to no more than one client at a time); dressmaking, millinery, sewing or tailoring; personal chef; personal office for accountant, broker, consultant, insurance or real estate agent, lawyer, sales representative, and the like; photography studio (limited to not more than one client at a time); teaching or tutoring, including musical instruments or dance, when limited to one pupil at a time.

### ***Section 5.7 – Houses of Worship***

#### 5.7.1 Zoning Districts

R-1, B-1, G-1

#### 5.7.2 Development Standards

- (a) The minimum lot size in the R-1, B-1, and G-1 Districts is one acre.
- (b) The maximum lot size in the R-1 District is two acres.
- (c) In the R-1 District, seating in the sanctuary shall be limited to 120 persons.
- (d) Height requirements – in all zoning districts, maximum height shall be 40 feet, not including the steeple
- (e) Front setback shall be 20 feet.
- (f) This provision applies only to the construction of new houses of worship, and also excludes expansions to existing houses of worship: Parking shall be provided as required in Article 5 and shall be located at the side or rear of the sanctuary. No parking spaces shall be located closer to the primary access road on which the house of worship is situated than the sanctuary.
- (g) Any accessory buildings shall be in the same architectural style and use the same exterior building materials as the sanctuary.

### **Section 5.8 – Manufactured/Mobile Homes** (placed in the Town after September 1, 1998)

#### 5.8.1 Zoning Districts

R-1, B-1, G-1

### 5.8.2 Development Standards

- (a) The tongue, axles, removable towing apparatus and transporting lights shall be removed after final placement on the site.
- (b) A continuous, permanent masonry curtain wall or foundation, unpierced except for ventilation and covered access, shall be installed under the unit.
- (c) The minimum size of a manufactured/mobile home shall be at least 28 x 60 feet, exclusive of all decks, porches and/or carports.
- (d) The roof pitch of a manufactured/mobile home shall have a minimum rise of five feet for each 12 feet of horizontal run. The roof shall be finished with a type of shingle that is commonly used in standard residential construction.
- (e) The exterior siding shall consist predominantly of vinyl or aluminum lap siding whose reflectivity does not exceed that of flat white paint; or wood or hardboard siding, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- (f) All manufactured/mobile home development is encouraged to incorporate the following appearance standards:
  - (i) Guttering installed on all drip edges, with proper drainage away from the building foundation.
  - (ii) A front entrance dormer and a minimum 8 feet by 12 feet covered porch or deck.
- (g) The manufactured/mobile home shall be placed on the parcel of land in harmony with existing site-built structures. Where there are no neighboring structures available for comparison, it shall be sited with the front running parallel to the road providing access to the site. On corner lots, the side with the greatest road frontage shall be considered the front; on cul-de-sacs, the home shall be sited with the front of the home being parallel to the road access.
- (h) A manufactured/mobile home shall not be used as a storage unit and shall only be occupied as a dwelling.

## **ARTICLE 6 - SIGN REGULATIONS**

### **Section 6.1 - Purpose**

The purpose of this article is to regulate signs and outdoor advertising throughout the zoning jurisdiction; to limit the size, height and location of signs and outdoor advertising erected therein; to ensure orderly development; to protect and stabilize property values; to preserve the scenic natural environment by allowing signs which are consistent with an attractive town appearance; to promote public health, prosperity, safety and welfare; and to establish procedures through which these purposes can be achieved.

### **Section 6.2 - Exempt Signs**

The following signs are exempt from the requirements in this Article.

- (a) All classes of government signs including but not limited to traffic, health and

public safety; crime control and prevention; official notices or advertisements related to any court action; the location of underground utilities; historical markers or monuments; any other community service sign approved by the Town of Webster.

- (b) Temporary lighting and displays as part of customary holiday decoration.
- (c) Signs posted on private property related to trespassing or public safety, such as danger from animals.
- (d) Signs attached to commercial vehicles that are licensed, tagged, and insured.
- (e) "For Sale" signs on private vehicles.
- (f) Names and lettering on mailboxes and newspaper tubes.

### **Section 6.3 - Prohibited Signs**

The signs identified in this section are prohibited.

- (a) Off-premise Signs, Including Outdoor Advertising Signs, with the exception of political signs permitted in Section 6.4.1 (f).
- (b) Roof Signs. Any signs which are painted or erected on a roof or which extend in height above the parapet or roof line of the building on which the sign is erected.
- (c) Simulated Traffic Signs and Obstructions. Any sign which may be confused with or obstructs the view of any public traffic signal or traffic sign; extends into the public right-of-way, obstructs the sight distance triangle at any street intersection or in any way constitutes a hazard to traffic.
- (d) Building Obstructions. Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any building.
- (e) Signs Posted Within Public Rights-of-Way. Any sign posted on utility poles, on other officially placed signs or on trees, rocks, ground, etc. within the public right-of-way. In the event a right-of-way is not defined among the public records of Jackson County, this prohibition shall apply to an area within 15 feet of the edge of the wear surface of any public thoroughfare. This shall not apply to real estate signs described in Section 6.4.1 (b).
- (f) Portable Signs. Any sign that is not permanently affixed to a building, stationary structure, or the ground.
- (g) Message Board Signs. Any sign that uses changeable lettering or numbering, with the exception of house of worship signs described in Section 6.4.2.1.
- (h) Animated and Moving Signs. Any moving sign or device to attract attention, all or any part of which moves by any means, including fluttering, rotating or otherwise moving devices set in motion by the atmosphere or by mechanical means, such as pennants, flags, propellers or discs, whether or not any said device has a written message.
- (i) Flashing Signs. Any sign or device displaying flashing lights, intermittent lights, or lights of changing degrees of intensity.
- (j) String and Tube Lighting. Any illuminated tubing or string of lights outlining property lines, doors, windows, wall edges, etc.
- (k) Oversized Product Facsimiles. The display of letter, logos, trademarks, emblems, pictures, etc. on oversized facsimiles or three dimensional structures, such as pieces of furniture, products sold or manufactured on the premises, chicken buckets, human figures, cans or other containers or lettering.

(l) Internally illuminated signs. Any sign whose light source is within the sign and has a transparent or translucent background or cover which silhouettes opaque or translucent letters or designs.

(m) Neon Signs. Any sign illuminated in whole or in part by neon lighting.

(n) Illuminated Signs. Any sign that is illuminated between the hours of 12:00 midnight and 6:00 a.m.”

#### **Section 6.4 - Regulated Signs Not Requiring a Permit**

The following signs are allowed without a sign permit, provided they conform to the requirements of this section.

##### *6.4.1 Temporary Signs*

(a) One temporary sign for house of worship functions, located on their property and not exceeding 42 inches in height or nine square feet in surface area. Such signs are not permitted to be erected or displayed more than four weeks before the functions, and shall be removed promptly afterwards.

(b) One temporary on-premise sign advertising the rent, sale or lease of a residential building provided that the surface area does not exceed four square feet in surface area per building and the sign is not illuminated.

(c) Not more than three non-illuminated signs advertising the sale of produce out of a home garden on the premises where the produce is sold, provided the signs do not exceed four square feet in surface area per sign face, are not placed within the public right-of-way, or within 15 feet of any road wear surface if no right-of-way is defined, and are displayed only between March and October.

(d) Residential yard sale signs, provided they do not exceed four square feet in surface area per sign face, and the maximum time for display does not exceed 48 hours.

(e) Signs used prior to and during construction to identify the name of the new project and/or the principal contractor or developer, provided they meet the following requirements:

(i) Each project site shall have no more than one identification sign with one sign face.

(ii) Identification signs shall be either attached to the building under construction or affixed to a secure temporary post and located out of the public right-of-way or beyond 15 feet of any road wear surface if no right-of-way is defined.

(iii) Identification signs shall be no greater than four square feet.

(f) Political signs provided they are placed on private property either by or with permission of the owner and provided they are not illuminated, are not placed within the public right-of-way or within 15 feet of any road wear surface if no right-of-way is defined, do not exceed 16 square feet in surface area per sign face, and do not constitute a hazard to pedestrian or vehicular traffic. Political signs

displayed for the purpose of an election shall be removed within five days after said event.

(g) Flags, badges or insignia of government or any patriotic or religious organization provided the display does not exceed six feet in length or width. Only flags of the United States and the State of North Carolina may be displayed outside of a business.

#### *“6.4.2 Permanent Signs*

6.4.2.1 One permanent sign for houses of worship not exceeding 16 square feet per sign face, not more than 8 feet in height, and either non-illuminated or indirectly illuminated by white lighting. House of worship signs may be of a message board type that uses changeable lettering.

6.4.2.2 Individual name plate signs and house numbers for residences, provided they do not exceed two square feet per sign face and are placed no closer than three feet to any road wear surface.

### **Section 6.5 - Regulated Signs Requiring a Permit**

The following permanent signs are permitted subject to the issuance of a permit by the Zoning Administrator (the Jackson County Planning Department provides planning and permitting services for the Town of Webster). Applications for Sign Permits shall be made on the proper form obtainable in the Jackson County Planning Office, or from the Town of Webster’s official website, and shall include the name of the owner of the sign, a drawing of the sign indicating its size and height, a site plan indicating its location on the premises and relation to any adjacent rights-of-way, method of illustration and whatever other information the Zoning Administrator deems necessary to ensure compliance with these regulations. Fees for Sign Permits may be set at the discretion of the Town Board of Commissioners. Any substantial change in the copy of a sign shall require application for a new Sign Permit at the prevailing permit fee; no permit shall be issued in the event of such a change in copy unless the sign complies with the current provisions of this article.

#### *6.5.1 Subdivision Developments*

Each subdivision development is permitted one free-standing sign at each major entrance, not to exceed two free-standing signs for the entire subdivision development. Such signs shall not be located within any public right-of-way or within 15 feet of the wear surface of any public thoroughfare if no right-of-way is defined among the public records of Jackson County; shall not exceed six feet in height; shall not exceed 24 square feet in surface area per sign face; and may be either non-illuminated or indirectly illuminated by white lighting.

#### *6.5.2 Permitted Home Occupations*

Permitted home occupations are permitted one sign not exceeding four square feet in surface area per sign face, which may be free-standing, wall or hanging in type. If free-standing, such signs shall be no higher than six feet.

#### *6.5.3 Bed and Breakfasts*

Bed and Breakfasts are permitted one sign not exceeding four square feet in surface area per sign face, which may be free-standing, wall or hanging in type; and may be either non-illuminated or indirectly illuminated by white lighting. If free-standing, such signs shall be no higher than six feet.

## **Section 6.6 - Sign Construction, Design and Maintenance**

### 6.6.1 Construction Materials

All signs, except those protected by glass or other transparent cover, shall be constructed of materials that will not rapidly deteriorate, fade, fall apart or in any way become a hazard to the public health, safety and general welfare.

### 6.6.2 Code Requirements

All signs shall comply with applicable requirements of the N.C. State Building Code, National Electrical Code, and other applicable federal, state or local codes.

### 6.6.3 Attachment of Signs

Every sign and its supports, frames, guys, anchors and electrical equipment shall be securely fastened and placed to withstand adverse weather conditions.

### 6.6.4 Sign Design

All signs, unless otherwise stated or implied, shall have no more than two faces, displayed on opposite sides and without a space or angled projection to one another. Said signs shall have the same message and general design on both faces.

### 6.6.5 Sign Maintenance

All signs shall be kept free from defective or missing parts or peeling paint. The Zoning Administrator shall possess the authority to order the painting, repair or alteration of a sign which constitutes a hazard to the public health, safety or general welfare by reason of inadequate maintenance, dilapidation or obsolescence. Notice of such repair shall be given to the owner by personal service or registered mail, return receipt requested.

### 6.6.6 General Appearance

The immediate premises around a sign shall be kept free from litter and debris.

## **Section 6.7 - Non-conforming Signs**

### 6.7.1 Description

Any sign legally in existence prior to the effective date of this ordinance, or any applicable amendment thereto, which does not satisfy the requirement of this ordinance is declared non-conforming. The eventual elimination of non-conforming signs is as much a subject of health, safety and welfare as is the regulation of new signs.

### 6.7.2 Regulations

All non-conforming signs in existence prior to the effective date of this ordinance shall either be made to conform to all provisions or shall be removed within 30 days after the enactment of this ordinance. All non-conforming signs made nonconforming by an amendment to this ordinance shall either be made to conform to all provisions or removed within 30 days after the date of such amendment. Any sign that does not conform at the end of the 30 day period shall be considered an illegal sign and shall be removed at that time.

6.7.3 Alterations and Repairs to Non-conforming Signs

Non-conforming signs shall not be moved, altered, enlarged or changed in any manner to increase the degree of nonconformity. Ordinary maintenance, such as repainting or repairing is permitted. However, no substantial change in the copy of the sign shall be permitted. Moreover, if within any 12 month period alterations or repairs are anticipated to cost in excess of 50 percent of the physical value of the existing sign, such sign shall be removed or made to conform with the current regulations of this ordinance.

**Section 6.8 - Illegal Signs**

6.8.1 Signs Located Within a Public Right-of-way

Consistent with Section 6.3 (e), any sign located within a public right-of-way shall be removed by its owner within 30 days of written notice thereof. If ownership of a sign cannot be reasonably established, the Zoning Administrator shall attach a notice to the sign stating the need to remove the sign within 30 days. Temporary signs shall be removed by the Town upon discovery. This section shall not apply to signs described in Section 6.4.2.2.

6.8.2 Signs Erected Without a Permit

The owner of any sign erected without a permit shall either remove the sign or obtain a permit for the sign and ensure that it complies with these regulations within 24 hours of notification by the Zoning Administrator. If the sign has not been removed within 24 hours of notification, it may be removed and confiscated by the Zoning Administrator at the owner's expense.

**ARTICLE 7 - OFF-STREET PARKING**

**Section 7.1 - Applicability**

Off-street automobile storage or parking shall be provided on every parcel for all uses established in Section 7.2.

**Section 7.2 - Parking Schedule**

The number of off-street parking spaces provided shall be at least as great as the number specified in the formula below for various uses, unless the circumstances are present as outlined in Section 7.3.3.4 below. When application of the formula results in a fractional space, the next larger space requirement shall prevail.

<b>Use</b>	<b>Required Parking</b>
Any residential use consisting of one or more dwelling units	Two spaces for each dwelling unit
Bed and Breakfast	One space for each accommodation plus two spaces for the owner
Day care centers	One space for every four pupils or participants
Government buildings	One space for each 400 square feet of office
Home occupations	In addition to the parking spaces required for the dwelling unit, one space for the home occupation activity shall be required
House of worship	One space for each four seats in the principal assembly room
Professional offices	One space for each 400 square feet of gross floor area

**Section 7.3 - General Provisions**

*7.3.1 Spaces Abutting NCDOT Roads*

Each parcel abutting a thoroughfare maintained by the North Carolina Department of Transportation shall provide adequate space for turning so that no vehicle is required to exit from the premises by backing into the thoroughfare.

*7.3.2 Dimensional Requirements*

Parking spaces shall be at least 8 feet wide and 18 feet long.

*7.3.3 Handicapped Parking Requirements*

All new parking lots, other than those for a private residential structure, shall provide handicapped parking in conformance with the North Carolina State Building Code.

*7.3.4 Shared Parking*

The number of required parking spaces for more than one use may be combined in one parking lot. However, the required space assigned to one use may not be assigned to another use at the same time, except that one-half of the parking space required for houses of worship, whose peak attendance will be at night or on Sundays, may be assigned to a use which will be closed at night or on Sundays.

**Section 7.4 – Parking of Commercial Trucks and Vehicles**

One commercial vehicle may be parked on any lot containing a principal building in all zoning districts, provided that such vehicle is parked off the street and is not parked in any setbacks. Engine idling of such parked commercial vehicles is strictly prohibited. Any refrigeration equipment that may be part of or contained within a commercial vehicle shall not be in use while it is parked.

This shall not be construed as to prevent the temporary parking of delivery trucks, moving vans, and similar vehicles, which deliver goods and services.”

### **Section 7.5 – Parking of Campers and Recreational Vehicles**

A camping trailer, motor home or similar recreational vehicle may be parked on the owner's property provided that it is not occupied, not connected to any water, sewerage or power supply, and is parked in the side or rear yard, and not within applicable setback lines. No such camper or RV may be parked on a vacant lot, even if the lot is owned by the person who owns the camper or RV, unless it is placed in an enclosed building.

## **ARTICLE 8 –BUFFERING, SCREENING, AND LANDSCAPING**

### **Section 8.1 – Purpose and Intent**

The Town of Webster has an abundant and diverse tree and vegetative cover that contributes to the aesthetic value of the Town and provides numerous ecological and economic benefits. The landscaping, buffering and screening standards set forth below require landscaping in certain circumstances and locations in order to:

- a) Encourage the preservation of existing trees and vegetation and replenish removed vegetation;
- b) Improve the visual quality of the Town of Webster and minimize potential negative impacts of development such as noise, dust, glare of lights, parking lots, traffic, heat, overcrowding, and odor;
- c) Provide environmental benefits such as climate modification, decreased energy consumption, reduced stormwater runoff, decreased erosion, improved water and air quality, and protection of wildlife habitat;
- d) Provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development and preserve the character and value of a property and provide a sense of privacy;
- e) Improve standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of Webster while allowing flexibility to promote well designed and creative landscape plantings;
- f) Require the maintenance of landscaping installed to meet the requirements of these standards to ensure that the landscaping continues to thrive and enhance the visual quality of the Town of Webster.

### **Section 8.2 – Landscaping, Buffering and Screening Required.**

Landscaping, buffering and screening shall be required for developments within the planning jurisdiction of the Town of Webster, including its extraterritorial jurisdiction, as set forth herein.

- a) The following developments must bring the entire site into full compliance with the requirements of this Article:
  - 1) Any new public or private development with the exception of single-family homes.
  - 2) A change of use to commercial.

- 3) Renovations of an existing commercial building with a total cost exceeding 50 percent of the assessed value of the building according to Jackson County tax records or an appraisal by a state licensed appraiser.
- 4) Expansions exceeding 50 percent of the pre-expansion floor area or paved surface.
- 5) Existing unpaved parking lots which are paved over.

### **Section 8.3 – Alternative Compliance**

The landscape requirements are intended to set minimum standards for quality development and environmental protection and are not intended to be arbitrary or inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternate method of compliance with the landscape requirements. The Town of Webster Board of Adjustment may alter the requirements of this section as long as existing or added landscape features of the development site comply with the intent of this article. Requests for alternative compliance shall be accepted if one or more of the following conditions are met:

- a) Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements; or
- b) Space limitations, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding neighborhood (such as use of a specific type of vegetation) may justify alternative compliance when changing the use type of an existing building in an established mature neighborhood or when developing in an historic district; or
- c) An alternative compliance proposal is equal to or better than normal compliance in its ability to fulfill the intent of this article and exhibits superior design quality.

### **Section 8.4 – Existing Vegetation**

a) *Preservation of Existing Vegetation.* Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to a proposed development. It is recommended that groups of trees be preserved, as well as individual trees. Existing preserved trees and shrubs may be credited towards required buffer trees, street trees, and parking lot trees, in accordance with paragraph b), below.

b) *Credits and Other Incentives to Preserve Vegetation.* Preserved trees may be credited at the following rate:

- 2 – 6 inch caliper tree = 1 tree
- 7 – 12 inch caliper tree = 2 trees
- 13 – 18 inch caliper tree = 3 trees
- 19 – 24 inch caliper tree = 4 trees
- 25+ inch caliper tree = 5 trees.

Shrubs shall be credited at a rate of 1:1.

In order to receive credit, preserved vegetation must be in good health and condition. Trees designated to be preserved must be indicated on the site plan and on landscape and grading plans. Protective barriers, if utilized in accordance with paragraph c), below, must also be shown on the landscape and grading plans. A preserved tree shall be replaced with the total number of trees which were credited to the existing tree if the preserved tree dies within five years of completion of the project.

c) *Protection of Existing Trees During Construction.* The regulations contained in this paragraph shall apply in those circumstances when a developer has elected to protect trees during construction.

1) No grading or other land-disturbing activity can occur on a site with existing trees which are designated to be preserved in order to meet landscaping requirements until protective barriers are installed by the developer and approved by the Zoning Administrator or his designee. Trees designated for preservation which are counted toward the landscape requirements must be protected by barriers, while trees designated for preservation which do not count toward the landscape requirements are encouraged to be protected by barriers. The diameter of the preserved trees and the location of protective barriers must be shown on landscape and grading plans with the dimension between the tree trunk and barrier indicated. Barricades shall be placed around the critical root zone of preserved trees that are within 50 feet of any grading or construction activity. The critical root zone is a circle extending around the tree with a one-foot radius for every one inch of tree diameter. For example, a ten-inch diameter tree would have a barricade surrounding it, erected ten feet away from the trunk. All protective barriers must be maintained throughout the building construction process.

Protective barriers shall consist of either:

- a) A fence which is at least three feet high and constructed in a post and rail configuration, using two-by-four posts and one-by-four rails; or
- b) A fence with two-by-four posts placed no farther than ten feet apart covered with a four foot orange polyethylene laminar safety fencing.

2) All contractors must be made aware of the areas designated for protection. No disturbance can occur within the tree protection areas including the following:

- a) Grading;
- b) Filling, unless an aeration system, certified by a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist, is installed to protect the tree from suffocation;
- c) Parking;
- d) Storage of debris or materials, including topsoil;
- e) Disposal of hazardous wastes or concrete washout; and
- f) Attaching of nails, ropes, cables, signs, or fencing to any tree designated for preservation.

If any area within the critical root zone will be disturbed for any reason, a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist must recommend measures to minimize any potential impact and certify that the activity will not damage the tree under normal circumstances.

- 3) The developer should coordinate with utility companies early in the design process to resolve potential conflicts about the placement of utilities and landscape requirements. Utilities must either be placed outside of the tree protection area or, with approval from the Zoning Administrator, tunneled at least two feet directly below the tree roots, to minimize root damage.
- 4) If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of a tree protection zone in order to prevent sediment from accumulating in the critical root zone area.

### **Section 8.5 – General Standards**

The following general standards shall apply to all landscaping requirements in this article.

- a) Unless otherwise specified, the exact placement of required plants and structures shall be the decision of the developer. The type of plants used shall be limited to those on the approved "Species List" which shall be published and revised from time to time by the Planning Board in consultation with the Jackson County Planning Director. Required landscaping shall be designed in such a manner as to impart its aesthetic character when viewed from any area accessible to the public or from adjacent properties.
- b) *Plant Material.* Plant materials used for installation shall conform to the standards established by the American Association of Nurserymen in the "American Standard for Nursery Stock," for each type (i.e., canopy tree, shrub, etc.) with minimum size as appropriate for the minimum caliper size designated in paragraph a), above. Grass sod, when made a part of a buffer, must be healthy, clean and reasonably free of weeds, noxious pests or diseases.
- c) *Installation.* All landscaping/screening shall be installed in a sound, workmanlike manner and according to accepted good planting procedures with the quantity and quality of plant materials as described. All elements of landscaping shall be installed so as to meet all other applicable ordinances and code requirements.
- d) *Maintenance.* The owner, occupant, tenant and the respective agent of each, if any, shall be jointly and severally responsible for the maintenance of all buffer areas and landscaping. Buffers and landscaping shall be maintained in a good condition so as to present a healthy, neat and orderly appearance at least equal to the original installation and shall be kept free from refuse and debris. Dead vegetation and landscaping material shall be promptly replaced with healthy, living plantings. Evergreen hedges shall be trimmed annually or as needed to provide a full visual screen and, in any event, shall not be allowed to exceed eight feet in height without written approval of the Zoning Administrator.
- e) *Walls and Fences.* Any walls used for screening or as part of a buffer shall be constructed in a durable fashion of brick, stone, or other masonry materials. When concrete block is utilized, it shall be finished with stucco on both sides. Other materials may also be considered through the alternative buffer and screening process described in Section 8.3. No more than 10 percent of the surface of a fence or wall shall be left open

and the finished side of the fence or wall shall face the abutting property. A chain link fence may not be used to satisfy the requirements of this Article.

f) *Overhead Utilities.* Landscaping plans, including plant spacing and species selection shall be such that landscaping required under this article does not conflict with overhead utilities.

g) *Species Diversity.* When the total number of trees required under the provisions of this article equals 20 or more, then no single tree species shall comprise more than 25 percent of the trees planted on the development site.

### **Section 8.6 – Bufferyards**

Certain land uses may create an adverse impact when developed adjacent to other less intensive land uses. A bufferyard is a permanent unit of land together with plantings and structure(s), if any, which is designed to ameliorate such adverse impacts. Bufferyards, as required in this section, shall be depicted on any site plans reviewed under this ordinance and shall be depicted and described on drawings submitted for the purpose of zoning compliance review. Unless deferred pursuant to a letter of compliance issued under Section 8.8, below, buffers shall be placed and approved prior to issuance of any certificate of occupancy for the development.

- a) *Location of buffers.* Buffers shall be located on lot or parcel boundary lines. Buffers shall not be located on any portion of an existing public or private street or right-of-way, whether opened or unopened.
- b) *Fences.* A wooden fence may be incorporated into a buffer but shall not be allowed to substitute for evergreen shrubs.
- c) *Use of buffer.* If approved by the Zoning Administrator, a buffer may be used for passive recreation; however, no plant material may be removed and such use shall not be a nuisance.
- d) *Buffers part of required setbacks.* Where front, side and rear setbacks are required by this Ordinance, buffers may be established within such required setbacks.

When a new, non-residential use is proposed to be constructed next to land either zoned residential or in residential use, then a buffer 10 feet in width is required along the property line, with the following number of plants required per 100 linear feet:

2 broadleaf canopy trees	1-1/2 to 1-3/4 inch caliper
2 evergreen trees	Six feet in height
25 evergreen shrubs, 4-foot centers	18 to 24 inches
<del>33</del> 32 flowering shrubs	18 to 24 inches

One-half of the required number of flowering shrubs shall be planted on the opposite side of the evergreen shrubs, so they will be visible from both sides of the buffer. The flowering shrubs, broadleaf canopy trees, and evergreen trees may be clustered in groups for aesthetic appearance.

### **Section 8.7 – Screening**

These screening requirements shall apply to any development or use other than single-family residences. A buffer as specified in this Article may be used to meet the requirements of this section. The following uses shall be screened from abutting property and from public view from a public right-of-way or a parking lot:

- a) Dumpsters or trash handling areas;
- b) Utility structures associated with a building;
- c) Loading docks or spaces;
- d) Outdoor storage of materials, stock and equipment, which shall not include the display of goods for sale.

Any screening used to comply with the provisions of this section shall consist of a planting area which is at least five feet wide. This area may contain any type screening materials sufficient to separate visually the land uses, provided such materials meet the requirements of this Article. If only a wall or fence is used, then the area devoted to the screen need only be wide enough to accommodate the wall or fence and allow for its maintenance. Screening shall be designed and maintained in such a manner as to conceal the use from view from the street, from vehicular use areas, and from adjoining properties.

### **Section 8.8 – Letter of Compliance**

It is recognized that land development occurs continuously and that vegetation used in buffers should be planted at certain times of the year to ensure the best chance of survival. In order to ensure compliance with this article and to reduce the potential expense of replacing buffering, landscaping or screening materials which were installed in an untimely or improper fashion, a letter of compliance must be filed with the Zoning Administrator at the time of zoning compliance review. A letter of compliance will allow the issuance of a conditional certificate of occupancy. This letter will acknowledge that the applicant for a certificate of zoning compliance is aware of any buffer, landscaping or screening requirements which may apply to his or her property and that he or she will comply with those requirements by a specific date, generally to be within the next planting season, but in no case more than one year after the completion of construction of that portion of the project or building for which the certificate was issued. In no event shall a final certificate of occupancy be issued prior to emplacement and approval of the required buffer, landscaping or screening. Failure to comply with the provisions of this section within the time noted in the letter of compliance will be a violation of the Zoning Ordinance.

### **Section 8.9 – Landscaping for Vehicular Use Areas**

Trees and shrubs are required in and around vehicular use areas with more than six spaces to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, reduce glare from vehicular use areas, and to help filter exhaust from vehicles.

- a) *Perimeter and Interior Plantings.* Vehicular use areas must be planted with at least one tree and two shrubs for every 4,000 square feet of vehicular use area, which includes parking spaces, aisles, driveways, and loading areas. Trees shall be spaced so that no parking space is more than 65 feet from a tree. At least 75 percent of the required parking lot trees must be broadleaf canopy trees. Trees and shrubs must be planted within 20 feet of the vehicular use area to count as parking lot landscaping.
- b) When a development contains 20 or more parking spaces, 50 percent of the trees and shrubs required by paragraph a), above, must be planted in islands or medians located

within the parking lot. Tree islands shall be evenly distributed throughout the parking lot in order to provide an even tree canopy throughout the lot. At a minimum, such tree islands shall consist of an area at least equal in size to two parking places side-by-side (360 square feet). Parking bays shall be broken up with landscaped islands or medians to avoid long monotonous rows of parking. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow.

At the time of planting, trees and shrubs required in this section shall meet the following minimum size requirements:

- 1) broadleaf canopy trees: one and one-half to two-inch caliper;
- 2) all other trees: five to six feet in height;
- 3) all shrubs: height or spread of 18 to 24 inches.

c) *Buffering from Street.* Vehicular use areas greater than 4,000 square feet, any portion of which is located within 50 feet of the right-of-way of a street, shall be buffered from the street. The buffer shall be at least three feet high at maturity and may consist of plant material alone, or berms, fences, walls, or grade change combined with plant material. A vegetative buffer shall consist of at least one evergreen or deciduous shrub planted for every five linear feet of buffer required. If a fence or wall is used, it shall be constructed of wood, brick, stone or other masonry and be architecturally compatible with the proposed structure. Seventy-five percent of the fence or wall shall be opaque with any spaces evenly distributed. The finished side of the fence or wall shall face the street. At least one shrub shall be planted on the street side for each eight linear feet of fence or wall. Berms and grade changes must be completely covered with vegetation. All shrubs planted can count toward the parking lot landscaping requirements.

d) *Small lots.* Small lots, defined as lots with less than 100 feet of frontage on a roadway or with less than 100 feet of depth, may have site constraints which make strict compliance with the regulations contained in this section a hardship. In such cases, the Board of Adjustment may approve deviations from such regulations so long as the plans of development are consistent with the goals and objectives stated in this ordinance.

### **Section 8.10 – Street Trees**

In addition to all other requirements of this section, at least one tree of 3 - 3½- inches caliper minimum, measured 6 inches above ground, shall be planted for each 25 feet for small maturing trees and for each 40 feet for large maturing trees of the entire building lot which abuts any public street right-of-way with a minimum of one tree required for any distance up to 40 feet. Trees shall not be planted closer than 2 feet, nor more than 10 feet, from the back of the curb.

For the purposes of this paragraph, all specifications for measurement and quality of trees shall be in accordance with the *American Standard for Nursery Stock* published by the American Association of Nurserymen. All trees planted to meet this requirement shall be well-matched specimen grade and shall be limbed up 6 feet. Trees used to fulfill this requirement may be located on public or private property. Maintenance of street trees required under these provisions shall conform to the requirements of Section 8.5 of this Ordinance, including the requirement to promptly replace dead vegetation with healthy, living plantings.

## ARTICLE 9 - BOARD OF ADJUSTMENT

### Section 9.1 - Establishment of the Zoning Board of Adjustment; Membership; Rules of Conduct and Procedure; and Meetings

#### 9.1.1 Establishment; Membership

A board of adjustment is hereby established which shall consist of five members. These appointments shall be made by the Town of Webster, and by the Jackson County Board of Commissioners. The members appointed by the Jackson County Board of Commissioners shall be made in accordance with GS 160A-362 to proportionally represent the extraterritorial jurisdiction (ETJ) area. Members appointed by the Jackson County Board of Commissioners shall have the same equal rights and privileges as those appointed by the Town of Webster. All members shall serve a term of three years; provided, however, initial terms may be adjusted so that terms are staggered. Vacancies shall be filled by the governing board that made the initial appointment, to fulfill the unexpired term. At all times, at least one member of the Zoning Board of Adjustment shall reside in the extraterritorial jurisdiction.

#### 9.1.2 Alternate Members

The Webster Board of Commissioners shall appoint at least one alternate member to serve on the Zoning Board of Adjustment in the absence of any regular member. Alternate members shall be appointed for three-year terms. While attending in the capacity of a regular member, the alternate shall have and exercise all powers and duties of the absent regular members. The Jackson County Board of Commissioners shall appoint an alternate to serve on the Board of Adjustment in the absence of any member appointed to represent the extraterritorial jurisdiction area.

#### 9.1.3 Reimbursement

Members of the Zoning Board of Adjustment shall serve without pay, but shall be reimbursed for any expenses incurred in pursuit of the board's activities subject to approval by the Town Board of Commissioners.

#### 9.1.4 Rules of conduct for members.

Members of the board may be removed by the Town Board of Commissioners for cause, including violation of the rules stated below.

9.1.4.1 Faithful attendance at meetings of the board and conscientious performance of the duties required of members of the board shall be considered a prerequisite of continuing membership on the board.

9.1.4.2 A member of the board or any other body exercising quasi-judicial functions pursuant to Article 19 of the North Carolina General Statutes shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter 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.

9.1.4.3 No board member shall discuss any case with any parties thereto before the public hearing on that case.

9.1.4.4 Members of the board shall not express individual opinions on the proper judgment of any case prior to its determination on that case.

9.1.4.5 No board member shall accept any gift, whether in the form of a service, a loan, a thing of value, or a promise from any person, firm, or corporation that, in the member's knowledge, is interested directly or indirectly in any manner whatsoever in business dealings with the town.

9.1.4.6 No board member shall grant any improper favor, service, or thing of value in the discharge of duties.

#### 9.1.5 General Proceedings of the Board of Adjustment

The Zoning Board of Adjustment shall elect one member to serve as chair and preside over its meetings, and one member to serve as vice-chair, to serve in the absence of the chair. The term of the chair and other offices shall be for one year, with eligibility for re-election. The board shall appoint a secretary, who may be a municipal officer, an employee of the Town, or a member of the Zoning Board of Adjustment. The chair, or if absent the vice-chair, may administer oaths to any witnesses in any matter coming before the board and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and also keep records of its examinations and other official actions. The board shall in all respects comply with the requirements of G.S. 160A-388. The board shall adopt by-laws in accordance with the provisions of this ordinance.

#### 9.1.6 Meetings

9.1.6.1 Board meetings. The board shall hold regular monthly meetings at a specified time and place. Special meetings of the board may be called at any time by the chairman or by request of three or more members of the board. At least 48 hours' written notice of the time and place of meeting shall be given, by the chairman or the land development administrator serving as clerk for the board, to each member of the board. All board meetings are to be held in accordance with G.S. 143-318.9 et seq., commonly referred to as the Open Meeting Law.

9.1.6.2 Cancellation of meetings. Whenever there are no appeals, applications for variances, or other business for the board, or whenever so many regular and alternate members notify the clerk for the board of inability to attend that a quorum will not be available, the chairman, or the zoning administrator, or the

person serving as clerk for the board, may dispense with a meeting by giving written or oral notice to all members.

9.1.6.3 Quorum. The board shall not pass upon any questions relating to an appeal from a decision, order, requirement, interpretation, or determination of the land development administrator, or an application for a variance when there are fewer than five members present. For other general business of the board, such as approval of minutes and election of officers, a quorum shall consist of three members of the board.

9.1.6.4 Voting. All regular members may vote on any issue unless they have disqualified themselves for one or more of the reasons listed herein. The concurring vote of four-fifths, or four, of the members of the board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to grant a variance from the provisions of an ordinance. For the purposes of this Article, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority. In all other general matters of the board where a quorum is present, the vote of a majority of the members present and voting shall decide issues before the board. On all appeals, applications and other matters brought before the Zoning Board of Adjustment, the board shall inform all parties of its decisions and reasons therefore in writing."

## **Section 9.2 – Procedural Requirements**

### 9.2.1 Application Process

Matters to come before the Board of Adjustment shall be submitted at least 30 days prior to the date of the next regularly-scheduled meeting, on the proper form available from the Jackson County Planning Office or from the Town of Webster's website.

### 9.2.2 Hearings

All hearings of the board shall be quasi-judicial in nature and shall comply with the requirements of due process applicable to boards of adjustment. All testimony will be sworn, and parties shall be accorded the right of cross-examination. Notice of the time, date and place of the hearing shall be mailed at least 14 days prior to the hearing date to:

- the clerk to the Board of the Town of Webster;
- the appellant, in the case of an appeal;
- the applicant, in the case of a request for a variance;
- if the appellant or applicant is not the owner of the affected property, notice shall likewise be mailed to such owner(s).
- For variances, notice shall also be mailed to the record owners of adjacent properties.

## **Section 9.3 – Powers and Duties**

### 9.3.1 Authority to Hear and Decide Appeals

The Zoning Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official charged with ~~in~~ the enforcement of this ordinance. An appeal may be taken by any person aggrieved by such decision. Such appeal shall be taken within 20 days of the rendition of such decision by filing a written notice of appeal specifying the grounds thereof with the clerk of Board of Adjustment. The administrative official shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with him/her, that because of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In such case, proceedings shall not be stayed except by a restraining order, which may be granted by the Board or by a court of record on application, as provided for in the North Carolina General Statutes.

### Section 9.3.2 – Variances

#### 9.3.2.1 Authority

A variance is a means whereby the Town may grant relief from the effect of the zoning ordinance in cases of hardship. A variance constitutes permission to depart from the literal requirements of the ordinance. The Zoning Board of Adjustment shall have the power to authorize a variance from the terms of this ordinance provided in so doing the action is not contrary to the public interests where, owing to special conditions, a literal enforcement of this ordinance will result in impractical difficulties or unnecessary hardship, so that the spirit of this ordinance is observed, public safety and welfare secured, and substantial justice done. No change in permitted uses may be authorized by variance.

#### 9.3.2.2 Required Findings

Before the Zoning Board of Adjustment may grant a variance, it shall make the following three findings which shall be recorded in the permanent record of the case and shall include the factual reasons on which they are based:

- (a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the board must find that the five following conditions exist:
  - (i) If the applicant complies with the provisions of the ordinance, the applicant can secure no reasonable return from nor make reasonable use of the property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the board in granting a variance. Moreover, the board shall consider whether the variance is the minimum possible deviation from the terms of the ordinance that will make possible the reasonable use of the property.
  - (ii) The hardship results from the application of the ordinance to the property rather than from other factors such as deed restrictions or personal circumstances.

- (iii) The hardship is suffered by the applicant's property directly due to the physical nature of the applicant's property, such as its size, shape, topography, or other physical feature such as the presence of a stream, which is different from that of neighboring property.
  - (iv) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the ordinance.
  - (v) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others and would not promote equal justice.
- (b) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit. That is, the applicant is not seeking to establish, to expand, or to extend in area, a non-conforming use. Moreover, the existence of a non-conforming use in the same or in any other zoning district shall not constitute a reason for granting the requested variance.
- (c) In granting of the variance, the public safety and welfare have been assured and substantial justice has been done.

#### 9.3.2.4 Conditions

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

#### 9.3.2.5 Rehearings

The Zoning Board of Adjustment shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

#### 9.3.2.6 Expiration of Variance

A variance issued in accordance with this section shall expire if a Zoning Certificate or Certificate of Compliance for such use is not obtained by the applicant within six months from the date of the decision.

### **Section 9.4 – Decisions**

A decision by the board shall be made within 31 days from the time of hearing. Written notice by certified or registered mail of the decision in a case shall be given to the applicant by the clerk for the board as soon as practical after the case is decided. Also, written notice shall be given to owners of the subject property, if not the applicant, and to other persons who have made written request for such notice. The final decision of the board shall be shown in the record of the case as entered in the minutes of the board and signed by the clerk for the board and the chairman upon approval of the minutes of the board. Such record shall show the reasons for the determination,

with summary of the evidence introduced and the findings of fact made by the board. Where a variance is granted, the record shall state in detail any exceptional difficulty or unnecessary hardship upon which the appeal was based and which the board finds to exist. The decision may reverse or affirm, wholly or partly or modify the order, requirement, decision or determination appealed from. The record shall state in detail what, if any, conditions and safeguards are imposed by the board in connection with the granting of a variance.

### **Section 9.5 – Appeals from the Zoning Board of Adjustment**

Appeals from the Zoning Board of Adjustment shall be taken to the appropriate court of record, as provided by law.”

## **ARTICLE 10 - ADMINISTRATIVE AND LEGAL PROVISIONS, ENFORCEMENT, PENALTIES, AND AMENDMENTS**

### **Section 10.1 - Zoning Administrator**

#### 10.1.1 Powers and Duties

The Zoning Administrator is granted the authority to administer and enforce the provisions of this ordinance, exercising the full police power of the Town. The Zoning Administrator, or his duly authorized representative, may enter any building, structure or premises to perform any duty imposed by this ordinance, provided entry is made with proper notice and at reasonable hours.

#### 10.1.2 Issuance of Certificates

The Zoning Administrator shall have the sole Authority to issue zoning certificates and certificates of compliance.

#### 10.1.3-Administration

The Town of Webster has entered into an agreement with Jackson County to administer its zoning ordinance. Those interested in contacting the Zoning Administrator should call the County Planning Department at 828-631-2261 during the hours of 8 a.m. to 5 p.m., Monday through Friday. Additional information may be found at the County’s website, <http://planning.jacksonnc.org>.

#### 10.1.4 Reporting

The Zoning Administrator will report to the Town Board of Commissioners at least semi-annually, or more often at the Board's request, informing them of issuance of certificates, enforcement, administrative activities and all other official activities pursuant to his or her duties.

### **Section 10.2 - Zoning Certificate**

#### 10.2.1 Certificate Required

No person shall commence or proceed with construction of any new building or with the reconstruction, renovation, alteration, , moving or demolition of any existing building, the cost of which exceeds 50 percent of the assessed value of the existing building, according to the Jackson

County Tax Office, prior to the issuance of a Zoning Certificate. Application for a Zoning Certificate shall be filed with the Zoning Administrator and may be made prior to or in conjunction with application for a permit under the North Carolina State Building Code. Application shall include the following information:

- (a) A site sketch, drawn to a scale of at least one inch equals forty feet (1" = 40'), of the parcel of property showing its actual dimensions and indicating the size, location and distance from property lines of the proposed building, any other existing building(s), and any other improvements proposed to be accomplished, including but not limited to driveways, sidewalks and parking areas.
- (b) A drawing of the proposed building drawn to scale and in sufficient clarity and detail to indicate the nature and character of the work to be done, and consisting at minimum of a floor plan and elevations of the building (except, however, that the Zoning Administrator may approve minor construction work without compliance with this requirement).
- (c) A description of the use to which the completed project shall be devoted.
- (d) Any other information the Zoning Administrator may deem reasonably necessary to evaluate compliance of the applicant's proposal with the provisions of this ordinance.

#### 10.2.2 Issuance of Certificate

The Zoning Administrator shall review each element of the application and if satisfied that the work described therein complies with the ordinance, issue a Zoning Certificate. Zoning Certificates may be issued prior to application for a permit under the North Carolina State Building Code. After a Zoning Certificate has been issued, no changes or deviations from the terms of the application, plans or permit shall be made until specific written approval has been obtained from the Zoning Administrator. If the Zoning Administrator finds the application to be deficient or the information contained therein to be contrary to the provisions of this ordinance, the application for a Zoning Certificate shall be denied and a written statement setting forth the reasons for the rejection provided to the applicant.

#### 10.2.3 Expiration of Certificate

A Zoning Certificate shall expire six months after the date of issuance if the work authorized has not commenced. If after commencement the work is discontinued for a period of 12 months, the certificate shall immediately expire. Upon expiration, the certificate shall become void and no work may be performed until a new certificate has been secured.

### **Section 10.3 - Certificate of Compliance**

#### 10.3.1 Certificate Required

A Certificate of Compliance shall be secured from the Zoning Administrator before the making of a permanent connection to electrical service, water service or sewer service.

#### 10.3.2 Timeframe

If any repairs, improvements or alterations have been performed for which a Zoning Certificate has been issued, a Certificate of Compliance shall be secured from the Zoning Administrator within 30 days from the completion thereof.

10.3.3 Contents of Certificate

The Certificate of Compliance shall certify that the Zoning Administrator has inspected the completed improvements and that the improvements, together with the proposed use thereof, are in conformity with the Zoning Certificate and the provisions of the ordinance.

10.3.4 Occupancy

No new building or part thereof, no addition or enlargement of any existing building, and no existing building that has been altered or moved shall be occupied until a Certificate of Compliance has been issued.

10.3.5 Temporary Certificate of Compliance

The Zoning Administrator may issue a Temporary Certificate of Compliance permitting occupancy of specified portions of an uncompleted building or project for a limited time, not to exceed six months, if the Zoning Administrator finds that the portion of the building or project may safely be occupied prior to the final completion of the entire building or project. The Zoning Administrator may renew the Temporary Certificate of Compliance for additional periods, each period not to exceed six months.

**Section 10.4 - Violations**

10.4.1 Remedies

If any building, structure or facility is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this ordinance; or if any building, structure, facility or land is used in violation of this ordinance, the Zoning Administrator or other appropriate authority or any adjacent or other property owners who would be damaged by such violation may institute any appropriate action or proceedings available in law or in equity to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate the violation; to prevent occupancy of the building, structure or land; or to prevent any illegal act, conduct, business or use in or about the premises.

10.4.2 Enforcement procedures

When the Zoning Administrator becomes aware of a violation of this article, it shall be his/her duty to notify the owner of the land of the violation. The owner shall immediately remedy the violation.

(a) *Notice of violation.* If the owner of the land fails to take prompt corrective action, the director shall give the owner or occupant written notice (by certified or registered mail to his last known address, by personal service, or by posting notice conspicuously on the property) of the following:

- (i) That the activity is in violation of this article;
- (ii) The nature of the violation, and citation of sections of this Ordinance that have been violated;

- (iii) The measures necessary to remedy the violation; and
- (iv) Mechanisms available to appeal the decision of the Zoning Administrator.

(b) *Appeal.* Any owner who has received a notice of violation may appeal in writing the decision of the Zoning Administrator to the Board of Adjustment as outlined in Section 9.3.1 of this ordinance. In the absence of an appeal, the decision of the Zoning Administrator shall be final.”

## **Section 10.5 - Penalties for Violations**

### *10.5.1 Responsibility*

The owner of any land and any developer, builder, contractor, agent, or other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of this article may be held responsible for the violation and subject to the civil penalties and remedies provided herein.

### *10.5.2 Notice*

No civil penalty shall be assessed until the person alleged to be in violation has been notified in accordance with Section 10.4 of this ordinance. If after receiving a notice of violation, the owner or other violator fails to take corrective action, a civil penalty may be imposed in the form of a citation. The citation shall be served in the same manner as of a notice of violation. The citation shall state the nature of the violation, shall state the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within 15 days of the date of the citation.

### *10.5.3 Civil Penalty*

Any person who violates any provision of this article shall be subject to assessment of a civil penalty in accordance with the following schedule, which includes administrative fees:

- \$50.00 for the first violation;
- \$100.00 for the second violation;
- \$200.00 for the third violation; and
- \$500.00 for the fourth and each succeeding violation.

### *10.5.4 Continuing Violation*

For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty. Unless expressly stated otherwise in a chapter or appendix, a violation of this ordinance shall not constitute a misdemeanor pursuant to N.C.G.S. 14-4. If the offender fails to correct this violation within ten days after being notified of said violation, the penalty may be recovered in a civil action in the nature of a debt.

## **Section 10.6 – Ordinance Amendments**

### *10.6.1. Planning Board Review*

Subsequent to initial adoption of a zoning ordinance, In conformance with G.S. 160A-387, 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 Town Board of Commissioners may proceed in its consideration of the amendment without the planning board report. The Town Board of Commissioners is not bound by the recommendations, if any, of the planning board.

#### 10.6.2 Forms

Any person interested in pursuing a rezoning or a text amendment to the zoning ordinance shall fill out the proper form, available from the Jackson County Planning Office or from the Town of Webster's website.

#### 10.6.3 Public Hearing

Before enacting an amendment to this ordinance, the Town Board of Commissioners shall hold a public hearing. Notice of the public hearing shall be given in the newspaper and by posting the property as required in G.S. 160A-364 and G.S. 160A-384.

#### 10.6.4 Planning Board Comment

In accordance with G.S. 160A-383, the planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the 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 Town Board of Commissioners.

#### 10.6.5 Town Board of Commissioners' Statement

In accordance with G.S. 160A-383, prior to adopting or rejecting any zoning amendment, the Town Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest.

#### 10.6.6 Rehearings

In no instance shall action be initiated for a zoning amendment affecting the same parcel of property, or any part thereof, more often than once every 12 months.

#### 10.6.7 Protests

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 Town Board of Commissioners. For the purposes of this subsection, vacant positions on the council and members who are excused from voting shall not be considered 'members of the council' for calculation of the requisite 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 discrete or separate

area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the Town 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.

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-385 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 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 Board may by ordinance require that all protest petitions be on a form prescribed and furnished by the Town, and such form may prescribe any reasonable information deemed necessary to permit the Town to determine the sufficiency and accuracy of the petition. A person who has signed a protest 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 on the zoning amendment shall trigger the supermajority voting requirement.

#### **Section 10.7- Severability**

Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.”

