

# **ZONING ORDINANCE**

## **TOWN OF GAMEWELL**

### **NORTH CAROLINA**

#### **Adopted:**

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## INTRODUCTORY PROVISIONS

### **Section 32.00 Purpose and Authority.**

For the purpose of promoting the health, safety, morals and the general welfare of the community, an ordinance regulating the uses of buildings, structures and land for trade, industry, commerce, residence, recreation, public activities or other purposes; the size of yards, courts and other open spaces; the location, height, bulk, number of stories and size of buildings and other structures, the density and distribution of populations; creating districts of said purposes, and establishing the boundaries thereof; defining certain terms used herein; providing for the method of administration, amendment and enforcement; providing penalties for violations; providing for a Board of Adjustment and defining the duties and powers of said Board; repealing conflicting ordinances; and for other purposes pursuant to the authority granted by the General Statutes of North Carolina, Chapter 160A, Article 19, Part 3.

### **Section 32.01 Short Title.**

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

### **Section 32.02 Enactment Clause.**

The Town Council of the Town of Gamewell, in pursuance of the authority granted by G.S. § 160D-200, and that land as designated by the official zoning map as authorized by G.S. § 160D-307, to be known as EXTRATERRITORIAL AREA.

### **Section 32.03 Interpretation and Application.**

- (A) Interpretation and Application. In interpreting and applying this Ordinance, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purposes of the Ordinance. Except as herein provided, this Ordinance shall not be deemed to interfere with, abrogate, annul, or otherwise affect in any manner whatsoever any easements, covenants, or other agreements between parties. Whenever the provisions of this Ordinance impose greater restrictions upon the use of the land or buildings or upon the height of buildings or require a larger percentage of lot to be left unoccupied than the provisions of other ordinances, rules, regulations, permits or any easements, covenants or other agreements between parties, the provisions of this Ordinance shall govern, except as provided in Sections 32.92 and/or 32.93 of this Ordinance.
- (B) Compliance with Ordinance. No land, building, or structure shall be used, no buildings or structure shall be erected, and no existing building or structure shall be moved, added to, enlarged or altered except in conformity with this Ordinance.
- (C) Zoning Jurisdiction. The provisions of this Ordinance shall be applicable to all property within the corporate limits of the Town of Gamewell.
- (D) Bona Fide Farms Exempt. The provisions of this Ordinance shall not apply to bona fide farms. This Ordinance does not exercise any controls over croplands, timberlands, pasturelands, orchards, idle or other farmlands, nor over any farmhouse, barn, poultry house, or other farm buildings including tenant or other houses for persons working on said farms, as long as such houses be in the same ownership as the farm and located on the farm. Such agricultural uses maintain the openness of the land and achieve the purposes of this Ordinance without the need for regulation. Residences for nonfarm use or occupancy and other nonfarm uses shall be subject to the provisions of this Ordinance.

### **Section 32.04 Provisions for Official Zoning Map.**

- (A) Official Zoning Map. The districts established in Sections 32.10 through 32.13 of this Ordinance as shown on the Official Zoning Map which, together with all explanatory matter thereon, are hereby adopted as part of this Ordinance.
- (B) Identification of Official Zoning Map. The Official Zoning Map shall be identified by signature of the Mayor, and attested by the Town Clerk.

### **Section 32.05 Definition of Terms.**

- (A) Interpretation and Definition of Certain Terms and Words. For the purpose of interpreting this Ordinance, certain words or terms and herein defined. Unless otherwise stated, the following words shall for the purpose of this Ordinance have the meaning herein indicated.
- (B) Words used in the present tense include the future tense.
- (C) Words used in the singular tense include the plural and words used in the plural number include the singular.
- (D) The word "person" includes a firm association, organization, partnership, corporation, trust and company, as well as an individual.
- (E) The word "lot" includes the word "structure."
- (F) The word "building" includes the word "structure."
- (G) The word "shall" is mandatory, not directory.
- (H) The words "used" or "occupied" as applied to any land or buildings shall be construed to include the words "intended, arranged or designed to be used or occupied."

### **Section 32.06 Definitions.**

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**Accessory Use.** A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building. A manufactured home is not considered an accessory use.

#### **Administrative**

**Decision.** Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the

application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

<b><u>Airport.</u></b>	Any area of land or water designed and set aside for the landing and takeoff of aircraft, including all necessary facilities for the housing and maintenance of aircraft.
<b><u>Alley.</u></b>	A public or private thoroughfare which affords only a secondary means or access to abutting property and not intended for general traffic circulation.
<b><u>Animal Keeping</u></b>	Animal Keeping see section 32.59.2 (Hobby Farming not Bonafide Farm)
<b><u>Boarding House.</u></b>	A building where, for compensation, lodging and/or meals are provided for not more than ten (10) persons.
<b><u>Buffer Strip.</u></b>	A buffer strip as required by certain Sections of this Ordinance shall consist of a planting strip at least ten (10) feet in width, composed of deciduous or evergreen trees twenty (20) feet apart and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart, and said strip shall be planted and maintained in a healthy growing condition by the property owner. No buffer strip shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining lot. In some instances a buffer strip may also include a fence or a wall in addition to the planting strip, the location and type to be determined by the Planning Board.
<b><u>Building.</u></b>	A structure designed to be used as a place of occupancy, storage, or shelter.
<b><u>Building, Accessory.</u></b>	A building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building, and located on the same lot therewith. A manufactured home is not considered an accessory building.
<b><u>Building, Height.</u></b>	The vertical distance measured from the average elevation of the finished lot grade at the front building line to the highest point of the roof beams adjacent to the front of the wall in the case of a flat roof, to the average height of the gables in the case of a pitched roof, and to the deck line in the case of a mansard roof.
<b><u>Building, Principle.</u></b>	A building in which is conducted the main or principal use of the lot on which said building is situated.

**Building**

**Setback Line.** A line establishing the minimum allowable distance between the nearest portion of any building (excluding the outermost three feet of any uncovered porches, steps, eaves, gutters, and similar fixtures), and the street or highway right-of-way line when measured perpendicularly thereto.

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

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

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

**Condominium.** A system of separate ownership of individual units in multiple-unit building.

**Customary**

**Home Occupation.** A “Customary Home Occupation and an Intensive Home Occupation” is a gainful occupation or profession conducted by persons residing on the premises and conducted entirely within the dwelling or its accessory buildings. In connection with a home occupation, no stock in trade shall be displayed outside, and no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including the utilization of a permitted accessory building. That the use will not materially endanger the public health or safety if located where proposed and according to an approved plan and plot plan. That the use will not substantially injure the value of adjoining properties. That the location and character of the use, if allowed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located.

**HOME OCCUPATION, CUSTOMARY.** A business, profession, occupation, or trade which is conducted within a residential dwelling for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use of the building. This definition includes day care homes and does not include tattoo and/or body piercing operations. In connection with a home occupation, no stock in trade shall be displayed outside, and no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including the utilization of a permitted accessory building.

**HOME OCCUPATION, INTENSIVE-(Back yard workshops).** A business, profession, occupation, or trade which is conducted within a residential dwelling or residential accessory structure for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use of the building. This definition includes home occupations that provide the following services: “animal services (no outdoor animal

kennels)", "artists, craftsmen", "personal service uses", "professional offices", and "services, other (no outdoor storage)", auto repair nor any mechanical repair, small catering operation with Environmental Health Dept. approved commercial kitchen is considered an intensive home occupation. All residential accessory structures must meet the Environmental Health, NC Building Code and Fire Code Requirements and not exceed 25% of the principal residential structure.

**Conditional Special requirements.**

Home occupation, where permitted, must meet the following special requirements:

- (1) The applicant must be the owner of the property on which the home occupation is to be located. or must have written approval of the owner of the property if the applicant is a tenant.
- (2) The home occupation shall be operated only by the persons residing on the premises.
- (3) The customary home occupation, when restricted to the main building, shall not occupy more than 25 percent of the floor area within said building except in the case of in-home day care.
- (4) The intensive home occupation in accessory structure shall not exceed 40% of the principal residential dwelling floor area. Said structure shall meet NC Building and Fire Code Standards. Said structure shall be located no less than 25' twenty-five feet from adjoining property line and 100 feet from any structure except for the principal residential structure.
- (5) The home occupation shall not generate excessive traffic or produce obnoxious odors, glare, noise, vibration, electrical disturbance, radioactivity, or other conditions detrimental to the character of the surrounding area and, in general, shall give no evidence of a nonresidential character of the use.
- (6) In addition to the requirements of all parking in connection with the home occupation, including for vehicles marked with advertising or signage for the home occupation, shall be parked solely in driveways and garages on the premises, or in available on-street parking areas. Parking must take place out of sight of the public.
- (7) Any home occupation resulting in customers or clients coming to the home shall be conducted by appointment only.
- (8) No change to the outside of the principal residence, no display of goods. **Prohibited uses.**

When reviewing these special requests, the zoning administrator will consider the time and day, available parking in the area, and the complaint history of the home occupation.

- (2) Funeral homes and mortuary establishments.
- (3) Animal hospitals, kennels, and breeding of any domesticated or no domesticated animal, bird, fowl, or poultry. Pet grooming services where there is more than three (3) animals serviced at one time.
- (4) Auto detailing and equipment installation where more than one vehicle being serviced is present on the property at any given time.
- (5) Beauty salon or barbershop containing more than two chairs.
- (6) Business offices, therapists, and similar business uses where more than one customer, client, or paying entity is served at one time.
- (7) Medical or dental clinic.

- (8) Outside storage of any kind related to a business.
- (9) Restaurants except for off site catering operations.
- (10) Retail or wholesale sales where any goods or merchandise are displayed or otherwise offered on site for sale or purchase except in cases where sales are done individually and by appointment only.
- (11) Schools, nursery schools, or day cares that care for more than four nonrelated children.
- (12) Storage or any type of retail operation except for off site deliveries. The requirements for shipping and receiving of materials in connection with the business does not create excessive noise or traffic.
- (13) The storage of explosive, flammable, or hazardous waste or materials not otherwise associated or customary to a home use.
- (14) Only vehicles used primarily as passenger vehicles or a single delivery vehicle meeting the section (15) may be used in connection with the home occupation.
- (15) Parking of Commercial Vehicles on any lot located in a residential zoning district, one commercial vehicle may be parked on an overnight basis on private property and shall be limited to Class 1 or Class 2 vehicles (gross vehicle weight of up to 10,000 pounds), providing that such vehicle is parked off the street and is used by a resident of the premises. No person shall park or place construction or maintenance equipment, machinery or materials, or allow same to be parked or placed upon public property, streets, and right-of-way or upon private property in the residential zoning districts. Parking of idling commercial/industrial vehicles is prohibited as these uses create objectionable noises and are disturbing to the residential area.

3. Meet all the requirements of NC Building Code and Fire Code.

Expiration and revocation.

A zoning permit for home occupations be revoked under the following conditions:

- (1) Whenever the applicant ceases to occupy the premises for which the home occupation permit was issued. No subsequent occupant of such premises shall engage in a different home occupation until the owner shall have been issued a new permit after proper application.
- (2) Whenever the holder of such a permit fails to exercise the same for any period of six consecutive months.
- (3) Whenever the zoning administrator finds that the holder of the permit has violated the conditions of the permit or one or more of the special requirements identified in the Zoning Ordinance Fee.

The fee for application for a home occupation permit shall be as provided for under “zoning permit fee” in the schedule of fees adopted annually by town council.

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

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

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

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

- a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b) The excavation, grading, filling, clearing, or alteration of land.
- c) The subdivision of land as defined in G.S. 160D-802.
- d) The initiation or substantial change in the use of land or the intensity of use of land.

### **Development**

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

### **Development**

**Regulation.** A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this Chapter, or a local act or charter that regulates land use or development.

**Duplex.** A residential use in which two dwelling units share a common wall (including without limitations the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground and a separate ground floor entrance.

**Dwelling.** Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually

enjoyed therewith. For the purposes of this Chapter, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

**Dwelling Unit.** An enclosure containing sleeping, kitchen, and bathroom facilities designed for and held ready for use as a permanent residence by a family. The term "dwelling unit" shall not be deemed to include a motel, hotel, tourist home, motor home, trailer or other structure designed for transient residence.

**Dwelling,**

**Single-Family.** A building designed for and containing one dwelling unit.

**Dwelling,**

**Two-Family.** A building designed for and containing two dwelling units.

**Dwelling,**

**Multi-Family.** A building or portion thereof used for occupancy by three (3) or more families living independently of each other and containing three or more dwelling units.

**Evidentiary**

**Hearing.** A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this Chapter.

**Family.**

One or more persons living together as a single housekeeping unit.

**Family Care**

**Home.** ~~A home licensed by the North Carolina State Department of Human Resources with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six (6) resident handicapped persons defined by the State of North Carolina. Such family care homes shall not be within a one half mile radius of an existing family care home or group home as a measured from property line to property line. This definition shall also include the term Group Home.~~ *Amended 12/14/2015*

**Family Care Homes** *Amended 12/14/2015*

In accordance with NC General Statute Chapters 122C, 131D and 168, these uses are deemed residential uses and are permitted in all zoning residential districts subject to the following conditions:

(1) No more than six (6) residents other than the operator and operator's immediate family are permitted to live in a Family Care Home but not limited to, handicapped persons, older adults, foster children, or abused individuals.

- (2) A Family Care Home must be licensed with the NC Department of Health and Human Services Division of Facility Services before operating.
- (3) Family Care Home may be located within any residential zoning district and then only if it is within a one-half (1/2) mile radius of any other family care home as measured from the property line to property line.
- (4) No exterior signage is permitted.
- (5) This use shall not serve primarily as an alternative to incarceration and shall not include individuals who are on lockdown, violent or dangerous to others, as defined in North Carolina General Statues 122C3-(11)
- (6) Only incidental and occasional medical care may be provided

*Amended 12/14/2015*

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

**Gross Floor**

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

**Group Camp.** A camp providing camping facilities for ten (10) or more people.

**Group Home.** *Amended 12/14/2015*

Any facility licensed by the North Carolina State Department of Human Resources, by whatever name it is called, other than a "family care home", as defined by this ordinance, with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than nine (9) resident persons. homeless persons and those recovering from drug or alcohol abuse. This use shall include Family Care Homes, as defined in North Carolina General Statute 168-21. This use shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in North Carolina General Statute 122C3(11), and shall not include persons living together as a fraternal, sorrel, social, honorary, or professional organization. Such group homes shall not be within a one-half mile radius of an existing family care or group home as measured from property line. *Amended 12/14/2015*

**Heliports.** A landing and takeoff place for a helicopter.

**Junkyard.** The use of more than 100 square feet of the area of any lot for the storage, keeping or abandonment of junk, including scrap metals, or other scrap materials, or for the dismantling demolition, or abandonment of automobiles or other vehicles or parts thereof.

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

**Kennel, Non- commercial.** Any location where the boarding, caring for and keeping of more than three (3) but not more than ten (10) dogs or cats or other small animals or a combination thereof (except litters of animals of not more than six months of age) is carried on, not for commercial purposes, but as a hobby such as the raising of show and hunting dogs.

**Legislative**

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

**Legislative**

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

**Lot.**

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

**Lot, Corner.**

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

**Lot Coverage.** The percentage of a lot which may be covered with buildings or structures, excluding walks, drives, and other similar uses and recreational facilities which are accessory to a permitted use.

**Lot Depth.** The mean horizontal distance between the front and rear lot lines.

**Lot of Record.** A lot which is part of a subdivision, a plat or which has been recorded in the office of the Caldwell County Register of Deeds or a lot described by

metes and bounds, the description of which has been so recorded at the County courthouse.

**Lot Width.** The distance between side lot lines measured at the building setback line.

**Manufactured**

**Home.** ~~A manufactured housing unit, completely or partially assembled in a manufacturing plant, designed for transportation from a manufacturing plant, either on its own chassis or in sections, and placement on a temporary, semipermanent or permanent foundation. It shall also comply with the National Mobile Home Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development (adopted in July 15, 1976) and meet the setup and appearance criteria established by Section 32.46 or 32.47 of this Ordinance. For the purpose of this ordinance manufactured homes are further classified as follows:~~

- (1) **Class B Manufactured Home.** ~~A multi sectional manufactured home that meets or exceeds the construction standards established by the U.S. Department of Housing and Urban Development (HUD) that were in effect at the time of construction. The majority of these homes were built after July 15, 1976. These homes are often called "double wide manufactured homes."~~
- (2) **Class C Manufactured Home.** ~~A manufactured home that meets or exceeds the construction standards established by the U.S. Department of Housing and Urban Development (HUD) that were in effect at the time of construction. The majority of these homes were built after July 15, 1976. These homes are usually called "single wide manufactured homes." They are often referred to as "mobile homes" or "trailers."~~
- (3) **Class D Manufactured Home.** ~~A manufactured home which was constructed prior to the establishment of any construction standards by the U.S. Department of Housing and Urban Development (HUD). All of these homes were built prior to July 15, 1976. They are often referred to as "mobile homes" or "trailers." Class D manufactured homes are not permitted to be placed anywhere in the Town of Gamewell.~~

Replaced with

**NCGS143-145 Manufactured home.** *A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act. the attachment of such manufactured homes to a permanent foundation does not exclude the structure from any portion of the ordinance regarding manufactured homes. This definition includes single-section and multi-section manufactured homes, where*

each section is designed for transportation on its own chassis and placed together on site to form a single housing unit.

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width.

**Manufactured Home Park.**

Any lot, tract or parcel of land maintained or intended to be used, leased or rented for the placement of three (3) or more manufactured homes or trailer houses for living and sleeping quarters. Two (2) or more adjacent parcels of property under single ownership, intended to be used for the purposes described in this definition, shall be considered one (1) manufactured home park.

**Manufactured Home Stand.**

That part of an individual lot which has been reserved for the placement of one manufactured home unit.

**Motel.**

A building in which lodging or board and lodging are provided for transient guests and offered to the motoring public for compensation in which ingress and egress to and from all rooms are made primarily direct from an exterior walkway rather than from an inside lobby.

**Nonconforming**

**Structure.**

A structure lawfully constructed prior to the effective date of the ordinance, which does not conform to the height, bulk, yard or lot requirements, and other requirements except use, for the district in which it is located.

**Nonconforming**

**Use.**

A lawful use of land, building or structure existing on the effective date of this ordinance, which does not conform to the use regulations of the district in which it is located.

**Nursing Home.**

A home for aged or ill persons in which three (3) or more persons not of the same immediate family are provided with food, shelter and care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to diagnosis and treatment.

<b><u>Open Space.</u></b>	Any front, side or rear yards, courts, usable open space provided about a building in order to meet the requirements of this Ordinance.
<b><u>Open Storage.</u></b>	Unroofed storage area, whether fenced or not.
<b><u>Parking Space.</u></b>	A storage space of not less than 9 feet by 18 feet for one automobile plus the necessary access space.
<b><u>Parking Lot.</u></b>	Any designated area designed for temporary accommodation of motor vehicles of the motoring public in normal operating condition whether for a fee or as a service.
<b><u>Planned Unit Development (PUD).</u></b>	A parcel of land under unified control which is planned and developed as a whole or in stages, not subdivided into the customary streets and lots and which will not be so subdivided, consisting of at least two (2) principal buildings and two (2) acres.
<b><u>Rest Home.</u></b>	A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.
<b><u>Satellite Dish Antenna.</u></b>	An antenna, six feet in diameter or larger, designed to receive television, radio, and other communication signals primarily from orbiting satellites.
<b><u>Schools.</u></b>	This definition includes elementary, secondary, trade or vocational, colleges, universities along with associated facilities such as dormitories, office buildings, and athletic fields.
<b><u>Sewerage System, Public.</u></b>	A system serving two or more connections. Plans for public and community sewer systems must be approved by the Division of Environmental Management, North Carolina Department of Natural Resources and Community Development.
<b><u>Sewerage System, Individual.</u></b>	An individual septic tank system of sewage disposal. Individual sewage disposal systems must be installed and maintained in accordance with the Division of Health Services, North Carolina Department of Human Services "Rules and Regulations Governing the Disposal of Sewage from any Residence, Place of Business or Place of Public Assembly in North Carolina" and the regulations of the County Board of Health.

**Setbacks.**

**Lot Setback.**

*Setback is the minimum distance any building or structure must be*

*separated from a lot line. Front, rear, and side*

*yard setbacks are measured from the existing right-of-way, access easement, and or edge of pavement in Highway Business district and then in a straight line to the closest point of the building or*

*structure. Amendment Adopted 12/14/2020*

**Signs.**

Any form of publicity, visible from any public highway directing attention to an individual activity, business, service, commodity or product and conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trademarks, or trade names or other pictorial matter designed to convey such information and displayed by means of bills, panels, posters, paints, or other devices erected on an open framework, or attached or otherwise applied to posts, stakes, poles, buildings, or other structures or supports.

**Sign, On-Site.**

A sign which directs attention to a business, profession, commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is attached. (See Business Sign).

**Sign, Off-Site.**

A sign which directs attention to a business, commodity, activity, service or product not necessarily conducted, sold or offered upon the premises where such sign is located. (See Billboard).

**Sign Area.**

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

**Sign, Billboard**

**(see also off-site signs).** An outdoor structure or display, pictorial or otherwise, either freestanding or attached to a building, which advertises or attracts attention to a business, commodity service or other activity conducted, sold or offered elsewhere than on the premises on which said sign is located. Billboards are not permitted within the jurisdiction of this Ordinance.

<b><u>Sign, Ground.</u></b>	A sign attached directly to the ground by means of one or more upright pillars, braces or posts placed upon or in the ground, and not attached to any part of the building.
<b><u>Sign, Portable.</u></b>	A sign which rests on the ground or any other surface, and is not directly attached to such surface, and which is designed and/or constructed to be mobile or movable.
<b><u>Sign, Roof.</u></b>	A sign erected, constructed, or maintained upon the roof of a building.
<b><u>Sign, Wall.</u></b>	A sign affixed to the surface of, and whose plane is parallel to the plane of the exterior wall of a building, or which forms an angle of less than 30 degrees with said wall.
<b><u>Site-Built Home.</u></b>	A single-family home which is constructed entirely or partially on a building site and meets or exceeds the requirements of the North Carolina State Building Code. It shall also comply with the requirements established by Section 32.49.1.
<b><u>Solar Farm.</u></b>	<u>An installation or area of land in which a large number of solar panels are set up in order to generate electricity Sections 32.21-32.23, Section 33.28- GM, 32.58 32.59.1 Adopted 04/9/18</u>
<b><u>Solar Panel Residential see Accessory Use.</u></b>	<u>A photovoltaic (PV) module is a packaged, connect assembly of typically 6x10 photovoltaic solar cells. Photovoltaic modules constitute the photovoltaic array of a photovoltaic system that generates and supplies solar electricity in commercial and residential applications. Sections 32.21-32.23, 33.28- GM, 32.58, 32.59.1 Adopted 04/9/18</u>
<b><u>Story.</u></b>	That portion of a building comprised between a floor and the floor or roof next above. The first floor of a two or multi-story building shall be deemed the story that has no floor immediately below it that is designed for living quarters or for human occupancy. Those stories above the first floor shall be numbered consecutively.
<b><u>Street</u></b> <b><u>(Road, Lane, Way,</u></b>	
<b><u>Terrace, Drive).</u></b>	A dedicated, recorded and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

**Street, Private.** An undedicated private right-of-way which affords access to abutting properties and requires a disclosure statement in accordance with G.S 136-102.6.

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

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

**Subdivision.** All divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose (whether public or private) or a change in an existing street, and includes resubdivision and, where appropriate to the context, relates to the process of subdividing or to the land or area subdivided; provided, however, that the following are not included within this definition:

- (1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of these regulations; and
- (2) The division of land into parcels of ten (10) acres or more where no new street is involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets;
- (4) The division of a tract of land in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town, as shown in this ordinance.

**Tourist Home.** See Boarding House.

**Variance.** The term "Variance" shall mean a modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

**Water System.**

<u><b>Public.</b></u>	Water supply systems serving 10 or more connections are classified as a public water supply by State law. Plans and specifications must be approved by the Sanitary Engineering Section, Division of Health Services, North Carolina Department of Human Resources.
<u><b>Water System, Semipublic.</b></u>	Water supply systems serving from two (2) to nine (9) connections, inclusive. This system may be regulated by the County Board of Health, and plans should be approved by the Caldwell County Health Department.
<u><b>Water System, Individual.</b></u>	A drilled or bored well or spring which serves a single connection. Individual water supply systems should be located, constructed and operated in accordance with the Division of Health Services, North Carolina Department of Human Resources.
<u><b>Yard.</b></u>	An open space on the same lot with a principal building, unoccupied and unobstructed from the ground upward.
<u><b>Yard, Front.</b></u>	An open space on the same lot with a principal building, between the front line of the building (exclusive of steps) and the front property or street right-of-way line and extending across the full width of the lot.
<u><b>Yard, Rear.</b></u>	An open, unoccupied space extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.
<u><b>Yard, Side.</b></u>	An open, unoccupied space situated between the side line of the building and adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.
<u><b>Zoning Enforcement Officer.</b></u>	It shall be the duty of the Zoning Enforcement Officer to administer the provisions of this ordinance. The assistance of other persons may be provided as the Town Council may direct.
<u><b>Zoning Permit.</b></u>	Permit issued by the Zoning Enforcement Officer that authorizes the recipient to make use of property in accordance with the requirements of this ordinance.

## **ESTABLISHMENT OF DISTRICTS**

## **Section 32.10 Use Districts.**

For the purposes of this Ordinance, the Town of Gamewell is hereby divided into use districts with the designations as listed below:

<b>R-20</b>	Residential Low Density District.
<b>RA-20</b>	Residential Medium Density District.
<b>R-15</b>	Residential High Density District.
<b>R-MHP</b>	Manufactured Home Park/Singlewide MH.
<b>O-I</b>	Office and Institutional District.
<b>N-B</b>	Neighborhood Business
<b>H-B</b>	Highway Business.
<b>G-M</b>	General Manufacturing.

## **Section 32.11 District Boundaries Shown on Map.**

The boundaries of the districts are shown on the map accompanying this Ordinance and made a part thereof entitled "Official Zoning Map, Gamewell, North Carolina." The zoning map and all the notations, references and amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described as set forth herein. The zoning map properly attested is posted at the Gamewell Town Hall and is available for inspection by the public.

## **Section 32.12 Due Consideration Given to District Boundaries.**

In the creation of this Ordinance of the respective districts, careful consideration is given to the general suitability of each and every district for the particular uses and regulations applied thereto, and the necessary and proper grouping and arrangement of various uses and densities of population in accordance with a well-considered comprehensive plan for the physical development of the Town. The Zoning Map shall be maintained for public inspection in the office of the local government clerk. The maps may be in paper or a digital format approved by the local government (G.S. 160D-105).

## **Section 32.13 Rules Governing Boundaries.**

Where uncertainty as to the boundaries of any aforesaid districts as shown on the zoning map, the following rules shall apply (such uncertainty shall be determined by the Board of Adjustment):

- (A) Where district boundaries are indicated as approximately following the centerline of streets or highways, railroad right-of-way lines or such lines extended, such centerlines, street lines, or railroad right-of-way lines shall be construed to be such boundaries.

- (B) Where district boundaries are so indicated that approximately follow lot lines, such lot lines shall be construed to be such boundaries.
- (C) Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways, or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the map. If no distance is given, such dimension shall be determined by use of the scale shown on said map.
- (D) Where a district boundary line divides a lot in single ownership, the district requirements for the least restrictive portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such a lot more than thirty-five (35) feet beyond the district boundary line. The term "least restrictive" shall refer to zoning restrictions, not lot or tract size.

## **USE REQUIREMENTS BY DISTRICTS**

### **Section 32.20.**

Within the districts indicated on the zoning map, no building or land shall be used, and no building shall be erected or altered which is intended or designed to be used in whole or in part, for any use other than those listed as permitted for that district in this chapter.

### **Section 32.21 R-20 Residential Low Density District.**

This district is composed of certain quiet, low density residential sections of the community, plus certain open areas where similar residential development appears likely to occur, as indicated by the Land Development Plan. The regulations of this district are intended to discourage any use which, because of its character, would substantially interfere with the development of single family residences in the district and which would be detrimental to the quiet residential nature of the areas included within this district.

#### **The following uses are permitted:**

- (1) Single family dwellings; exclusive of ~~Class B, C or D~~ manufactured homes.
- (2) Accessory buildings to residential uses, provided that no accessory building shall be rented or occupied for commercial purposes, and provided further, that no accessory building shall be used for human habitation and located in the rear yard.
- (3) Customary home occupations; ~~the Board of Adjustments shall decide whether other home occupations not listed in the definition in Section 32.06 are within the spirit of the Ordinance.~~

- (4) Small professional or announcement sign unilluminated not over two (2) square feet in area mounted flat to the main wall of the building, any unilluminated real estate signs not over six (6) feet in area.
- (5) Animal Keeping see section 32.59.2

**Special Uses:** The following special uses are permitted when authorized by the Gamewell Board of Adjustment after said Board holds a public hearing.

- (1) Cemeteries.
- (2) Churches, and other places of worship.
- (3) Fire Stations.
- (4) Schools.
- (5) Grounds and facilities for recreational and community center buildings, country clubs, lakes, parks, and similar facilities operated on a non-profit basis.
- (6) Public utility distribution lines, transformer stations, transmission lines and towers, water tanks, but not service or storage tanks.
- (7) ~~Class B and Class C manufactured homes meeting the hardship requirements of Section 32.48.~~
- (8) Solar Farms or utility farms requirement of Sections 32.21-32.23, Section 33.28- GM, 32.58, 32.59.1 Adopted 04/9/18

**Dimensional Requirements:**

- (1) Minimum required lot area per dwelling unit:

**21,780 (1/2 acre) square feet**

*\*If the parcel of land is located in the WS IV protected area and development requires an erosion and sedimentation control plan then maximum permissible impervious coverage as defined in the Ordinance shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot abuts a curb and gutter system.*

- (2) Minimum required mean lot width: **100 ft.**
- (3) Minimum required front yard: **40 ft.**
- (4) Minimum required side yard: **15 ft.** Side yard abutting a street: **18 ft.**
- (5) Minimum required rear yard: **35 ft.**
- (6) Maximum permissible lot coverage by the principal building and all accessory buildings shall not exceed 30% of the total lot area.
- (7) Height of Buildings: No building shall exceed thirty-five (35) feet.
- (8) Location of accessory buildings: No accessory building shall be erected in any required front or side yard or within twenty (20) feet of any street line or within ten (10) feet of a lot line not a street line, and provided that in case of a corner lot with reversed frontage, no accessory building shall extend beyond the front yard line of the lots in the rear. Neither shall an accessory building be located closer than ten (10) feet to the principal structure. In cases where there exist issues that do not allow for the placement of an accessory building in the rear yard because of topography, multi-road frontages, and physical placement of principal structure, and where the lot in question has adequate side yard to support the accessory structure. The Zoning Administrator may make a determination as to the location of the accessory structure in the side yard as long as said placement is within the spirit and intent of the zoning ordinance.
- (9) Corner Visibility: On a corner lot, within the area formed by the center lines of the intersecting streets and a line joining points of such center lines at a distance of eighty (80) feet from their intersection, there shall be no obstruction to vision between a height of two (2) feet and height of ten (10) feet above the average center line grade of each street.
- (10) Off-street parking shall be provided as required in Section 32.62.

### **Section 32.22 RA-20 Residential Medium Density District.**

This district is composed of medium density residential development and of open areas which are used for farmland and woodland. The RA-20 district shall consist of singlefamily dwellings, manufactured and modular homes on individual lots and related uses necessary for a sound neighborhood. The regulations for this district are designed to

stabilize and encourage a healthful environment for family life in areas where either or both public water or sewer facilities are available.

**(A) The following uses are permitted:**

- (1) Single family dwellings.
- (2) ~~Class B~~ Manufactured homes on individual lots subject to Section 32.46 of this Ordinance.
- (3) Accessory buildings to residential uses, provided that no accessory building shall be rented or occupied for commercial purposes, and provided further, that no accessory building shall be used for human habitation.
- (4) Customary home occupations: ~~the Board of Adjustments~~ shall decide whether other home occupations not listed in the definition in Section 32.06 are within the spirit of the Ordinance.
- (5) Small professional or announcement sign unilluminated not over two (2) square feet in area mounted flat to the main wall of the building, any unilluminated real estate signs not over six (6) feet in area.
- (6) Any form of agriculture or horticulture (greenhouses and nurseries) including the sale of products of a retail stand on the property where produced as long as the operation is exempt under bona-fide farms as defined in the NC Dept of Revenue.
- (7) Animal Keeping (hobby farms) See Section 32.59.2

**(B) Special Uses:** The following special uses are permitted when authorized by the Gamewell Board of Adjustment after said Board holds a public hearing.

- (1) Cemeteries.
- (2) Churches and other places of worship.
- (3) Fire Stations.
- (4) Schools.

- (5) Grounds and facilities for recreational and community center buildings, country clubs, lakes, parks, and similar facilities operated on a non-profit basis.
- (6) Public utility distribution lines, transformer stations, transmission lines and towers, water tanks, but not service or storage tanks.
- (7) ~~Any form of agriculture or horticulture (greenhouses and nurseries) including the sale of products at a retail stand on the property where produced.~~
- (8) Class B and Class C manufactured homes meeting the hardship requirements of Section 32.48.
- (9) Solar Farms or utility farms requirement of Solar Farms or utility farms requirement of Solar Farms or utility farms requirement of Sections 32.21-32.23, Section 33.28- GM, 32.58, 32.59.1 Adopted 04/9/18

**(C) Dimensional requirements:** Within the RA-20 Residential Medium Density District(s), as shown on the zoning map, the following dimensional requirements shall be complied with:

- (1) Minimum required lot area per dwelling unit:

**21,780 (1/2 acre) square feet;**

*\*If the parcel of land is located in the WS IV protected area and development requires an erosion and sedimentation control plan then maximum permissible impervious coverage as defined in the Ordinance shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot abuts a curb and gutter system.*

- (2) Minimum mean lot width: **100 ft.**
- (3) Minimum front yard: **40 ft.**
- (4) Minimum required side yard for the principal building: **15 ft.** Side yard abutting a street: **18 ft.**
- (5) Minimum required rear yard: **35 ft.**
- (6) Maximum permissible lot coverage by the principal building and all accessory buildings shall not exceed thirty percent (30%) of the total lot area.

- (7) Height of buildings shall not exceed thirty-five (35) feet unless the depth of the front and total width of the side yards required herein shall be increased by one foot for each two feet, or fraction thereof, or building height in excess of 35 feet.
- (8) Location of accessory buildings: Accessory buildings shall not be erected in any required front or side yard or within 20 feet of any street or highway line or within 10 feet of any lot line not a street or highway line. An accessory building or use may be located in the rear yard provided it is located not less than ten (10) feet from the property line. Neither shall an accessory building be closer than ten (10) feet to the principal structure. *In cases where there exist issues that do not allow for the placement of an accessory building in the rear yard because of topography, multi-road frontages, and physical placement of principal structure, and where the lot in question has adequate side yard to support the accessory structure. The Zoning Administrator may make a determination as to the location of the accessory structure in the side yard as long as said placement is within the spirit and intent of the zoning ordinance.*
- (9) Corner Visibility: On a corner lot, within the area formed by the center lines of the intersecting streets and a line joining points of such center lines at a distance of eighty (80) feet from their intersection, there shall be no obstruction to vision between a height of two (2) feet and height of ten (10) feet above the average center line grade of each street.
- (10) Off-street parking shall be provided as required in Section 32.62.

### **Section 32.23 R-15 Residential High Density District.**

The R-15 Residential High Density District is established as a district in which the principal use of land is for single-family, two-family, and, manufactured homes and modular homes on individual lots. The regulations are intended to prohibit any use, which, because of its character, would interfere with the residential nature of this district. It is expected that municipal water and sewage facilities will be available to each lot in such districts.

#### **(A) The following uses are permitted:**

- (1) Single-family dwellings.
- (2) Two-family dwellings and duplexes.

- (3) ~~Class B~~ Manufactured homes on individual lots subject to the provisions of Section(s) 32.46 of this Ordinance.
- (4) Accessory buildings to residential uses, provided that no accessory building shall be rented or occupied for commercial purposes, and provided further, that no accessory building shall be used for human habitation.
- (5) Customary home occupations; the Board of Adjustments shall decide whether other home occupations not listed in the definition in Section 32.06 are within the spirit of the Ordinance.
- (6) Small professional or announcement sign unilluminated not over two (2) square feet in area mounted flat to the main wall of the building, any unilluminated real estate signs not over six (6) feet in area.
- (7) Any form of agriculture or horticulture (greenhouses and nurseries) including the sale of products of a retail stand on the property where produced as long as the operation is exempt under bona-fide farms as defined in the NC Dept of Revenue.
- (8) Animal Keeping (hobby farms) See Section 32.59.2

**(B) Special uses:** The following special uses are permitted when authorized by the Gamewell Board of Adjustment after said Board holds a public hearing except with respect to item (a) apartments and item (h) Planned Unit Development. for final approval or disapproval.

- (1) Apartments, only as Planned Unit Developments (PUD-R), subject to Section 32.56.
- (2) Rooming, Boarding, and Tourist Homes.
- (3) ~~Family Care Homes. Group Homes~~ *Amended 12/14/2015*
- (4) Cemeteries.
- (5) Churches, and other places of worship.
- (6) Fire Stations.

- (7) Schools.
- (8) Planned Unit Developments (PUD-R), subject to conditions under Section 32.56.
- (9) Grounds and facilities for recreational and community center buildings, country clubs, lakes, parks, and similar facilities operated on a non-profit basis.
- (10) Public utility distribution lines, transformer stations, transmission lines and towers, water tanks, but not service or storage tanks.
- (11) ~~Any form of agriculture or horticulture (greenhouses and nurseries) including the sale of products of a retail stand on the property where produced.~~
- (12) ~~Class B and Class C manufactured homes meeting the hardship requirements of Section 32.48.~~
- (13) Solar Farms or utility farms requirement of Sections 32.21-32.23, Section 33.28- GM, 32.58, 32.59.1 Adopted 04/9/18

**(C) Dimensional requirements:** Within the R-15 Residential High Density District(s), as shown on the zoning map, the following dimensional requirements shall be complied with:

- (1) Minimum required lot area per dwelling unit:

**21,780 (1/2 acre) square feet;**

*\*If the parcel of land is located in the WS IV protected area and development requires an erosion and sedimentation control plan then maximum permissible impervious coverage as defined in the Ordinance shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot abuts a curb and gutter system.*

- (2) Minimum Mean lot width: **100 ft.**

*(For multi-family dwellings, the minimum required lot width shall be 125 feet; plus 25 additional feet for each additional unit.)*

- (3) Minimum front yard setback: **40 ft.**
- (4) Minimum required side yard for principal building:  
**15 ft.**
  - Side yard abutting a street: **18 ft.**
- (5) Minimum required rear yard: **35 ft.**
- (6) Maximum permissible lot coverage by the principal building and all accessory buildings shall not exceed thirty (30) percent of the total lot area.
- (7) Height of buildings shall not exceed thirty-five (35) feet unless the depth of the front and total width of the side yards required herein shall be increased by one (1) foot for each two (2) feet or fraction thereof of building height in excess of thirty-five (35) feet.
- (9) Location of accessory buildings: No accessory building shall be erected in any required front or side yard or within twenty (20) feet of any street line or within ten (10) feet of a lot line not a street line, and provided that in case of a corner lot with reversed frontage, no accessory building shall extend beyond the front yard line of the lots. In cases where there exist issues that do not allow for the placement of an accessory building in the rear yard because of topography, multi-road frontages, and physical placement of principal structure, and where the lot in question has adequate side yard to support the accessory structure. The Zoning Administrator may make a determination as to the location of the accessory structure in the side yard as long as said placement is within the spirit and intent of the zoning ordinance.

in the rear. Neither shall an accessory building be located closer than ten (10) feet to the principal structure.
- (10) Corner Visibility. On a corner lot, within the area formed by the center lines of the intersecting streets and a line joining points of such center lines at a distance of eighty (80) feet from their intersection, there shall be no obstruction to vision between a height of two (2) feet and height of ten (10) feet above the average center line grade of each street.
- (11) Off-street parking shall be provided, as required in Section 32.62 of this Ordinance.

## **Section 32.24 R-MHP Manufactured Home Park District/Floating Zone And Placement Of A Singlewide Manufactured Home On Individual Lot.**

The Manufactured Home Park District/Floating Zone is designed to provide for manufactured home parks and also allow for a singlewide manufactured home to be placed on an individual lot according to Section 32.46 in a floating zone within the RA-20 and R-15 Districts by an amendment to the Gamewell Zoning Ordinance. For the purposes of this section, a manufactured home park is defined as any lot, tract, or parcel of land used, maintained or intended to be used, leased or rented for occupancy of manufactured homes, consisting of not less than three and one-half (3 1/2) acres in area, excluding street right-of-way, but including seven (7) manufactured home stands (spaces) completed at first occupancy. This definition shall not include sales lots on which unoccupied manufactured homes are parked for purposes of inspection and/or sale.

### ***Provisions for Manufactured Home Parks.***

These provisions govern the establishment of a Manufactured Home Park R-MHP District within the RA-20 and R-15 Districts.

- (A) The provisions, procedures, and development standards for manufactured home parks shall be as required in Section 32.45. If the site is located in the WS-IV Protected Area Watershed Protection District and the development activity requires an Erosion and Sedimentation Control Plan, the minimum lot size requirements of the appropriate underlying zoning district (RA-20 or R-15) shall apply.
- (B) An application for rezoning a lot(s) or parcel(s) from either RA-20 or R-15 to R-MHP must be submitted for initial review to the Zoning Administrator 20 days prior to its introduction to the Gamewell Planning Board.
- (C) The rezoning application, including recommendations of the Planning Board, is brought before the Gamewell Town Council for final review.
- (D) A public hearing is required in accordance with N.C. General Statute 160D601 prior to any amendment to establish a Manufactured Home District RMHP to the Gamewell Zoning Ordinance.

## **Section 32.25 O-I Office and Institutional District.**

The Office and Institutional District is designed to provide a wide range of professional and economic office space, as well as space for public and quasi-public uses.

- (A) **The following uses are permitted:**

- (1) Auditoriums, armories, and publicly owned and operated recreational facilities.
- (2) Banks (except drive-in banks) and loan offices and agencies.
- (3) Business, professional governments, religious, charitable or fraternal offices or agencies and private clubs not engaged in retail sales to the general public or the maintenance of a stock of goods, merchandise or supplies on the premises.
- (4) Funeral Homes.
- (5) Libraries, art galleries, museums, music, or dancing institutions or schools.
- (6) Public or privately owned medical and dental clinics, and offices where medical or dental services are rendered.
- (7) Publicly owned institutions, except jails, correctional institutions, and hospitals or institutions operated principally for the treatment of mental, alcoholic or narcotic patients.
- (8) Customary accessory uses and structures when located on the same zoning lot as the principal structure, excluding, however, open storage.

**Signs:**

- (a) **Wall Signs:** Wall signs placed against the exterior walls of buildings shall not exceed more than six (6) inches outside of a building's wall surface, shall not exceed fifteen (15) square feet in area for any one premise, and shall not exceed ten (10) feet in height above the natural ground line.
- (b) **Ground Signs:** Ground signs shall be allowed not exceeding ten (10) feet in height above the natural ground line, shall meet all yard requirements for the district and shall not exceed fifteen (15) square feet in surface area.
- (c) **Roof-Signs:** Roof signs shall not be permitted.
- (d) **Window-Signs:** Window signs shall be placed only on the inside of professional buildings and shall not exceed twenty-five percent (25%) of the glass area of the pane upon which the sign is displayed.

- (e) **Illumination:** No flashing or intermittent illumination shall be used on any advertising sign or structure. Only one illuminated sign per professional office per building is permitted.
- (f) **Billboards:** Billboards or other off-site signs are not permitted.
- (g) **Portable:** Portable signs are not permitted.

(B) **Special Uses:** The following special uses are permitted when authorized by the Gamewell Board of Adjustment after said Board holds a public hearing for final approval or disapproval.

- (1) Drive-in Banks.
- (2) Public utility and service uses.
- (3) PUD-B as provided in Section 32.57 of this Ordinance.

(C) **Dimensional requirements:**

- (1) The minimum lot size shall be 8,000 square feet. However, if the site is located in the WS-IV Protected Area Watershed Protection District and the development activity requires an Erosion and Sedimentation Control Plan, the maximum permissible impervious surface coverage, as defined in Section 33.25, shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot abuts a curb and gutter street system.
- (2) Minimum mean lot width: 80 feet.
- (3) Minimum front yard setback: 30 feet.
- (4) Minimum side-yard setback for principal building: 15 feet.
- (5) Minimum rear-yard setback: 20 feet.
- (6) Maximum building height: 35 feet.
- (7) The total ground covered by the principal building and all accessory buildings shall not exceed 40% of the total lot area. However, if the site is located in the WS-IV Protected Area Watershed Protection District and the development activity requires an Erosion and

Sedimentation Control Plan, the maximum permissible impervious surface coverage, as defined in Section 33.25, shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot abuts a curb and gutter street system.

- (8) Location of Accessory Buildings: No accessory building shall be erected in any required front or side yard within twenty (20) feet of any street line or within ten (10) feet of a lot line not a street, and provided that in case of a corner lot with reversed frontage, no accessory building shall extend beyond the front yard line of the lots in the rear. Neither shall an accessory building be located closer than (10) feet to the principal structure.
- (9) Off-street parking and loading shall be provided as required in Sections 32.62 and 32.63.

### **Section 32.26 Neighborhood Business District.**

The N-B Neighborhood Business District is intended for the use of those businesses and other uses which are properly located near residential areas and which cater to the everyday needs of a limited residential area.

#### **(A) The following uses are permitted:**

- (1) Automobile parking lots and structures.
- (2) Automobile washing establishments.
- (3) Banks and other financial institutions.
- (4) Barbershops and beauty shops.
- (5) Boarding houses and tourist homes.
- (6) Bus stations.
- (7) Business colleges, barber and beauty colleges, art schools, music and dance studios and similar uses.
- (8) Dairy bars and ice cream manufacturing for retail sales on the premises only.
- (9) Dry cleaning or laundry pickup stations.
- (10) Drug stores, with or without fountains.
- (11) Dry goods stores.
- (12) Electrical and electronic products.
- (13) Electric repair shops.
- (14) Florists and gift shops.
- (15) Furniture and household appliance stores.
- (16) Grocery, food, produce, fruit, and meat stores.

- (17) Hardware stores.
- (18) Jewelry repair shops and opticians.
- (19) Laundromats and similar automatic laundries.
- (20) Libraries, museums, and art galleries.
- (21) Locksmiths and gunsmiths.
- (22) Medical and dental clinics and laboratories.
- (23) Newspaper offices.
- (24) Offices, business, professional and public.
- (25) Office supplies and equipment, sales and services.
- (26) Photographic studios and camera supply stores.
- (27) Radio and TV repair shops.
- (28) Railroad stations.
- (29) Restaurants.
- (30) Retail establishments such as department, clothing, fabric, variety, floor covering, paint, antiques, art goods, gift, music, toy, sporting goods, book and stationary, magazine, candy tobacco, pet and hobby and craft stores, but not excluding similar retail outlets.
- (31) Service stations, provided that all gasoline pumps and other stationary equipment shall be located at least twelve (12) feet from any property line, provided further that on all sides where such stations abut residential districts, a six (6) foot high visual barrier and suitable landscaping shall be provided.
- (32) Shoe repair and shine shops.
- (33) Tailor and dressmaking shops.
- (34) Telephone and telegraphic offices. **Signs:**

- (a) **Wall Signs:** Wall signs placed against the exterior walls of buildings shall not exceed more than six (6) inches outside of a building's wall surface, and shall not exceed 100 square feet in area for any one premises, and shall not exceed 20 feet in height above the natural ground line)
- (b) **Ground Signs:** Ground signs not exceeding one per lot shall not exceed 20 feet in height above the natural ground line, shall meet all yard and height requirements for this district and shall not exceed 60 square feet on one side, nor 120 square feet on all sides for any one premises.
- (c) **Roof Signs:** Roof Signs shall not be permitted
- (d) **Window Signs:** Window signs shall be places on the inside of commercial buildings and shall not exceed 25% of the glass area of the pane upon which the sign is displayed.

- (e) **Illumination:** No flashing or intermittent illumination shall be used on any advertising sign or structure. Only one illuminated sign per business per building is permitted.
- (f) **Billboards:** Billboards and other off-site signs shall not be permitted.
- (g) **Portable Signs:** Portable signs shall not be permitted.

(B) **Special Uses:** The following uses are permitted when authorized by the Gamewell Board of Adjustment after said Board holds a public hearing.

- (1) Retail establishments not otherwise named herein which come within the spirit or intent of this Ordinance.

(C) **Dimensional requirements.** Within the N-B District as shown on the zoning map, the following dimensional requirements shall be complied with:

- (1) The minimum lot size shall be 8,000 square feet per unit. However, if the site is located in the WS-IV Protected Area Watershed Protection District and the development activity requires an Erosion and Sedimentation Control Plan, the maximum permissible impervious surface coverage, as defined in Section 33.25, shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot abuts a curb and gutter street system.
- (2) Minimum required lot width: 100 ft.
- (3) Minimum front yard setback: 40 ft.
- (4) Minimum side yard setback: 15 ft. Setback when abutting a street: 20 ft
- (5) Minimum rear yard setback: 30 ft.
- (6) Height regulations for buildings and structures in the N-B District hereafter erected or structurally altered to exceed thirty-five (35) feet in height shall be set back from the lot line on the ratio of one foot for each two feet rise above said 35 feet.
- (7) Location of Accessory Buildings: No accessory building shall be erected in any required front or side yard within twenty (20) feet of any street line or within ten (10) feet of a lot line not a street, and provided that in case of a corner lot with reversed frontage, no accessory building shall extend beyond the front yard line of the lots

in the rear. Neither shall an accessory building be located closer than (10) feet to the principal structure.

(8) Off-street parking shall be provided as required in Section 32.62.

### **Section 32.27 H-B Highway Business District.**

The H-B Highway Business Districts are located on major thoroughfares and collector streets in the Town of Gamewell Planning Area. They are intended to provide for offices, personal services, and the retailing of durable and convenience goods for the community. Because these commercial uses are subject to public view and are important to the economy of the community, they should have ample parking, controlled traffic movement, suitable landscaping excluding operations that have open storage.

**(A) The following uses are permitted:**

- (1) Assembly halls, coliseums, gymnasiums, and similar structures.
- (2) Automobile sales
- (3) Automobile parts and supplies, repair garages, excluding open storage of wrecked vehicles.
- (4) Automobile parking lots and structures.
- (5) Automobile washing establishments.
- (6) Bakeries and other establishments manufacturing prepared foods and miscellaneous food products.
- (7) Banks and other financial institutions.
- (8) Barbershops and beauty shops.
- (9) ~~Boarding houses and tourist homes.~~
- (10) Boat sales.
- (11) Building supply and equipment sales, excluding visual open storage.
- (12) ~~Bus stations.~~
- (13) Business colleges, barber and beauty colleges, art schools, music and dance studios and similar uses.
- (14) Dairy bars and ice cream manufacturing for retail sales on the premises only.
- (15) Dry cleaning or laundry pickup stations.
- (16) Drug stores, with or without fountains.
- (17) Dry goods stores.
- (18) Electrical and electronic products.
- (19) Electric repair shops.

- (20) Fabricating shops, for example, wood products, textiles and metal products. Such establishments shall be limited to ten (10) or fewer employees.
- (21) Feed and seed stores.
- (22) Florists and gift shops.
- (23) Funeral homes or mortuaries.
- (24) Furniture and household appliance stores.
- (25) Greenhouses or horticultural nurseries.
- (26) Grocery, food, produce, fruit, and meat stores.
- (27) Hardware stores.
- (28) Hotels, inns, or motels.
- (29) Jewelry repair shops and opticians.
- (30) Laundromats and similar automatic laundries.
- (31) Libraries, museums, and art galleries.
- (32) Locksmiths and gunsmiths.
- (33) Medical and dental clinics and laboratories.
- (34) Newspaper offices.
- (35) Nursery schools and kindergartens, provided that at least 200 square feet of outdoor play area is provided for each child, provided further, that such area shall be enclosed by a sturdy fence at least five (5) feet in height.
- (36) Offices, business, professional and public.
- (37) Office supplies and equipment, sales and services.
- (38) Photographic studios and camera supply stores.
- (39) Plumbing shops, but excluding open storage.
- (40) Printing, publishing and reproducing establishments.
- (41) Radio and TV repair shops.
- (42) ~~Railroad stations.~~
- (43) Rest and convalescent homes.
- (44) Restaurants.
- (45) Retail establishments such as department, clothing, fabric, variety, floor covering, paint, antiques, art goods, gift, music, toy, sporting goods, book and stationary, magazine, candy tobacco, pet and hobby and craft stores, but not excluding similar retail outlets.
- (46) Service stations, provided that all gasoline pumps and other stationary equipment shall be located at least twelve (12) feet from any property line, provided further that on all sides where such stations abut residential districts, a six (6) foot high visual barrier and suitable landscaping shall be provided.
- (47) Shoe repair and shine shops.
- (48) Tailor, dressmaking and millinery shops.
- (49) Telephone and telegraphic offices.

- (50) **Trucking terminals.**
- (51) **Seasonal Temporary and Temporary Uses** such as local produce stand, fireworks stand, food trucks/carts, provided that review by the Zoning Enforcement Officer for any other governmental approvals such as Fire Marshal, Building Inspections, Environmental Health, NCDOT Driveway permits. Temporary uses require a zoning permit and are intended to discontinue in two (2) months of continued operation. Such uses do not involve the construction or alteration of any permanent building or structure.
- (52) Sign painting and fabricating shops.
- (53) **Services for emergency operations such as satellite ambulance bases, sheriff satellite base, fire stations and their accessory uses and buildings as needed to provide necessary service to the general public. These uses may require setback variations as needed to serve the needs of the public.**
- (54) Whole sale and warehouse establishments except for the storage of uncured hides, explosives, oil products, gas storage, etc.
- (55) **~~Adult entertainment/Internet sweepstakes/gaming:~~** ~~May not be located within 500 feet of another like operations. Such operations may not be located within 500 feet of any residence, places of worship, or school.~~

**Signs:**

- (a) **Wall Signs:** Wall signs placed against the exterior walls of buildings shall not exceed more than six (6) inches outside of a building's wall surface, and shall not exceed 200 square feet in area for any one premises, and shall not exceed 20 feet in height above the natural ground line)
- (b) **Ground Signs:** Ground signs not exceeding one per lot shall in height above the natural ground line, shall meet all yard and height requirements for this district and shall not exceed 60 square feet on one side, nor 120 square feet on all sides for any one premises.
- (c) **Roof Signs:** Roof signs shall not exceed 10 feet in height above the roof, shall meet all the yard and height requirements for this district and shall not exceed 200 square feet on all sides for one premises.

- (d) **Window Signs:** Window signs shall be places on the inside of commercial buildings and shall not exceed 25% of the glass area of the pane upon which the sign is displayed.
- (e) **Illumination:** No flashing or intermittent illumination shall be used on any advertising sign or structure. Only one illuminated sign per business per building is permitted.
- (f) **Billboards:** Billboards and other off-site signs shall not be permitted.
- (g) **Portable Signs:** Portable signs shall not be permitted.

(B) **Special Uses:** The following uses are permitted when authorized by the Town of Gamewell Board of Adjustments after said Board holds a public hearing except with respect to item (f) Planned Unit Development for final approval or disapproval.

- (1) Abattoirs, provided they meet State health laws.
- (2) Bowling alleys and skating rinks, miniature golf courses, riding stables, and other commercial recreational facilities.
- (3) Customary accessory uses and structures when located on the same lot as the main structure, excluding open storage.
- (4) ~~Drive-in restaurants.~~
- (5) Mixed uses, that is, buildings erected for both dwelling and business purposes provided such buildings shall be furnished with side yards on each side of the building measuring not less than 8 feet in width, provided, however, that this regulation shall not apply to the street side of a corner lot.
- (6) PUD-B as provided in Section 32.57.
- (7) Retail and wholesale establishments not otherwise named herein which come within the spirit or intent of this Ordinance.
- (8) ~~Wholesale storage of gasoline and oil products, including bottled gas and oxygen, provided the permit is obtained from the Bureau of Fire Prevention as required by the Fire Prevention Code.~~

**(C) Dimensional Requirements:** Within the H-B Highway District, as shown on the zoning map, the following dimensional requirements shall be complied with:

- (1) The minimum lot width shall be 100 feet.
- (2) Fifty (50) feet minimum front yard setback required; off-street parking as required by the Ordinance may be permitted in required yards but shall not be closer than 10 feet from the front property line or any dedicated street or railroad right-of-way line.

*Optional : Seventy-five (75') feet setback from edge of pavement for minimum front yard maybe used if additional landscaping is used to conceal the building line along the front yard and side yard that is adjacent to current development. Amendment Adopted 12/14/2020*

- (3) The minimum side yard setbacks shall be at least fifteen (15) feet, a side yard of twenty (20) feet is required on the street side of a corner lot with additional vegetative or constructive screening Amendment Adopted 12/14/2020. Furthermore, buildings used for residential purposes shall comply with the dimensional requirements of the R15 Residential District; buildings used wholly or in part for permitted non-residential uses shall meet the dimensional requirements for the use district in which they are located. Furthermore, upon any side or rear lot line which abuts a residential district there shall be a densely planted and maintained buffer strip. No such buffer shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining residential lots, and no buffer shall be required upon any yard which abuts a public street.
- (4) The minimum rear yard setback shall be at ~~-twenty-five (25')~~  
*feet if backs up to undeveloped property or other natural obstructions such as floodplain, hill, ravine, etc. Amendment Adopted 12/14/2020.*
- (5) No buildings shall exceed fifty (50) feet in height unless the depth of the front and total width of the side yards required herein shall be increased by one foot for each two feet, or fraction thereof, of building height in excess of 50 feet.
- (6) The total ground covered by the principal building and all accessory buildings shall not exceed 40% of the total lot area. However, if the site is located in the WS-IV Protected Area Watershed Protection

District and the development activity requires an Erosion and Sedimentation Control Plan, the maximum permissible impervious surface coverage, as defined in Section 33.25, shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot abuts a curb and gutter street system.

- (7) Location of Accessory Buildings: No accessory building shall be erected in any required front or side yard within twenty (20) feet of any street line or within ten (10) feet of a lot line not a street, and provided that in case of a corner lot with reversed frontage, no accessory building shall extend beyond the front yard line of the lots in the rear. Neither shall an accessory building be located closer than (10) feet to the principal structure.
- (8) Off-street parking and loading shall be provided as required in Sections 32.62 and 32.63.

### **Section 33.28 General-Manufacturing.**

This district provides a place for the location of industrial and other uses which would be incompatible with highway business, office and institutional, or residential districts. It is intended to permit in this district any use which is not inherently obnoxious to urban areas because of noise, odor, smoke, light, dust or the use of dangerous materials.

#### **(A) The following uses are permitted:**

- (1) All uses permitted in the H-B Highway Business District.
- (2) Gasoline, oil or fuel storage above ground, provided that the all state, county, and local permits are able to be secured.
- (3) Mixing Plant for concrete or paving materials.
- (4) Stone crushing, cutting and polishing.
- (5) Storage of materials and equipment outdoors.
- (6) Hatcheries.
- (7) Manufacturing, processing or fabrication of the following products:
  - (a) Animal feeds.
  - (b) Bedding, carpets, and pillows.
  - (c) Clothing, including hosiery.
  - (d) Electrical and electronic products.
  - (e) Foods and food products, including abattoirs.
  - (f) Glass.
  - (g) Household appliances.
  - (h) Ice.
  - (i) Leather goods, not to include processing or storage of raw

hide.

(j) Machine tools.

(k) Metal and metal products.

(l) Paints.

(m) Paper products, not including the manufacture or processing of paper.

(n) Plastics.

(o) Pottery, porcelain and vitreous china.

(p) Rubber products, not to include the processing or manufacture of rubber.

(q) Soap, detergent and washing compounds.

(r) Textiles.

(s) Wholesale storage of gasoline and oil products, including bottled gas and oxygen, provided that permit is obtained from the Bureau of Fire Prevention as required by the Fire Prevention Code.

(t) Furniture industries.

(8) Any lawful retail, repair, or wholesaling use, not specifically referred to in this Section.

**(B) Special Uses:** The following special uses are permitted when authorized by the Gamewell Board of Adjustment after said Board holds a public hearing with respect to item (b) Planned Unit Development for final approval or disapproval.

(1) Manufacturing uses not otherwise named herein which come within the spirit and intent of this Section.

(2) PUD-M as provided in Section 32.58.

(3) Solar farms and utility farms as requirements under Sections 32.21-32.23, 33.28- GM, 32.58, 32.59.1 Adopted 04/9/18

**(C) Dimensional Requirements:** Within the G-M General Manufacturing District(s) as shown on the zoning map, the following dimensional requirements shall be complied with:

(1) The minimum lot area for the G-M manufacturing district shall be one acre. However, if the site is located in the WS-IV Protected Area Watershed Protection District and the development activity requires an Erosion and Sedimentation Control Plan, the maximum permissible impervious surface coverage, as defined in Section 33.25, shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot abuts a curb and gutter street system.

- (2) The minimum mean lot width shall be 200 feet.
- (3) Minimum front yard setback shall be 50 feet.
- (4) Minimum rear yard setback shall be 30 feet; an additional 15 feet is required if the lot abuts a residential district.
- (5) Minimum of 30 feet for side yard on each side of every principal building. An additional 15 feet of side yard is required if the lot abuts a residential district.
- (6) The total ground area covered by the principal building and all accessory buildings shall not exceed forty percent (40%) of the total lot area. However, if the site is located in the WS-IV Protected Area Watershed Protection District and the development activity requires an Erosion and Sedimentation Control Plan, the maximum permissible impervious surface coverage, as defined in Section 33.25, shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot abuts a curb and gutter street system.
- (7) No building shall exceed fifty (50) feet in height unless the depth of the front and total width of the side yards herein specified shall be increased by one foot for each two feet or fraction thereof of building height in excess of fifty (50) feet.
- (8) Off-street parking as required by this Ordinance may be permitted in required yards but shall be no closer than ten (10) feet from the front property line or any street right-of-way or railroad right-of-way line.
- (9) Screening requirements. Whenever any G-M district rear and/or side property line abuts upon a residential district or site of institutional use existing natural buffers may substitute for screening requirements at the discretion of the Planning Board. Any buildings or parking area used for industrial purposes shall maintain a fifteen (15) feet buffer strip and within a portion of the buffer strip there shall be planted a continuous screen of evergreen plants with an initial height of at least six (6) feet by natural growth within no later than a two (2) year period.
- (10) Off-street parking and loading shall be provided as required in Sections 32.62 and 32.63.

## **GENERAL PROVISIONS**

#### **Section 32.40 Application.**

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located.

#### **Section 32.41 Reduction of Lot and Yard Areas Prohibited.**

No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after the effective date of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

#### **Section 32.42 Relationship of Building to Lot.**

Every building hereafter erected, moved or structurally altered shall be located on a lot of record and in no case shall there be more than one principal building and its customary accessory buildings on any lot of record, except:

- (1) in the case of a specially designed complex of institutional, residential, or commercial buildings in an appropriate zoning district, i.e. school campus, cluster house, shopping center, and so forth, as permitted by Sections 32.56 through 32.58 or
- (2) in the case of temporary or hardship cases as permitted in Section 32.48. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

#### **Section 32.43 Nonconforming Uses.**

Any use of buildings, structures, or land as defined in Section 32.06 is considered nonconforming. Nonconforming uses may be continued provided they conform to the provisions of Section 32.40.

(A) **Continuing the Use of Nonconforming Land.** The regulations set forth below provide the conditions under which the nonconforming use of land shall be continued.

- (1) Extensions of Use. Nonconforming uses of land shall not hereafter be enlarged or extended in any way.
- (2) Change of Use. Any nonconforming uses of land may be changed to a conforming use, or with the approval of the Board of Adjustment, to any use more in character with the uses permitted in this district.

**(B) Continuing the Use of Nonconforming Buildings.** The conditions under which the nonconforming building shall be continued:

- (1) Extension of Use. Nonconforming buildings and nonconforming uses of buildings may be enlarged upon the existing lot or tract which was, at the time of passage of this Ordinance, part of a business or industrial lot or tract and intended for such use where, if in the opinion of the Board of Adjustment, such extension would not substantially increase traffic volumes, air pollution, water pollution, noise pollution, provision of services and utilities or in some other way adversely affect the health, safety or welfare of the residents of the area. In permitting such extension, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.
- (2) Change of Use. Any nonconforming building or use of buildings may be changed with the approval of the Board of Adjustment to any use more in character with uses permitted in the district. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.
- (3) Cessation of Use. If active operations are discontinued for a continuous period of three hundred sixty (360) days with respect to a nonconforming use of building, such nonconforming use shall thereafter be occupied and used only for a conforming use.

**(C) Rebuilding Nonconforming Uses After Damage or Destruction.**

- (1) Nonconforming site-built single-family residences or site-built two family residences, which are partially or fully destroyed, may be rebuilt to no larger than its previous size, or repaired as a matter of right provided that all other requirements of this Ordinance are complied with, as it applies to the construction of single-family and two-family residences;
- (2) Nonconforming manufactured homes, which are partially or fully destroyed, may be repaired or replaced with the same or larger size as a matter of right, provided that the following requirements are adhered to:

- (a) The home must meet the setup requirements of Section 32.47 except that the replacement home shall be seven (7) years old or newer;
- (b) The home is replaced within one-hundred and twenty (120) days of its destruction or removal from the site;
- (c) The dimensional requirements for the appropriate zoning district are adhered to;
- (d) In manufactured home parks, the requirements of Section 32.49 are being met (or have been met) by the property owner.

(3) Nonconforming commercial, industrial and multi-family (three or more dwelling units) structures, which are partially or fully destroyed, may be rebuilt or repaired as a matter of right provided that the Board of Adjustment can make the following findings:

- (a) That the use will not adversely affect traffic;
- (b) That the use will not adversely affect the physical environment pertaining to water pollution, air pollution and noise pollution;
- (c) That the use will not adversely affect the provisions of services and utilities;
- (d) That the use will not create a health or safety hazard;
- (e) That the use will not adversely affect other property values;
- (f) That the use will not impair the public safety and welfare of the surrounding neighborhood and that substantial justice would be done in carrying out the request.

In permitting such reconstruction, the Board of Adjustment may require appropriate conditions and safeguards to protect the purpose and intent of this Ordinance.

(4) In meeting to decide on the issuance of a permit under Section 32.33(3) the Board of Adjustment must hold a public hearing. Notice of this hearing shall be posted on the property under consideration and advertised in legal notice in a local newspaper for at least ten (10) days prior to the hearing. The legal notice shall describe the request and appear at least once weekly for two (2) consecutive weeks.

**(D) Continuing the Use of Non-Conforming of Manufactured Home Parks.**

Non-conforming manufactured home parks existing on the date of the adoption of this amendment (9/12/94) shall conform to the provisions of Section 32.49 and shall not be allowed to expand or increase until these provisions are adhered to.

**(E) Replacing Non-Conforming Manufactured Homes.**

Non-conforming manufactured homes existing on individual lots or in manufactured home parks on the date of the adoption of this amendment (9/12/94) may be replaced with a home of the same or larger size provided that the following provisions are adhered to:

- (a) The home must meet the setup requirements of Section 32.47 except that the replacement home shall be seven (7) years old or newer;
- (b) The home is replaced within one-hundred and twenty (120) days of its destruction or removal from the site;
- (c) The dimensional requirements for the appropriate zoning district are adhered to;
- (d) In manufactured home parks, the requirements of Section 32.49 are being met (or have been met) by the property owner.

**Section 32.44 Announcement Signs and Structures.**

All announcement signs and structures, which include business signs as defined by this Ordinance, shall be approved by the Zoning Enforcement Officer and shall comply with the following regulations:

- (A) **Location.** No advertising sign or structure shall be erected, constructed or maintained so as to interfere with vision clearance along any street, road or highway or at any intersection or junction of two or more traffic arteries. Nor shall any advertising sign or structure be located within the street, road or highway right-of-way.
- (B) **Illumination.** No flashing or intermittent lights are permitted. All illuminated signs or structures shall be placed so as to prevent the light rays or illuminations therefrom being cast upon residential dwellings. However, any sign performing a public service function indicating time, temperature, stock market quotations or similar services shall be permitted.

- (C) **Billboards.** No billboards or other off-site signs are permitted within the jurisdiction of this Ordinance.
- (D) **Portable Signs.** No portable or other temporary signs are permitted within the jurisdiction of this Ordinance.
- (E) **Maintenance.** All advertising structures, together with any supports, braces, guys and anchors shall be kept in good repair and in a safe state of preservation. All signs, including political signs, erected to serve temporary purposes shall be removed within 10 days.
- (F) **Administration.** The zoning enforcement officer shall refuse a permit for the erection or construction of any advertising sign or structure which does not meet the requirements of this Section. The Zoning Enforcement Officer shall order the removal of any signs that are not constructed or maintained in accordance with the provisions of this Section.
- (G) **Nonconforming Signs.** Nonconforming signs will be allowed to remain in good repair, for a period of two years after the adoption of this Ordinance, after which time all signs must conform to the regulations of this Article.

**The following signs are exempt from regulation under this section:**

Non-illuminated signs not exceeding six square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as (i) signs giving property identification names or numbers of occupants, (ii) signs or mailboxes or newspaper tubes (iii) signs posted on private property relating to private parking or warning the public against trespassing or danger from animals, and (iv) church directional signs.

All political and or yard/garage sale signs after ten days from an election day must be removed or be subject to a fine to be determined by the Section 32.74 (F) of the Gamewell's Zoning Ordinance.

**Section 32.45 Regulations Governing Manufactured Home Parks.**

Manufactured Home Parks are subject to the following regulations and all other ordinances which may be applicable:

- (A) **General Provisions.** Manufactured homes because of their use, transportability, manufacture and manner of construction, location and

susceptibility for use in high density concentration both as units and persons tend to place inhabitants of manufactured homes in an unfavorable position to obtain services necessary for a safe and healthful living environment. It is the purpose of this subsection to provide protection to the public against unwise and hazardous manufactured home development and provide a reasonably safe and sound environment for manufactured home inhabitants and to:

- (1) Promote public health, safety and orderly residential development;
- (2) Prevent overcrowding of the land;
- (3) Provide adequate open space to ensure privacy, natural light and ventilation for each manufactured home;
- (4) Provide sufficient open space for outdoor uses essential to the manufactured home;
- (5) Ensure the furnishing of adequate water supply and sewage disposal systems; and
- (6) To provide an acceptable environment for small communities of manufactured homes.

Manufactured home parks are, therefore, strictly regulated with respect to their location, installation, provisions for services, privacy and additional specific regulations herein.

**(B) Permits and Procedures.** No person may construct, maintain, occupy or operate a manufactured home park, unless a preliminary plat for such a park has been reviewed by the Planning Board and approved by the Town Council. Upon approval by the Town Council, a building permit may be issued by the Zoning Enforcement Officer, and construction of the park begin. Prior to occupancy, a final plat of the manufactured home park must be reviewed by the Planning Board and approved by the Town Council. Upon approval, of the final plat a certificate of occupancy may then be issued for the park.

**(C) Contents of Preliminary and Final Plat.** Application to construct, develop, operate, alter or maintain a manufactured home park shall be made to the Zoning Enforcement Officer. The application shall consist of preliminary plats and then the final plats which include at least the following:

- (1) Name of manufactured home park, name and address of owner, name and address of the registered engineer or land surveyor responsible for preparation of the plat.
- (2) A manufactured home park design drawn onto a plat at a scale of one (1) inch equals fifty (50) feet.
- (3) Date, north arrow and scale.
- (4) Boundaries of manufactured home park property to include intersections and adjacent property with the boundaries of the manufactured home park property and the names and address of all adjoining property owners.
- (5) The plans for proposed utility layouts, including sanitary sewers, storms sewers, water distribution lines, natural gas, telephone and electric service, illustrating connections to existing systems. Plans for water supply and/or sewage disposal must be accompanied by letters of preliminary approval by appropriate town, county, and state authorities. Plans must show line sizes, the location of fire hydrants, blow-offs, manholes, pumps, force mains, and gate valves, and shall include profiles based upon mean sea level datum for sanitary sewers and storm sewers.
- (6) Proposed streets, existing and platted streets on adjoining properties and in the proposed subdivision, right-of-way, pavement widths, approximate grades, design engineering data for all corners and curves, and typical street cross sections. If any street is proposed to intersect with a state maintained road, the plat shall be accompanied by an application for driveway approval as required by the North Carolina Department of Transportation, Division of Highway's Manual on Driveway Regulations.
- (7) Outline of all existing and proposed buildings within the manufactured home park property with appropriate setbacks.
- (8) Location of parking bays, patios, walkways, service and accessory buildings, utilities easements, utility poles, and buffer and screening areas.
- (9) The location of outlets for utilities connection to manufactured home.
- (10) Indication of how future expansion will be made, if applicable.

- (11) Location and quantity of proposed sanitary conveniences, including proposed toilets, washrooms, laundries, recreation and utility areas, and utility rooms.
- (12) Method and plan of sewage disposal in accordance with existing town, county, and state regulations.
- (13) Location and quantity of refuse containers.
- (14) Plan of water supply in accordance with existing town, county, and state regulations.
- (15) Plan of electric lighting.
- (16) In the case of land with irregular topographic features, show finished contours, and (by separate map or otherwise) existing contours.

**(D) Development Standards.**

- (1) Any site, tract of land, or lot to be developed as a manufactured home park shall be not less than two (2) acres in area, excluding street right-of-way, but including utility easements, and it shall have not less than seven (7) manufactured home spaces completed at first occupancy.
- (2) Two-way access street within the site proposed shall have a pavement width of at least twenty (20) feet. One-way access streets shall have a pavement width of no less than eighteen (18) feet. Permanent deadend streets or cul-de-sacs shall not exceed six hundred (600) feet in length unless necessitated by topography and shall be provided with a turnaround of at least eighty (80) feet in diameter. Streets shall intersect as nearly as possible at right angles, and no street shall intersect at less than sixty (60) degrees. Where a street intersects a highway, the design standards of the North Carolina Department of Transportation shall apply. Street jogs of less than one hundred and fifty (150) feet shall not be allowed. All manufactured home spaces shall have access to a street and there shall be no less than two (2) off-street parking spaces per manufactured home space, which shall be accommodated in parking bays. Each parking space shall be provided by the owner or operator of the park.

- (3) All manufactured homes shall be properly tied down in accordance with the provisions of the North Carolina Uniform Residential Building Code.
- (4) The manufactured home park shall be divided into lots, the limits of which shall be clearly marked on the ground by permanent flush stakes or markers. No manufactured home lot shall be occupied or partially occupied by any structure, park driveway, or common area or facility, other than:
  - (a) *The manufactured home,*
  - (b) *Its related automobile parking spaces, and (c) Utility storage.*
- (5) Every manufactured home park shall be located on ground that is above any probable flooding from any natural watercourse and shall be graded so as to prevent the accumulation or ponding of water on the premises.
- (6) The minimum area of a manufactured home lot shall be twenty thousand (20,000) square feet. When individual septic tanks are proposed, the minimum space size shall be increased if the results of percolation test and subsoil investigations or other Health Department requirements indicate a need for a larger lot size.
- (7) No manufactured home or other structures within a manufactured home park shall be closer to each other than twenty (20) feet, except that storage or other auxiliary structures for the exclusive use of the manufactured home may be closer to that manufactured home than twenty (20) feet.
- (8) No manufactured home or other structure shall be located closer than thirty (30) feet to an exterior boundary of the park or a bounding street right-of-way.
- (9) All manufactured home lots shall abut upon a paved street.
- (10) At least ten (10) percent of the gross land area of the manufactured home park shall be designed and developed as a recreation area or areas. Recreation areas shall be located so as to be free of traffic hazards and easily accessible to the park residents. These areas may consist any combination of the following: playgrounds (swing sets, climbing structures, slides, sandboxes, etc.), picnic tables, gazebos, walking trails, basketball courts, tennis courts, volleyball courts or similar improvements. In reviewing the proposed manufactured

home park application and plat, the Town Council shall decide if the proposed recreation areas are sufficient.

- (11) A densely planted buffer strip consisting of trees, shrubs, other planting, or screen fence, at least ten (10) feet in height shall be provided along the rear and side lines of the manufactured home park, or park property. No such buffer shall, however, be upon or extend into a street right-of-way.
- (12) The site proposed shall provide covered racks or holders for all refuse containers at each manufactured home space. Such container racks or holders shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them. There shall be one rack or holder to each manufactured home space sufficient size to accommodate a refuse container of thirty-gallon capacity. The site proposed shall also provide racks or holders for large commercial type containers. Such container racks or holders shall be designed to facilitate cleaning around them and shall be located not more than one hundred fifty (150) feet from the manufactured home space served.
- (13) The site proposed shall provide area lighting adequate to meet the requirements of the county electrical department.
- (14) In every manufactured home park and related building, all installations of plumbing, electrical wiring, and all gas and oil appliances shall comply with the provisions of the state building code and any other applicable regulation of the Town of Gamewell. In addition the following must be met:
  - (a) *Each manufactured home lot shall be provided with plumbing and electrical connections.*
  - (b) *The water supply for each manufactured home shall be obtained only from faucets located inside each mobile home.*
- (15) A manufactured home park shall have direct access to a dedicated street or road.
- (16) No parking bay shall be located with direct access to a public street or road.
- (17) The site proposed shall have an office either as a separate structure or in connection with the dwelling quarters of the owner or operator.

- (18) Water system shall be in conformance with applicable state, county, and town regulations.
- (19) Sewage disposal shall be in conformance with applicable state, county, and town regulations.

#### **Section 32.46 Provisions for Manufactured Homes on Individual Lots.**

The purpose of these regulations is to promote sound neighborhood development and appearance, protect community property values, and to preserve the integrity and character of ***neighborhoods. Singlewides including multi-sectional manufactured homes*** ***Class B manufactured homes*** (as defined in Section 32.06) are permitted on individual lots in the RA-20 and R-15 Districts subject to the following conditions:

- (A) The lot must be recorded as an individual lot in the Caldwell County Register of Deeds, except when intended as a temporary use or when a hardship is shown to exist. In these cases the following requirements of Section 32.48 shall apply.
- (B) If municipal utilities shall be used. If not available, the well and/or septic tank must be approved by the Caldwell **County Environmental** Health Department.
- (C) All yard dimensional requirements for the respective district must be met.
- (D) The lot must front on a public street or approved private street and said street frontage will be considered the front of the lot. In cases where a private street is proposed to be used, the zoning enforcement officer may require that a recorded right-of-way exist to the serve the property and the street is paved or graveled in a manner that will facilitate safe and efficient vehicular traffic.
- (E) ~~The manufactured home shall be seven (7) years old or newer.~~ Proof of the age of the home such as a bill of sale, title or certified appraisal must be provided at the time the zoning permit is requested.
- (F) The manufactured home must meet or exceed the construction standards established by the U.S. Department of Housing and Urban Development (HUD) that were in effect at the time of construction. These standards became effective on July 15, 1976.
- (G) ~~All Class B manufactured homes (as defined in Section 32.06) shall be multisectioinal, not single wides. Class B manufactured homes shall be at least twenty (20) feet wide. Class C manufactured homes are permitted on individual lots only as a hardship case as provided in Section 32.48. Class~~

~~D manufactured homes (as defined in Section 32.06) are not permitted on individual lots.~~

- (H) ~~The length width ratio the manufactured home shall not have a length exceeding three and one half (3.5) times the width.~~
- (I) ~~All homes must measure at least 1,150 square feet of enclosed and heated living space.~~
- (J) The pitch of the main roof of the building shall have a minimum rise of one (1) foot for every four (4) feet of horizontal run.
- (K) The roof shall be finished with a type of shingle that is commonly used in standard residential construction.
- (L) All roof structures shall provide an eave protection of no less than six inches which may include a gutter.
- (M) The exterior siding shall consist predominately of vinyl or aluminum siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding used in standard residential site-built construction.
- (N) A continuous foundation enclosure, unpierced except for required ventilation and access shall be installed in accordance with State Building Codes. The enclosure shall consist of brick, concrete or block. If any masonry other than brick is used, it must be painted in color similar to that of brick. All materials necessary to complete the enclosure shall be located on the site at the time of final inspection by the Caldwell County Building Inspections Department.
- (O) Permanent steps shall be constructed at all entrances to the manufactured home. A permanent deck, porch or entrance patio measuring at least eight (8) feet by ten (10) feet shall be constructed at the front entrance and a similar structure measuring at least six (6) feet by ten (10) feet at the rear entrance. All stairs, porches, decks, patios and other entrances shall be attached securely to the home, anchored firmly to the ground, and shall be constructed in accordance with the N.C. State Building Code. Steps constructed from loose stacked materials shall not be construed as properly installed. All decks, porches, patios and stairs shall be constructed using treated wood, masonry or brick.
- (P) The running lights, the moving hitch and undercarriage chassis shall be removed upon final placement of the unit.

- (Q) At least two standard nine (9) by eighteen (18) feet off-street parking spaces shall be provided. The spaces shall not be closer than fifteen (15) feet from the road or right-of-way in order to protect site distances of the driving public. A driveway of at least 10 feet wide shall be paved or graveled with not less than four (4) inches of crushed stone on a well compacted sub-base.
- (R) All areas not used for parking, the manufactured home, accessory buildings or required decks shall be grassed or otherwise suitably landscaped to prevent erosion. Except for agriculture, no exposed soils shall remain after one (1) year from the date the zoning permit is issued.
- (S) All manufactured homes shall be placed on the lot in harmony with the neighboring site-built structures. Where there are no neighboring site-built homes for comparison, it shall be sited with the front running parallel to the lot frontage. For other odd lots, the home shall be located as determined by the Zoning Enforcement Officer in harmony with surrounding structures.
- (T) Each of the setup requirements in this Section shall be completed within thirty (30) days after final inspection by the Caldwell County Building Inspections Department. An extension of up to sixty (60) days may be granted by the Town Council if a personal or financial hardship is shown to exist. If no extension is requested or the extension expires with no progress in completing the requirements of this Section, the Town may use any and all remedies listed in Section 32.74 to enforce the requirements.

#### **Section 32.47 Provisions for Manufactured Homes in Manufactured Home Parks.**

~~Class B manufactured homes (as defined in Section 32.06) are permitted to be placed in manufactured home parks. Class C manufactured home parks (as defined in Section 32.06) are allowed in manufactured home parks that existed prior to the adoption of this amendment only as replacements to existing homes. All manufactured homes placed or replaced in manufactured home parks are subject to the following conditions:~~

- (A) ~~The manufactured home shall be seven (7) years old or newer. Proof of the age of the home such as a bill of sale, title or certified appraisal must be provided at the time the zoning permit is requested.~~
- (B) ~~The manufactured home must meet or exceed the construction standards established by the U.S. Department of Housing and Urban Development (HUD) that were in effect at the time of construction. These standards became effective in July 15, 1976.~~

- (C) Exterior finishes shall be in good repair and in no instance shall the degree of reflectivity of the exterior siding, foundation skirting and roofing exceed that of gloss white paint.
- (D) A continuous foundation enclosure, unpierced except for required ventilation and access shall be installed in accordance with State Building Codes. The enclosure shall consist of wood, vinyl, or fabricated metal. Any wood framing for foundation skirting shall be constructed with treated wood. Brick, concrete or block enclosures are encouraged when practical. All manufactured homes shall be underpinned and tied down in accordance with State Building Codes. All materials necessary to complete the enclosure shall be located on the site at the time of final inspection by the Caldwell County Building Inspections Department.
- (E) Permanent steps shall be constructed at all entrances to the manufactured home. A permanent deck, porch or entrance patio measuring at least eight (8) feet by ten (10) feet shall be constructed at the front entrance and a similar structure measuring at least six (6) feet x ten (10) feet at the rear entrance. All stairs, porches, decks, patios and other entrances shall be attached securely to the home, anchored firmly to the ground, and shall be constructed in accordance with the N.C. State Building Code. Steps constructed from loose stacked materials shall not be construed as properly installed. All decks, porches, patios and stairs shall be constructed using treated wood, masonry or brick.
- (F) The running lights, the moving hitch and undercarriage chassis shall be removed upon final placement of the unit.
- (G) No manufactured home shall be replaced in a nonconforming manufactured home park until an improvement proposal for the manufactured park has been approved by the appropriate body in accordance with Section 32.49. If an improvement proposal has not been approved for the nonconforming manufactured home park, a zoning permit for a replacement manufactured home may nevertheless be issued if, in the opinion of the Zoning Enforcement Officer, progress is being made towards compliance with Sections 32.49 (B) and 32.49 (C).
- (H) Each of the setup requirements in this Section shall be completed within thirty (30) days after final inspection by the Caldwell County Building Inspections Department. An extension of up to sixty (60) days may be granted by the Town Council if a personal or financial hardship is shown to exist. If no extension is requested or the extension expires with no progress

in completing the requirements of this Section, the Town may use any and all remedies listed in Section 32.74.

**Section 32.48 Provisions for Manufactured Homes in Hardship Cases.** Reserved

One (1) manufactured home on the same single lot as another site built or manufactured home may be permitted as a special use in the R-20, RA-20 and R-15 zoning districts after the Board of Adjustment holds a public hearing on the matter as required in Section 32.85. In reviewing the special use, the following requirements must be met:

- (A) Dimensional Requirements: The additional unit shall be located to the rear of the principal residence. The unit shall be located no closer than fifteen (15) feet from any side property line, thirty five (35) feet from any rear property line and forty (40) feet from the principal residence or any front property line. The lot shall have twenty thousand (20,000) square feet of area for the second unit in addition to twenty thousand (20,000) square feet for the principal dwelling unit. If the homes are located in the Watershed Protection District, the lot size and lot coverage requirements for the appropriate zoning district shall apply.
- (B) Setup and Appearance. The second manufactured home shall meet each of the setup and appearance requirements of Section 32.47 pertaining to manufactured home parks.
- (C) A permit shall only be granted to the owner of the principal structure.
- (D) The permit shall only be issued in the following cases:
  - (1) *When evidence is submitted that indicates that the inhabitants of the home will be either temporarily or permanently disabled, elderly, or afflicted with a temporary or long term medical condition that requires close supervision from owners of the principal structure.*
  - (2) *For temporary purposes incidental to construction or development of property within the Town of Gamewell for a period not to exceed 180 days. Extensions may be granted for a period as may be determined by the Board of Adjustment, but no longer than construction shall continue. Furthermore, no manufactured home shall be placed on land until construction commences nor when there is any existing structure or facility on the property which may be suitable or designed for the purpose for which the manufactured home is sought to be used;*

(3) ~~To be used as temporary living quarters in the event of a natural disaster such as fire, flooding, etc., which would render the former residence uninhabitable.~~

(E) ~~For the purposes of this Section, temporary shall be determined to be longer than two months but less than one year.~~

(F) ~~A sketch plan of the property must be submitted to the Board of Adjustment along with the special use permit application. At a minimum, the sketch plan must include the following information:~~

- (1) ~~the size of the property and location of property lines,~~
- (2) ~~the location of existing and proposed structures,~~
- (3) ~~existing driveways, roads, right of ways and approximate widths,~~
- (4) ~~the zoning classification and uses of all surrounding property.~~

(G) ~~Any adverse effect this hardship case may pose to its neighbors or the public health, safety and general welfare shall be a valid reason for denial of this permit. Additionally, the absence or inadequacy of vehicular access and/or developability of the property shall also be a valid reason to deny the permit.~~

(H) ~~The permit will be valid for one year from the date it is issued. The Board of Adjustment may renew the permit when substantial evidence is presented that indicates that the hardship still exists. If none is presented, the home must be removed from the site within 90 days.~~

#### **Section 32.49 Non-Conforming Manufactured Home Park Improvement Provisions.**

(A) Manufactured homes because of their use, transportability, manufacture and manner of construction, location and susceptibility for use in high-density concentration both as units and persons tend to place inhabitants of manufactured homes in an unfavorable position to obtain services necessary for a safe and healthful living environment. It is the purpose of this Section to provide protection for the public against unwise and hazardous existing manufactured home parks and provide a reasonably safe and sound environment for manufactured home inhabitants and to:

- (1) *Promote public health, safety welfare and orderly residential development;*

- (2) *Ensure that every individual manufactured home lot (stand) has safe and efficient vehicular access for residents of the home, emergency vehicles, utility and service vehicles and others needing access to the park.*
- (3) *Provide adequate buffering and screening to ensure privacy and protection for both the residents in the park and adjacent property owners.*
- (4) *Provide sufficient open space for outdoor uses essential to the manufactured home;*
- (5) *Ensure the furnishing of adequate water supply and sewage disposal systems; and*
- (6) *Provide an acceptable environment for small communities of manufactured homes.*
- (7) *Provide a process by which existing manufactured home parks will be improved to meet the minimum level of safety, sanitation, comfort and privacy.*

Therefore, all persons operating a manufactured home park that existed at the time of adoption of this amendment (9/12/94), must submit an improvement proposal for the park (as provided for herein) to be reviewed by the Planning Board and approved by the Town Council. Upon approval of the improvement proposal by the Town Council, necessary alterations to the park may begin. If the improvement proposal submitted cannot meet the development standards contained in Section 32.49 (C) of this ordinance because practical difficulties or unnecessary hardships prevent the carrying out the strict letter of Section 32.49

(C), the specific improvement provision shall be submitted to the Board of Adjustment for approval in the form of a variance in accordance with Section 32.49 (F).

(A) Phased Schedule for Improvements. The improvement proposal shall conform to the improvement requirements listed herein within the following phased time schedule:

- (1) *Within six (6) months of notification, the property owner shall submit, and have approved, an improvement proposal, including schematic plans, for upgrading the park.*
- (2) *Within one (1) year of approval of an improvement proposal, all roads in the park shall be stabilized with packed gravel.*

- (3) *Within three (3) years of approval of an improvement proposal, all other requirements listed herein shall be complied with, excluding the paving requirements.*
- (4) *Within five (5) years of approval of an improvement proposal, all roads in the park shall be paved.*

(B) Contents of the Improvement Proposal. Application to improve and upgrade a manufactured home park shall be made to the Zoning Enforcement Officer. The application shall consist of schematic plans and documentation which include at least the following:

- (1) *Name of manufactured home park, name and address of owner and operator.*
- (2) *A manufactured home park design drawn onto a plat at a scale that can be reasonably interpreted by the Town.*
- (3) *Date, north arrow and scale.*
- (4) *Boundaries of manufactured home park property to include intersections and adjacent property with the boundaries of the manufactured home park property and the names and address of all adjoining property owners.*
- (5) *The location of the following utilities: sanitary sewers, storm sewers, water distribution lines, natural gas, telephone and electric service, illustrating connections to existing systems. Plans for continued water supply and/or sewage disposal must be accompanied by letters of approval by appropriate town, county, and state authorities.*
- (6) *Existing streets on adjoining properties and in the park, right-of-way and proposed pavement widths. If any street is proposed to intersect with a state maintained road, the plat shall be accompanied by an application for driveway approval as required by the North Carolina Department of Transportation, Division of Highway's Manual on Driveway Regulations.*
- (7) *Outline of all existing spaces and buildings within the manufactured home park property with lot numbers indicated.*

- (8) *Location of parking bays, patios, walkways, service and accessory buildings, utilities easements, utility poles, and buffer and screening areas.*
- (9) *Method of sewage disposal in accordance with existing town, county, and state regulations.*
- (10) *Method of water supply in accordance with existing town, county, and state regulations.*
- (11) *Plan of electric lighting.*
- (12) *Development Standards.*

(C) Two-way access street within the site proposed shall have a pavement width of at least twenty (20) feet. One-way access streets shall have a pavement width of no less than eighteen (18) feet. Permanent dead-end streets or cul-de-sacs shall not exceed six hundred (600) feet in length unless necessitated by topography and shall be provided with a turnaround of at least eighty (80) feet in diameter. All manufactured home spaces shall have access to a street and there shall be no less than two (2) offstreet parking spaces per manufactured home space, which shall be accommodated in parking bays. Each parking space shall be provided by the owner or operator of the park. Additional access entrances may be required if the Town Council feels such measures would improve traffic circulation or accessibility for emergency vehicles.

- (a) All manufactured homes shall be properly underpinned and tied down in accordance with the provisions of Section 32.47 of this Ordinance and the North Carolina Uniform Residential Building Code.
- (b) Every manufactured home park shall be located on ground that is above any probable flooding from any natural watercourse and shall be graded so as to prevent the accumulation or ponding of water on the premises.
- (c) All manufactured home lots shall abut upon a paved street.
- (d) At least ten (10) percent of the gross land area of the manufactured home park shall be preserved as unobstructed open space. These areas shall be located so as to be free of traffic hazards and easily accessible to the park residents.
- (e) A densely planted buffer strip consisting of trees, shrubs, other planting, or screen fence, at least ten (10) feet in height shall be provided along the rear

and side lines of the manufactured home park, or park property. No such buffer shall, however, be upon or extend into a street right-of-way.

- (f) The site proposed shall provide area lighting adequate to provide for a safe and efficient living environment and shall meet the requirements of the Caldwell County electrical department.
- (g) In every manufactured home park and related building, all installations of plumbing, electrical wiring, and all gas and oil appliances shall comply with the provisions of the state building code and any other applicable regulation of the Town of Gamewell. In addition, the following must be met:
  1. *Each manufactured home lot shall be provided with plumbing and electrical connections.*
  2. *The water supply for each manufactured home shall be obtained only from faucets located inside each mobile home.*
- (h) No parking bay shall be located with direct access to a public street or road.
- (i) At the discretion of the Town Council, the park shall have an office either as a separate structure or in connection with the dwelling quarters of the owner or operator.
- (j) The water system shall be in conformance with applicable state, county, and town regulations.
- (k) Sewage disposal shall be in conformance with applicable state, county, and town regulations.

(D) Provisions for Individual Homes. All manufactured homes placed or replaced in manufactured home parks shall adhere to the appearance and setup requirements of Section 32.47. The replacement of an existing or damaged manufactured home shall only be permitted if the non-conforming park property meets (or is meeting) all of the requirements established in this Section in accordance with the phased improvement schedule. The Town may withhold zoning permits after any phase to enforce these requirements.

(E) Enforcement. If after five (5) years from the notification of the improvement requirements listed herein, no progress in adhering to the requirements has been made, the Town may use any and all remedies listed in Section 32.74 to enforce these regulations.

(F) Variances. It is not the intention of this Section to eliminate or reduce the number of existing manufactured homes or spaces. Nor is it the intention of this Section to create undue hardships on individual property owners or their tenants. Therefore, because the required improvements contained herein may, in unique circumstances, pose certain hardships on the property owner, relief from one or more of these requirements may be requested from the Board of Adjustment in accordance with Section 32.85.

#### **Section 32.49.1 Provisions for Site-Built Single Family Homes.**

The purpose of these regulations is to promote sound neighborhood development and appearance, protect community property values, and to preserve the integrity and character of neighborhoods. Site-built homes (as defined in Section 32.06) are permitted on individual lots in the R-20, RA-20 and R-15 Districts, subject to the following conditions:

- (A) The lot must be recorded as an individual lot in the Caldwell County Register of Deeds.
- (B) If municipal utilities are not available, the well and/or septic tank must be approved by the Caldwell County Health Department.
- (C) All yard dimensional requirements for the respective district must be met.
- (D) The lot must front on a public street or approved private street and said street frontage will be considered the front of the lot. In cases where a private street is proposed to be used, the zoning enforcement officer may require that a recorded right-of-way exist to serve the property and the street is paved or graveled in a manner that will facilitate safe and efficient vehicular traffic.
- (E) The home must meet or exceed the construction standards established by the North Carolina State Building Code.
- (F) A continuous foundation enclosure, unpierced except for required ventilation and access shall be installed in accordance with State Building Codes. The enclosure shall consist of brick, concrete or block. If any masonry other than brick is used, it must be painted in color similar to that of brick.
- (G) At least two standard nine (9) by eighteen (18) feet off-street parking spaces shall be provided. The spaces shall not be closer than fifteen (15) feet from the road or right-of-way in order to protect site distances of the driving

public. A driveway of at least 10 feet wide shall be paved or graveled with not less than four (4) inches of crushed stone on a well compacted sub-base.

- (H) All areas not used for parking, the home, accessory buildings or required decks shall be grassed or otherwise suitably landscaped to prevent erosion. Except for agriculture, no exposed soils shall remain after one (1) year from the date the zoning permit is issued.
- (I) All homes shall be placed on the lot in harmony with the neighboring structures. Where there are no neighboring structures for comparison, it shall be sited with the front running parallel to the lot frontage. For other odd lots, the home shall be located as determined by the Zoning Enforcement Officer in harmony with surrounding structures.
- (J) Each of the requirements in this Section shall be completed within thirty (30) days after final inspection by the Caldwell County Building Inspections Department. An extension of up to sixty (60) days may be granted by the Town Council if a personal or financial hardship is shown to exist. If no extension is requested or the extension expires with no progress in completing the requirements of this Section, the Town may use any and all remedies listed in Section 32.74 to enforce the requirements.

## **EXCEPTIONS AND MODIFICATIONS**

### **Section 32.50 Lot of Record.**

Where the owner of a lot of official record in any residential district at the time of the adoption of this Ordinance or his successor in title does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this Ordinance, such a lot may be used as a residential building site provided, however, that the requirements of the district are complied with or a variance is obtained from the Board of Adjustment.

Notwithstanding the foregoing, whenever two or more adjoining vacant lots of records are in single ownership at any time after the adoption of this Ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this Ordinance for district in which such lots are located.

- (A) *Every lot to be built upon shall abut by at least 45 feet a public street or an approved private street, and no dwelling shall be placed or built upon a lot which does not abut upon a public street or an approved private street by the same distance.*

**(B) 32.50 (B) If the lot of record which is considered a landlocked property the property can be used for a single family dwelling (if zoning is compliant) the lot maybe used as a single family dwelling if it can meet the provisions of Section 32.50.1 Provision for Landlocked Lots. Adopted July 10, 2023**

**Section 32.50.1 Provision for LandLocked Lots of Records:**

2. *The recorded documents creating the easement shall specify that public service, utility and emergency personnel and vehicles shall have freedom of ingress and egress from the landlocked property;*
3. *The recorded documents shall also specify that public utilities (water, sewer, electricity, telephone, cable, etc.) may be located within the easement;*
4. *The recorded documents shall include a maintenance agreement specifying the party responsible for maintaining the easement and its traveled surface;*
5. *The easement must have an all-weather surface of gravel, concrete or asphalt with a minimum continuous width of ten (10) feet to ensure access of public service, utility, and emergency personnel and vehicles;*
6. *If the provisions of this section cannot be met because of an existing right of way or access easement the existing right of way maybe use to access no greater than two (2) existing lots of record which maybe otherwise considered landlocked properties. That is provided the access easement or right of way must be no less than fifteen 15' foot in width.*
7. *Subdivision of landlocked parcels will require a publicly dedicated street constructed to Town Standards and must meet all requirements of the Town's Subdivision Regulations.*

**Adopted July 10, 2023**

**Section 32.51 Front Yard for Dwellings.**

The front yard requirements of this Ordinance for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or in part within 100 feet on either side of the proposed dwelling and on the same side of the street in the same block and use district as such lot is less than the minimum required front yard depth. In such case, the setback on such lots may be less than three required setback but not less than the average of the existing setbacks on the aforementioned lots, or a distance of 10 feet from the street rightof-way, whichever is greater.

**Section 32.52 Height Limitation.**

Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, skylights, towers, steeples, flagpoles, chimneys, wireless masts, water tanks, silos or similar structures may be erected above the height limits herein specified, but no penthouses or roof structures or any space above the height limit shall be allowed for the purpose of providing additional floor space for residential use.

Building and zoning permits are required for towers, satellite dishes, and antennas which must meet the following regulations:

- (A) All towers, satellite dishes, and antennas shall have setbacks equal to or greater than the height of the proposed structure.
- (B) Distance of any guy anchorage or similar device shall be at least ten (10) feet from any property line.
- (C) Suitable protective anti-climb fencing and a landscape planting screen may be required and maintained around the structure and accessory attachments.
- (D) The applicant shall present documentation of the possession of any required license by any federal, state or local agency.
- (E) No structure shall be in excess of a height equal to the distance from the base of the structure to the nearest overhead electrical power line which serves more than one (1) dwelling or place of business, less five (5) feet.
- (F) Only one (1) such structure exceeding the distance height limitations shall exist at any one (1) time on any residentially zoned and used lot or parcel.
- (G) Application for the permit must include construction drawings showing proposed method of installation, structural engineering analysis, and site plan depicting structures and plantings on the property and all adjacent properties. At the request of administrative authority, documentation of a maintenance program may be required.
- (H) If any modifications are made to the structure, the Zoning Enforcement Officer shall have the authority to require proof that said addition, change or modification is in conformity with the zoning permit and the Caldwell County Building Code.
- (I) The owner of such a structure shall assume complete liability in case of personal property damage.

#### **Section 32.53 Visibility of Intersections.**

On a corner lot in any residential district, no planting, structure, sign, fence, wall or obstruction to vision more than three feet in height measured from the center line of the street or road right-of-way lines and a straight line connecting points on said street or road right-of-way line each of which is 35 feet distance from the point of intersection.

#### **Section 32.54 Relationship of Building to 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 any lot, except (1) in the case of multifamily residential areas and planned unit developments in an appropriate zoning district or (2) in the case of temporary or hardship cases as permitted in Section 32.48.

### **Section 32.55 Planned Unit Development.**

The planned unit development (PUD) concept offers developers the possibility of more efficient and flexible methods for developing property with respect to the appropriate permitted and special uses of a district.

### **Section 32.56 Planned Unit Development, Residential (PUD-R).**

The purpose of the planned unit development, residential is to provide a means by which multifamily dwellings may be developed on a site under unified control, which is planned and developed as a whole or in stages, in areas which are planned and developed as a whole or in stages, in areas which are unsuitable for conventionally developed multifamily use. By requiring site plan, maximum control of development can be achieved.

For any lot for which a special permit for PUD-R is to be issued, the following regulations shall apply:

- (A) Permitted uses. Multi-family dwellings, and any use permitted in the R-15 residential district, provided they are developed on a tract of land of at least two (2) acres in accordance with the regulations of PUD-R.
- (B) Development requirements within the PUD-R shall be as specified below:
  - (1) *The minimum area requirement shall be twenty one thousand seven hundred and eighty (21,780) square feet per dwelling unit in the project.*
  - (2) *The minimum setback from local street and minimum front, side and rear yards shall be forty (40) feet and twenty (20) feet from the interior streets and parking areas.*
  - (3) *The minimum unobstructed open space shall be seventy (70) percent of the total site area.*
  - (4) *At least twenty-five (25) percent of the minimum unobstructed open space shall be usable open space. Usable open space shall be defined as an open area designed and developed for use by the occupants of*

*the development or others for recreation, courts, gardens, or household service activities, such as clothes drying, which space is effectively separated from automobile traffic and parking and is readily accessible. The term shall not include space devoted to streets and parking.*

- (5) *No dwelling shall exceed two and one-half (2 1/2) stories or thirtyfive (35) feet in height. No other building shall exceed thirtyfive (35) feet in height unless minimum side and rear yards at exterior property lines shall be increased over the required minimum by five (5) feet for every five (5) feet, or fraction thereof, of height over thirty-five (35) feet. Individual stacked second story apartment units are not permitted. Any building greater than one story shall be designed as townhouses where each individual dwelling unit occupies all stories above the ground story.*
- (6) *Off-street parking shall be provided by all uses as required in Section 32.62.*
- (7) *All schools, churches, community centers and other public meeting places shall be designed, arranged and maintained so that all loading of vehicles can take place off the public right-of-way and street.*
- (8) *Every building shall be separated on every side from any other building within the group by a distance of at least twenty-five (25) feet.*
- (9) *Parking of motor vehicles shall not be permitted within the required setback.*

(B) An application for a special use permit to allow PUD-R development shall be accompanied by schematic plans showing:

- (1) *Proposed locations of building and their general exterior dimensions.*
- (2) *Proposed use of all land within the area requested for PUD-R.*
- (3) *Dimensions between all buildings and from buildings to property lines.*
- (4) *Traffic, parking and circulation plan, showing proposed locations and arrangement of parking spaces and ingress and egress to and from adjacent streets.*

- (5) *Proposed location and material of any screening walls, fences, or plantings.*
- (6) *Proposed exterior design of buildings.*
- (7) *Schedule of number and size of apartments within the project.*
- (8) *Proposed time schedule and staging, if any, for construction of the project.*

(C) In approving an application for PUD-R, the Board of Adjustment shall find that the proposed development will be compatible with neighborhood development plans, will not place an excessive traffic load on local streets, that the site can be developed according to a site plan that will be compatible with existing neighborhood development, and that the site can be provided with adequate utility services.

(D) Site development within the PUD-R shall conform to the schematic plan and associated requirements by the Board of Adjustment. Modification of the development plan and associated requirements may be made by the Board of Adjustment subsequent to the initial approval upon application by the owner of the property.

(E) Following approvals of a PUD-R special use permit, the property for which approval was granted shall be labeled "PUD-R" on the zoning map.

### **Section 32.57 Planned Unit Development, Business (PUD-B).**

The purpose of the special use permit for PUD-B is to provide a means by which a group of businesses occupying a group of principal buildings may be developed on a site under unified control, which planned and developed as a whole or in stages. The type of development allowed under PUD-B is also referred to as the planned shopping center. A PUD-B development is intended to provide a variety of goods and services in stores and offices conveniently arranged with respect to each other and to off-street parking facilities provided with safe access from and to the appropriate public streets.

For any site for which a special use permit for PUD-B is to issued, the following regulations shall apply:

(A) Permitted uses. Any use permitted in the business district where the site is located, provided the uses are developed on the site of a least two (2) acres, and two (2) principal buildings, in accordance with the regulations of PUDB.

(B) Development requirements with a PUD-B shall be as specified below:

- (1) Yards with a minimum depth of twenty-five **(25)** feet shall be provided around the entire perimeter of the PUD-B, and additional depth may be required where necessary to protect adjacent property in portions of the perimeter. No internal yards need be provided, but where buildings on the site are separated, the distance between them shall be at least fifteen **(15)** feet.
- (2) Along minor public streets, and adjacent to any required residential front or side yard line, a yard twenty-five **(25)** feet in least dimension shall be landscaped and maintained in a manner appropriate to a residential neighborhood. No such landscaped yard shall be used for off-street parking or loading, but such required yards may be used for walkways, and portions not within twentyfive **(25)** feet of residential lots may be used for drives other than the principal entrances or exists.
- (3) Along thoroughfares, yards may be used for off-street parking, drives, and walkways, provided, however, that a yard twenty-five **(25)** feet in least dimension shall be landscaped and maintained in a manner appropriate to a residential neighborhood where the lot adjoins any required residential front or side yard line, with uses limited as provided above. A fence to contain wind-blown trash within the development shall also be erected within this yard.
- (4) No landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from or of approaching vehicular traffic where such visibility is important to safety, nor shall such features in any way create potential hazards to pedestrians. In particular, at vehicular entrances and exists, no offstreet parking, landscaping, or other material impediment to visibility between the heights of three **(3)** feet and eight **(8)** feet shall be permitted within triangle areas defined by lines connecting points described as follows: Beginning at a point where the mid line of the entrance or exist intersects the public right-of-way in the direction of approaching traffic, thence to a point twenty-five **(25)** feet toward the interior of the lot along the mid line of the entrance or exit, and thence to point of beginning.
- (5) Along thoroughfares, turnout lanes and merging lanes may be required to be constructed on the lot, with length and width as appropriate to flow of traffic, and traffic separation devices may be

required at such entrances and exists and along such merging lanes. Whether required or provided voluntary, such turnout and merging lanes may be included as part of the required yard adjacent to the thoroughfare, except that no such lane, and no entrance or exit, shall run through any part of any required landscaped yard adjacent to a required residential front or side yard.

- (6) No building shall exceed thirty-five (35) feet in height unless any required perimeter yards abutting the building are increased over the required minimum by five (5) feet for every five (5) feet, or fraction thereof, additional height over thirty-five (35) feet.
- (7) Off-street parking spaces shall be provided for PUD-B as required in Section 32.62.
- (8) Off-street loading and unloading spaces shall be provided for PUD-B as required in Section 32.63.
- (9) Signs erected in PUD-B shall be regulated by the requirements of the provisions of Section 32.44.
- (10) It is specifically provided that garbage and trash, unless kept in the principal buildings, shall be kept in containers in accessory structures, and that neither the containers nor loose garbage or trash shall be visible from residential areas, from portions of the premises customarily open to customer parking, or customer pedestrian or automotive traffic, or from public ways.
- (11) An application for a special use permit for PUD-B for a site shall be accompanied by schematic plans showing:
  - (a) Proposed location of buildings and their general exterior dimensions.
  - (b) Proposed use of all land within the area requested for PUD-B.
  - (c) Dimensions between all buildings and from buildings to property lines.
  - (d) Traffic, parking, loading and circulation plan, showing proposed locations and arrangement of parking and loading spaces, and ingress and egress to and from adjacent streets.

- (e) Proposed location and material of any accessory buildings or structures, screening walls, fences or plantings.
- (f) Proposed exterior design of buildings.
- (g) Proposed time schedule and staging, if any, for construction of project.

(12) If appropriate in view of location of the site, the plan shall also show the manner of improving and maintaining in open use portions of the tract subject to periodic inundation, and shall demonstrate that hazards or damage to other property will not be created by any channeling, cutting, filling, bulkheading, or other treatment of water flow from or past the site, by erosion from increased rate, volume, or reduction of flow, by deposition of debris or other flood-borne materials from the site or as a result of its development, by excessive slopes remaining at the edge of cut or fills, by damaging increases in the ground water level of surrounding property, or by other actions in developing the tract and its ancillary facilities. If potential hazard or damage might reasonably be expected from any of these causes, the plan shall show how it is to be averted.

(C) In approving an application for PUD-B, the Board of Adjustment shall find that the proposed development will be compatible with neighborhood development plans, will not place an excessive traffic load on local streets, that the site can be developed according to a site plan that will be compatible with existing neighborhood development, and that the site can be provided with adequate utility services.

(D) Site development within the PUD-B shall conform to the schematic plan and associated requirements by the Board of Adjustment. Modification of the development plan and associated requirements may be made by the Board of Adjustment subsequent to the initial approval upon application by the owner of the property.

(E) Following approval of a PUD-B special use permit, the property for which approval was granted shall be labeled "PUD-B" on the zoning map.

**Section 32.58 Planned Unit Development, Manufacturing, (PUD-M).**

The purpose of the planned unit development, manufacturing is to provide a means by which to develop manufacturing and related use under unified control, which is planned and developed as a whole or in stages.

For any site for which a special use permit for PUD-M is to be issued, the following regulations shall apply:

- (A) Permitted uses. Any use permitted in the business district where the site is located, provided the uses are developed on the site of at least two (2) acres and two (2) principal buildings in accordance with the regulations of PUDM.
- (B) Development requirements with a PUD-M shall be as specified below:
  - (1) Yards with a minimum depth of twenty-five (25) feet shall be provided around the entire perimeter of the PUD-M, and additional depth may be required where necessary to protect adjacent property in portions of the perimeter. No internal yards need be provided, but where buildings on the site are separated, the distance between them shall be at least fifteen (15) feet.
  - (2) Along minor public streets, and adjacent to any required residential front or side yard line, a yard twenty-five (25) feet in least dimension shall be landscaped and maintained in a manner appropriate to a residential neighborhood. No such landscaped yard shall be used for off-street parking or loading, but such required yards may be used for walkways, and portions not within twenty-five (25) feet of residential lots may be used for drives other than the principal entrances or exists.
  - (3) Along thoroughfares, yards may be used for off-street parking, drives, and walkways, provided, however, that a yard twenty-five (25) feet in least dimension shall be landscaped and maintained in a manner appropriate to a residential neighborhood where the lot adjoins any required residential front or side yard line, with uses limited as provided above. A fence to contain wind-blown trash within the development shall also be erected within this yard.
  - (4) No landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from or of approaching vehicular traffic where such visibility is important to safety, nor shall such features in any way create potential hazards to pedestrians. In particular, at vehicular entrances and exists, no offstreet parking, landscaping, or other material impediment to visibility between the heights of three (3) feet and eight (8) feet shall

be permitted within triangle areas defined by lines connecting points described as follows: Beginning at a point where the mid line of the entrance or exit intersects the public right-of-way in the direction of approaching traffic, thence to a point twenty-five (25) feet toward the interior of the lot along the mid line of the entrance or exit, and thence to point of beginning.

- (5) Along thoroughfares, turnout lanes and merging lanes may be required to be constructed on the lot, with length and width as appropriate to flow of traffic, and traffic separation devices may be required at such entrances and exists and along such merging lanes. Whether required or provided voluntary, such turnout and merging lanes may be included as part of the required yard adjacent to the thoroughfare, except that no such lane, and no entrance or exit, shall run through any part of any required landscaped yard adjacent to a required residential front or side yard.
- (6) No building shall exceed thirty-five (35) feet in height unless any required perimeter yards abutting the building are increased over the required minimum by five (5) feet for every five (5) feet, or fraction thereof, additional height over thirty-five (35) feet.
- (7) Off-street parking spaces shall be provided for PUD-M as required in Section 32.62.
- (8) Off-street loading and unloading spaces shall be provided for PUDM as required in Section 32.63.
- (9) Signs erected in PUD-M shall be regulated by the requirements of Section 32.44.
- (10) It is specifically provided that garbage and trash, unless kept in the principal buildings, shall be kept in containers in accessory structures, and that neither the containers nor loose garbage or trash shall be visible from residential areas, from portions of the premises customarily open to customer parking, or customer pedestrian or automotive traffic, or from public ways.

(C) An application for a special use permit for PUD-M for a site shall be accompanied by schematic plans showing:

- (1) Proposed location of buildings and their general exterior dimensions.
- (2) Proposed use of all land within the area requested for PUD-M.

- (3) Dimensions between all buildings and from buildings to property lines.
- (4) Traffic, parking, loading and circulation plan, showing proposed locations and arrangement of parking and loading spaces, and ingress and egress to and from adjacent streets.
- (5) Proposed location and material of any accessory buildings or structures, screening walls, fences or plantings.
- (6) Proposed exterior design of buildings.
- (7) Proposed time schedule and staging, if any, for construction of project.
- (8) If appropriate in view of location of the site, the plan shall also show the manner of improving and maintaining in open use portions of the tract subject to periodic inundation, and shall demonstrate that hazards or damage to other property will not be created by any channeling, cutting, filling, bulk heading, or other treatment of water flow from or past the site, by erosion from increased rate, volume, or reduction of flow, by deposition of debris or other floodborne materials from the site or as a result of its development, by excessive slopes remaining at the edge of cut or fills, by damaging increases in the ground water level of surrounding property, or by other actions in developing the tract and its ancillary facilities. If potential hazard or damage might reasonably be expected from any of these causes, the plan shall show how it is to be averted.

(D) In approving an application for PUD-M, the Board of Adjustment shall find that the proposed development will be compatible with the Town's Land Development Plan, will not place an excessive traffic load on local streets, that the site can be developed according to a site plan that will be compatible with existing neighborhood development, and that the site can be provided with adequate utility services.

(E) Site development within the PUD-M shall conform to the schematic plan and associated requirements by the Board of Adjustment. Modification of the development plan and associated requirements may be made by the Board of Adjustment subsequent to the initial approval upon application by the owner of the property.

(F) Following the Board of Adjustment approval of a PUD-M special use permit, the property for which approval was granted shall be labeled "PUDM" on the zoning map.

**Section 32.59 Provisions for Satellite Dish Antennas. Needs removing 12-03-2025**

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Satellite Dish Antennas shall be considered an accessory structure and shall require a zoning permit. They may be located in any district subject to the following conditions:

(A) No designs or advertising shall be painted on the Satellite Dish Antenna except the manufacturer's name, logo, or trademark provided it is a reasonable size that has been applied by the manufacturer.

(B) Satellite Dish Antennas shall not locate or encroach upon existing rights of way or required setbacks.

(C) On corner lots, Satellite Dish Antennas shall not be located within the "Sight Distance."

(D) For residential use, Satellite Dish Antennas shall be permitted in the side and rear yards of the lot provided the location of the Satellite Dish Antenna is in compliance with the dimensional requirements for the use districts as outlined in Sections 32.20 through 32.28 of this Ordinance.

(E) For residential use, Satellite Dish Antennas may be located in the front yard or on the roof of the main structure if the following conditions are met:

- (1) *The property owner petitions the Board of Adjustment for a variance;*
- (2) *The petitioner must prove that he cannot get clear reception by locating the Satellite Dish Antenna in the rear or side yards of his lot;*
- (3) *That the location of the Satellite Dish Antenna will be in compliance with Sections 32.59(B) and 32.59(C) of this Article.*

**32.59.1 Solar Energy System, Utility Scale (solar farms) Adopted 4/9/2018**

**Solar Farm:** An installation or area of land in which a large number of solar panels are set up in order to generate electricity **Section 32.60 Adopted 04/9/18**

**Solar Panel Residential see Accessory Use:** A photovoltaic (PV) module is a packaged, connect assembly of typically 6x10 photovoltaic solar cells. Photovoltaic modules constitute the photovoltaic array of a photovoltaic system that generates and supplies solar electricity in commercial and residential applications. **Section 32.60 Adopted 04/9/18**

**Section: Sections: R-20, R-15, RA-20 32.21-32.23, Special Uses and Section 33.28- GM Permitted Uses, 32.58, 32.59.1 Adopted 04/9/18**

Utility-scale solar energy systems are deemed as a special use in the RA-20 Residential Agriculture, R-20 Zoning District, R-15 Zoning District, and a permitted use the GM-General Manufacturing district provided:

1. Property is no less than 30 acres and no greater than 100 acres in the RA-20 District, R-20, R-15, and no less than 10 acres in the GM District
2. Must conform to Section 32.58 PUD-M or this section which ever is stricter
3. A solar farm approved under the provisions of this section may have a one time expansion up to 20% of its approved use upon submittal of a new site plan for general review by the Planning Board and meet all the requirements as provided in the initial approved site plan, provided the proposed expansion is contiguous to the existing site
4. Emergency number contact signage no less than 24" x 36" inches with site information and 24-hour contact shall be placed every 300 linear feet of fence area
5. Utility Scale Solar Energy Systems in GM district shall meet all setback, parking, and buffer requirements for that district
6. Utility Scale Solar Energy Systems located in RA-20, R-20, R-15 districts shall meet the buffer requirements of a GM use abutting residential district including standardized metal fencing to ensure security
7. Utility Scale Solar Energy Systems located in RA-20, R-15, R-20 districts must meet the setback requirements of GM district
8. Ground mounted solar power collection and electrical generation structures shall not exceed 25 feet in height
9. All equipment shall be located and situated so glare is not to interfere with traffic on public streets, highways, air traffic, environmental or wildlife factors or the reasonable use of residential property
10. All components of a Utility-Scale Solar Energy System must meet all applicable Building, Electrical, and Safety codes
11. Utility Scale Solar Energy Systems shall be designed to blend into the architecture of the neighboring buildings and landscape or be screened from view
12. Power inverters and other sound producing equipment shall be no less than 150' from any dwelling unit at the time of construction/installation
13. A copy of the solar companies liability insurance will be placed with the special use file
14. The extent of the project is to be a minimum of five (5) years
15. Contact NCDOT for driveway approval and submit the approved permit as part of -the final inspection
16. Road access requirements
17. Solar Energy Systems that exceed the 10kw threshold but will be used in conjunction with an existing, lawful use on the same property, are allowed, provided that:

- a) They are located and situated so glare is not to interfere with traffic on public streets or highways or the reasonable use of neighboring property; b) Roof mounted systems shall not extend more than 10 feet from the top of the roof;
- c) The total height of the building including the solar collection and power generation devices shall comply with the District height regulations;
- d) Ground-mounted systems shall not be located in any required front yard and shall be screened from view from neighboring property or public streets;

18. A Decommissioning Plan shall be submitted to the Zoning Administrator as part of the special use process and recorded with the Register of Deeds. The Decommissioning Plan shall include the following provisions and requirements:

1. Defined conditions upon which the decommissioning will be initiated (i.e., end of lease, conditions of potential public safety hazard, etc.)
2. A copy of the solar companies liability insurance will be placed with the special use file
3. The extent of the project is to be a minimum of five (5) years
4. Removal of all non-utility owned equipment conduits, structures, fencing, roads, and foundations; and restoration of property to condition prior to development of the solar farm  
A written waiver signed by the property owner is required in order to release any portion of this provision
5. The timeframe for completion of removal and decommissioning activities. If the site is damaged, the solar farm operator shall have twelve (12) months to bring the project back to its operational capacity. If for any reason the solar farm is not generating electricity after six (6) months, the operator shall have six (6) months to complete decommissioning of the solar farm bringing it into compliance
6. In the event of bankruptcy or similar financial default of the solar farm, the property owner of the project site shall bear the decommissioning costs.
7. Signed statement from the party responsible for completing the Decommissioning Plan acknowledging such responsibility

Upon failure to adhere to the Decommissioning Plan, the Town shall deem the special use permit invalid and shall impose a fine of up to \$50.00 per day for first 30 days the site is closed. A fine of up to \$200.00 per day may be assessed each day, after the 30 days period is over, that the site is not restored beyond the approved deadline for final removal. *Adopted 04/9/18*

## **Section 32.59.2 Animal Keeping**

Animal Keeping and Commercial and Non-Commercial Kennels.

The purpose of this section is to regulate the keeping of a horse, mule, goat, cattle, fowl and other birds that are not part of a Bona Fide farming operation. The ordinance applies to properties located within the corporate limits of the Town and Gamewell's. The Town's Zoning Administrator shall conduct a plan review for each request to determine compliance with this section.

1. Keeping of fowl and allowed animals (goat, pigs, horses, cows, etc) is permitted in the R-15, R-20, RA-20, Highway Business (HB), Neighborhood Business (NB), Manufacturing districts as long as property is under single ownership and contains no less than 43,460 square feet which is equal to one acre of property. Property owner must live on the property. One permitted animal is allow per 43,560 (1 acre)
2. All areas, including but not limited to stables, barns, and pasture, shall be maintained in a clean and sanitary manner to prevent odors, rodents, and flies.
3. All animals shall not be permitted to roam at large. Containment area for animals must be at least 100 feet from structures on adjacent properties under different ownership. Unless a coop for fowl which can be fifty (50') feet from any residence except for the principal residence.
4. Coops and pens must be completely fenced to ensure that no fowl/bird may escape. Any area that birds roam must be enclosed by a fence. Fowl and other birds roaming at large shall not be permitted. Coop areas shall contain 10 square feet of space per fowl for a total of forty (40) square feet.
5. Pens shall be a minimum of 50 feet from all property lines.
6. A maximum of four (4) chickens or fowl may be allowed on any one parcel meeting the size requirements found in number one (1). Fowl and other animals known for creating loud sounds such as roosters, guineas, peacocks, and other related fowl are not permitted within the town limits.
7. Pigs, hogs, horses and or cattle are not permitted to be kept in Town limits unless already present in a permitted bona fide farm as defined under NC Dept of Revenue.

## **OFF-STREET PARKING AND LOADING**

### **Section 32.60 Off-Street Parking Requirements.**

There shall be provided at the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area; or before conversion from one type of use or occupancy to

another, permanent off-street parking space in the amount specified by this Section. Such parking space may be provided in a parking garage or properly graded open space.

### **Section 32.61 Certification of Minimum Parking Requirements.**

Each application for a zoning permit submitted to the Zoning Enforcement Officer as provided for in this Ordinance shall include information as to the means of entrance and exit to such space. This information shall be in sufficient detail to enable the zoning enforcement officer to determine whether or not the requirements of this Section are met.

### **Section 32.62 Minimum Off-Street Parking Requirements.**

The following off-street parking spaces shall be required:

#### **Residential and Related Uses**

Any residential use consisting of one or more dwelling units

Manufactured homes

Rooming/boarding homes

Customary home occupations

#### **Institutional, Public and Semipublic Uses**

Churches and funeral homes

Schools 1.75 spaces per classroom in elementary schools; 1 space per 100 square feet of gross floor area for trade or vocational schools; 1 space per 150 square feet of gross

#### **Required Off-Street Parking**

Two parking spaces for each dwelling unit

Two spaces for each manufactured home

One space for each two guest rooms, plus two additional spaces for the owner or manager

In addition to residential requirements, one parking space per 100 square feet devoted to the home occupation

#### **Required Off-Street Parking**

One space for every four seats in the main chapel

	floor area for colleges, universities, and community colleges
Hospitals	2 spaces per bed or 1 space per 150 square feet of gross floor area, whichever is greater
Libraries	One space for every four seats provided for patron use
Medical offices and clinics	1 space per 150 square feet of gross floor area
Places of public assembly, including private clubs and auditoriums, each 100 square feet area used for amusement or assembly stadiums, gymnasiums, amusement parks, community centers and all similar places of public assembly	One space for each four fixed seats provided for patron use, plus one space for each 100 lodges, theaters of floor or dance halls, pool halls, ground not including fixed seats
Sanitariums, rest and convalescent homes, homes for the aged, and similar institutions	One space for each six patient beds, plus one space for each staff or visiting doctor plus one space for each four employees
Apartment complexes for the elderly	One space for each apartment elderly

<b><u>Business Uses</u></b>	<b><u>Required Off-Street Parking</u></b>
Hotels	One space for each two rooms plus one additional space for each five employees
Motels, tourist homes, inns additional space for employee	One space for each accommodation plus four
Offices, including banks	One space for each 200 square feet of gross floor area
Restaurants	One space for each three seating

	accommodations, plus one space for each two employees of the shift of largest employment
Restaurant, Drive-In	1 space for each 100 square feet of gross floor area
Retail Businesses	One space for each 200 square feet of gross floor area
Service Stations	1 space per 200 square feet of gross floor area of building devoted primarily to gas sales operation
Shopping Centers	One space for each 200 square feet of gross floor area
Wholesale and Industrial Operations	One space for each two employees at maximum employment on a single shift

### **Section 32.63 Off-Street Loading and Unloading Space.**

Every building or structure used for business, trade or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley, or if there is no alley available, then to a street. For the purpose of this section, an off-street loading space shall have a minimum dimension of 12 feet by 40 feet and overhead clearance of 14 feet in height above the alley or street grade.

Retail Operations	One loading space for each 5,000 square feet of gross floor area of fraction thereof
Wholesale/Industrial Operation	One loading space for each 10,000 square feet of gross floor area or fraction thereof

## **ADMINISTRATION AND ENFORCEMENT**

### **Section 32.70 Zoning Enforcement Officer.**

It shall be the duty of the Zoning Enforcement Officer to enforce and administer the provisions of this Ordinance. The assistance of other persons may be provided as the Town Council may direct.

If the Zoning Enforcement Officer finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal use of land, buildings or structures; removal of illegal buildings or structures or additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions. No zoning permit shall be issued except in conformity with the provisions of this Ordinance, except after written order from the Board of Adjustments.

If a ruling of the Zoning Enforcement Officer is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

The Zoning Enforcement Officer or other staff member shall not make a final decision on an administrative decision required by this chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship (G.S. 160D109).

The Zoning Enforcement Officer may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the city local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured (G.S. 160D-403(e)).

### **Section 32.71 Zoning Permit Required.**

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

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

## **Section 32.72 Application for Zoning Permit.**

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

- (A) The actual dimensions of the lot to be built upon,
- (B) The size of the building to be erected,
- (C) The location of the building on the lot,
- (D) The location of existing structures on the lot, if any,
- (E) The number of dwelling units the building is designed to accommodate,
- (F) The approximate setback lines of buildings on adjoining lots,
- (G) The intended use of the property,
- (H) The Caldwell County Tax Map identification number of the property and a copy of the metes and bounds description of the lot of record,
- (I) Such other information as may be essential for determining whether the provisions of this Ordinance are being observed.

**Vesting.** Zoning permits expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law. A site specific plan or planned unit development shall remain vested for a period exceeding two years, but not exceeding five years. A multi-phase development shall remain vested for a period of seven years from the time a site plan is approved. For the purposes of this chapter, a multiphase development must contain 100 acres or more and is submitted for site plan approval for construction to occur in more than one phase and is a master plan that includes a requirement to offer land for public use (G.S. 160D-108(d)).

**Revocation of development approvals.** Development approvals may be revoked by the local government issuing the development approval by notifying the permit holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to

comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the permit approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed to the board of adjustment pursuant to G.S. 160D-4-5. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S.

160D-4-5(e) regarding stays shall be applicable (G.S. 160D-403(f)).

### **Section 32.73 Certificate of Occupancy Required.**

A Certificate of Occupancy issued by the Zoning Enforcement Officer is required in advance of:

- (A) Occupancy or use of a (industrial or commercial) building hereafter erected, altered or moved.
- (B) Change of use of any building or land.
- (C) A Certificate of Occupancy, either for the whole or a part of a building, shall be applied for coincident with the application for a zoning permit and shall be issued within ten (10) days after the erection or structural alteration of such building, or part, shall have been completed in conformity with the provisions of this Ordinance. A Certificate of Occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance. If a Certificate of Occupancy is denied, the Zoning Enforcement Officer shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or the land involved.
- (D) In addition, a Certificate of Occupancy shall be required for each non-conforming use created by the passage and subsequent amendments to this Ordinance. The owner of such non-conforming use shall obtain a Certificate of Occupancy within thirty (30) days of the date of said passage or amendments.

### **Section 32.74 Violation of Ordinance.**

- (A) Complaints Regarding Violations. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Town Clerk. The Zoning Enforcement Officer shall record

properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

- (B) Violation. In addition to those remedies provided in N.C. General Status 144, and 160-175, as amended and otherwise as law provided, whenever, by the provisions of this Ordinance, the performance of any act is prohibited, or whenever any regulation or limitation is imposed on the use of any land and water, or on the erection or removal or alteration of a structure, a failure to comply with such provision shall constitute a violation of this Ordinance.
- (C) Liability. The owner, tenant, or occupant of any land or structure, or part thereof, and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance shall be held responsible for the violation and be subject to the penalties and remedies herein.
- (D) Notices of violation. When staff determines work or activity has been undertaken in violation of these development regulations a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud (160D-404(a)).
- (E) The final written notice, which may also be the initial notice, shall state the action the Zoning Enforcement Officer intends to take, if the violation is not corrected, and shall advise that the Zoning Enforcement Officer may seek enforcement without prior written notice by invoking any of the remedies and penalties contained in Section 124 of this Ordinance.
- (F) Civil Penalties. Violation of any provision of this Ordinance shall subject the offender to a civil penalty in the amount of Fifty (\$50.00) Dollars, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within a period of seventy-two hours after being cited. Citation shall be in writing, signed by the Zoning Enforcement Officer, and shall be delivered or mailed to the offender either at his residence or at his place of business or at the place where the violation occurred.

(G) Town Attorney May Prevent Violation. If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any structure or land is used in violation of this Ordinance, the Zoning Enforcement Officer shall inform the Town Attorney. In addition to other remedies, the Town Attorney may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such structure or land or to prevent any illegal act, conduct, business or use in about such premises.

## **BOARD OF ADJUSTMENT**

### **Section 32.80 Establishment of Board of Adjustment.**

A Board of Adjustment is hereby created as provided in Section G.S. 160D-1-9(d) of the General Statutes of North Carolina. Said Board shall consist of five (5) members to be appointed by the Town Council for the overlapping terms of three (3) years. Initial appointment shall be as follows: One (1) member for a term of three (3) years, two (2) members for a term of two (2) years, and two (2) members for a term of one (1) year. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board of Adjustment. Selected members of the Planning Board shall perform the duties of the Board of Adjustment.

The Town Council of the Town of Gamewell may, in its discretion, appoint not more than two alternate members to serve on the Board of Adjustment in the absence, for any cause, of any regular member. Such alternate member or members shall be appointed in the same member as regular members and at the regular times for appointment. Such alternate member, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and exercise all the powers and duties of such regular member so absent.

### **Section 32.81 Decisions of the Board of Adjustment.**

The concurring vote of four members of the Board shall be necessary to reverse any order, requirements, decision or determination of the Zoning Enforcement Officer pertaining to Gamewell or to decide in favor of the applicant any matter upon which it is required to pass under the Zoning Ordinance or to effect any variation of such Ordinance in the Town.

On all appeals, applications and other matters brought before the Board of Adjustment, said Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and shall decide the same within a reasonable time. The

Board shall inform all parties involved of its decision in writing, stating the reasons therefore.

### **Section 32.82 Proceedings of the Board of Adjustment.**

The Board of Adjustment shall elect a chairman and vice-chairman from its members, each of whom shall serve for one year or until re-elected or until their successors are elected and qualify. This year shall run from July 1 to June 30. The Board shall adopt rules and bylaws in accordance with the provisions of this Ordinance and of G.S. 160D19(d) of the General Statutes of North Carolina. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. The secretary shall keep record all proceedings of meetings shall not have a vote unless he is also a regular or alternate member of the Board.

Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasijudicial decision (G.S. 160D-406).

Members of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.<sup>12</sup> (G.S. 160D109(d), (e), (f)).

### **Section 32.83 Appeals, Hearings and Notice.**

Any person who has standing under G.S. § 160D-1-2 or the town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal. The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice pursuant to G.S. 160D-4-3(b) given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service (G.S. 160D-405(d)).

## **Section 32.84 Stay of Proceedings.**

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

## **Section 32.85 Powers and Duties of the Board of Adjustment.**

- (A) Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning enforcement officer in the enforcement of this Ordinance.
- (B) Special Uses; Conditions Governing Application. To grant in particular cases and subject to appropriate conditions and safeguards, permits for special uses under the various use districts, The Board shall not grant a special use permit unless and until:
  - (1) A written application for a special use permit is submitted indicating the section of this Ordinance under which the special use permit is sought.
  - (2) A public hearing is held. Notice of this hearing shall be advertised in all local newspapers of general circulation in the area a reasonable amount of time prior to the public hearing. This legal notice shall describe the request and appear at least once weekly for two consecutive weeks. All property owners within 100 feet of the property in question shall be notified of this hearing by first class mail.
  - (3) The Board of Adjustment finds that in the particular case in adjustment the use for which the special use permit is sought will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. In granting such a permit, the Board of Adjustment may designate such conditions in connection therewith as will conform to the requirements and spirit of this Ordinance.

- (4) Compliance with Other Codes. Granting a special use permit does not exempt the applicant from complying with all of the requirements of building codes or other ordinances.
- (5) Revocation. If at any time after a special use permit has been issued, the Board of Adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a special use permit, the permit shall be terminated and the operation of such use discontinued. If a special use permit is terminated for any reason, it may be reinstated only after a public hearing is held.
- (6) Expiration. In any case where a special use permit has not been exercised within the time limit set by the Board of Adjustment, or within one year if no specific time limit has been set, then without further action the permit shall be null and void.

"Exercised" as set forth in this subsection shall mean that binding contracts for the construction of the main building shall have been let; or in the absence of contracts, that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit.

- (7) Careful record. A careful record of such application and plat, together with a record of the action taken thereon, shall be kept in the office of the zoning enforcement officer.
- (8) Minor modifications to a special use permit may be administratively approved by the zoning administrator if issues arise after the special use permit has been approved by the board of adjustment that keep the applicant from carrying out the strict interpretation of the ruling.

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

through the full approval process. Minor modifications are subject to the following limitations.

1. General Limitations. The minor modification:

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

(C) Variances. Any application for a variance shall be filed with the Town Clerk at least twenty (20) days prior to the date on which it is to be introduced to the Board of Adjustment. The Town Clerk or designated staff member shall be responsible for presenting the application to the Board of Adjustment. Each variance application shall be accompanied by a fee of seventy-five dollars (\$75.00) to help defray the costs of advertising the public hearing required by Article 19, Chapter 160D-601 of the North Carolina General Statutes.

(D) A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted demonstrating:

- (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same district.
- (2) That a literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
- (3) That said circumstances do not result from the action of the applicant.
- (4) That granting the variance requested will not confer upon the applicant any special privileges that are denied by this Ordinance to other lands, structures, or buildings in the same district.
- (5) That no nonconforming use of neighboring land, structures or buildings in the same district and no permitted use of lands,

structures or buildings in other districts will be considered grounds for the issuance of a variance.

- (E) Notice of a public hearing shall be given as set forth in Subsection 32.85(B). At the public hearing, any party may appear in person or by agent or attorney.
- (F) The Board of Adjustment shall make findings that the requirements of Section 32.85(C) shall have been met for a variance.
- (G) The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance in the minimum one that will make possible the reasonable use of the land, building or structure.
- (H) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- (I) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 32.74 of this Ordinance.
- (J) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms or this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

#### **Section 32.86 Decision of the Board of Adjustment.**

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

#### **Section 32.87 Duties of the Zoning Enforcement Officer, Board of Adjustment, Courts and Town Council on Matters of Appeal.**

It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented to the zoning enforcement officer and that such questions shall be presented to the Board of Adjustment only on appeal from the

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

## AMENDMENTS AND CHANGES AND LEGAL PROVISIONS

### Section 32.90 Procedure for Amendments.

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

- (A) Application Submission. Any person for an amendment to the Zoning Ordinance shall be filed with the Town Clerk at least twenty (20) days prior to the date on which it is to be introduced to the Planning Board. Each petition for an amendment shall be accompanied by a fee of ~~thirty-five dollars (\$35.00)~~ to help defray the costs of advertising the public hearing required by Article 19, Chapter 160D-601 of the North Carolina General Statutes.
- (B) Change to Zoning Map. Each application involving a change to the Official Zoning Map shall be signed, be in duplicate, and shall contain at least the following information:
  - (1) The applicant's name in full, applicant's address, address or description of the property to be rezoned, including the tax map number;
  - (2) The applicant's interest in the property and the type of rezoning requested.
  - (3) If the proposed change would require a change in the Zoning Map, an accurate diagram of the property proposed for rezoning, showing:
    - (a) *All property lines with dimensions, including north arrow;*

- (b) *Adjoining streets with rights-of-way and paving widths;*
- (c) *The location of all structures, existing and proposed, and the use of the land;*
- (d) *Zoning classification of all abutting property owners;*
- (e) *Names and addresses of all adjoining property owners.*

(4) A statement regarding the changing conditions, if any, in the area of in the Town generally that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.

(C) Every proposed amendment, supplement, change, modification or repeal to this chapter shall be referred to the planning board for its recommendation and report (G.S. 160D-604(c), (e)). The owner of affected parcels of land, and the owners of all parcels of land abutting that parcel of land, shall be mailed a notice of the hearing on a proposed zoning map amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor. Additionally, the town shall prominently post a notice of the public hearing on the site proposed for rezoning the amendment or on an adjacent public street or highway rightofway. The notice shall be posted within twenty-five days prior to the hearing until 10 days prior to the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice to interested persons (G.S. 160D-602). The Planning Board shall have thirty-one (31) days from the time the proposed amendment was first considered by the Planning Board to submit its report. If the Planning Board fails to submit a report within the above period, it shall be deemed to have approved the proposed amendment.

(D) Town Council Consideration. Before adopting or amending this Ordinance, the Gamewell Town Council shall hold a public hearing on it. A notice of the public hearing shall be given once a week for two consecutive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for this hearing (G.S. 160D-601). Any petition for an amendment to this Ordinance may be withdrawn at any time by written notice to the Town Clerk.

(E) Plan consistency. When adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board of Alderman, that at the time of action on the amendment, the Board of Alderman was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If the amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "largescale rezoning" under G.S. 160D-6-2(b), the Council statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

**Section 32.91 Protest Petition. Reserved:**

(A) General. A protest petition may be presented against any proposed amendment signed by the owners of twenty percent (20%) or more either of the area of the lots included in the proposed change, or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage on the opposite lots. In this case the amendment shall not become effective except by favorable vote of three fourths of all members of the Gamewell Town Council.

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

**Section 32.92 Interpretation, Purpose and Conflict.**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience,

prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annual any easements, covenants, or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern, provided that nothing in the Ordinance shall be construed to amend or repeal any other existing Ordinance of the Town.

**Section 32.93 Validity.**

Should any section or provisions of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Adopted this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Administrator

\_\_\_\_\_  
Town Attorney

SEAL

**NOTE: THE ORIGINAL SIGNED & SEALED COPY OF THIS DOCUMENT  
(ADOPTED ON JULY 16, 1990) IS ON FILE AT THE GAMEWELL  
TOWN HALL.**