

ARTICLE I

PURPOSE AND AUTHORITY

1-1 SHORT TITLE

This Ordinance shall be known and may be cited as the “Town of Gibsonville Development Ordinance”, except as referred to herein, where it shall be known as “this Ordinance”.

1-2 REPEALS AND ENACTMENT

1-2.1 Repeal of Inconsistency

All ordinances, or portions thereof, of the Town of Gibsonville, which relate to zoning, subdivision, and land use which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

1-2.2 Enactment

This Ordinance is hereby enacted and shall be the Development Ordinance for the Town of Gibsonville and its extraterritorial jurisdiction areas therein.

1-2.3 Effective Date

This Ordinance shall become effective on April 1, 1991.

1-3 PURPOSE

1-3.1 General Purpose

It is the purpose of this Ordinance to promote the health, safety, morals, and general welfare of the residents of the Town of Gibsonville through the stated regulations of this Ordinance.

1-3.2 Zoning Regulation Purpose

The zoning regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate in order to:

- (A) Lessen congestion in the streets;
- (B) Secure safety from fire, panic, and other dangers;
- (C) Provide adequate light and air;
- (D) Prevent the overcrowding of land;
- (E) Avoid undue concentration of population;
- (F) Facilitate the adequate and economic provision of transportation, water, sewage, schools, parks, and other public services;
- (G) Protect water quality within watershed critical areas and/or designated municipal watersheds;
- (H) Preserve and enhance visual attractiveness and economic vitality; and
- (I) Require appropriate setbacks for buildings and other structures to facilitate the safe movement of vehicular and pedestrian traffic, provide adequate fire lanes and insure adequate distance from dust, noise, and fumes created by vehicular traffic.

1-3.3 Cluster Regulation Purpose

The single family dwelling cluster regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate in order to:

- (A) Encourage innovation in residential development by providing efficient, attractive, flexible, and environmentally sensitive design;
- (B) Lower the costs of housing by reducing the lot size and the per dwelling unit linear footage of streets, water lines, storm sewers, and sanitary sewers;
- (C) Reduce the future cost of infrastructure maintenance and, therefore, the burden upon taxpayers and ratepayers;
- (D) Encourage development in areas which have major streets and utility lines in place but are experiencing little or no development;
- (E) Protect water quality, preserve wildlife habitats, and protect natural features such as streams, lakes, wetlands, and trees; and
- (F) Reduce the amount of grading necessary for site preparation.

1-3.4 Historic Preservation Overlay Purpose

The historic district overlay regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate in order to:

- (A) Protect, safeguard, and conserve the heritage of the community;
- (B) Promote the sound and orderly preservation of historic areas as a whole, and of the individual properties therein, which embody important elements of social, economic, political, or architectural history for the education, pleasure, and enrichment of all citizens; and
- (C) Enhance property values within historic areas.

1-3.5 Scenic Corridor Overlay Purpose

The scenic corridor overlay regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate in order to:

- (A) Preserve and enhance the appearance and operational characteristics of certain designated roadways: and
- (B) Address development issues of special concern with specific requirements which relate to land use, traffic movement, access, environment, signage, landscaping, visual quality, and aesthetics.

1-3.6 Manufactured Housing Overlay Purpose

The manufactured housing overlay regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate in order to:

- (A) Provide alternative, affordable housing opportunities for low and moderate income residents in residential areas by allowing for the use of manufactured dwellings;

- (B) Establish requirements designed to assure acceptable similarity in exterior appearance between manufactured dwellings and single family dwellings that have been or might be constructed on adjacent or nearby lots; and
- (C) Protect property values, preserve the character and integrity of the community of individual neighborhoods within the community, and promote the health, safety, and welfare of area residents.

1-3.7 Subdivision Regulation Purpose

The subdivision (including group development) regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate in order to:

- (A) Promote orderly growth and development;
- (B) Provide for suitable residential and nonresidential developments with adequate streets and utilities and appropriate building sites;
- (C) Provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding;
- (D) Provide for the coordination of streets within subdivisions with existing or planned streets and with other public facilities;
- (E) Provide for the dedication or reservation of rights-of-way or easements for street and utility purposes;
- (F) Provide for the dedication or reservation of adequate spaces for public lands and buildings;
- (G) Protect and enhance environmental quality;
- (H) Provide for the dedication or reservation of recreation, park, or greenway areas; and
- (I) Provide proper land records for the convenience of the public and for better identification and permanent location of real property boundaries.

1-3.8 Sign Regulation Purpose

The sign regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate in order to:

- (A) Encourage the effective use of signs as a means of visual communication;
- (B) Promote a positive community appearance for the enjoyment of all citizens by eliminating physical and visual clutter;

- (C) Maintain and enhance the aesthetic environment and the community's ability to attract sources of economic development and growth;
- (D) Protect the public from damage or injury attributable to distractions and/or obstructions caused by improperly designed or located signs; and
- (E) Protect existing property values in both residential and nonresidential areas.

1-3.9 Off-Street Parking, Stacking, and Loading Regulation Purpose

The off-street parking, stacking, and loading regulation; adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate in order to:

- (A) Ensure a sufficient amount of off-street parking, stacking, and loading areas for various land uses;
- (B) Ensure easy, convenient circulation of vehicles within parking and loading areas;
- (C) Minimize the potential for conflict with traffic on public streets; and
- (D) Permit the shared use of parking areas by establishments and/or activities which have different hours of operation.

1-3.10 Planting Yard Purpose

The planting yard regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate in order to:

- (A) Create a better quality of life for the community by encouraging preservation of existing trees and vegetation;
- (B) Provide visual buffering and enhance beautification;
- (C) Establish appropriate separation between land uses;
- (D) Provide the separation necessary to permit certain land uses to coexist harmoniously which might not do so otherwise;
- (E) Safeguard and enhance property values and protect public and private investment;
- (F) Enhance the community's competitive position in economic development and tourism;
- (G) Reduce the negative impact of glare, noise, trash, odors, overcrowding, traffic, lack of privacy, and visual disorder when incompatible land uses adjoin one another; and
- (H) Provide wildlife habitats within urban and suburban environs.

1-3.11 Watershed Purpose

The watershed protection regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate in order to:

- (A) Protect those portions of designated watersheds which lie closest to existing and proposed water supply reservoirs from activities which could degrade water quality in the reservoirs;
- (B) Reduce the volume of nutrients and other chemicals which could enter the water supply by reducing the amount of runoff which any given development will generate;
- (C) Minimize land disturbance to reduce the amount of sediment washing into streams and lakes and to enhance the infiltration of runoff into soils, thus alleviating the sedimentation of water supply lakes which reduce their storage capacity, shortens their useful life, and makes them less able to withstand drought;
- (D) Reduce the probability of the release of harmful chemicals into water supply reservoirs, either through natural catastrophe or human error; and
- (E) Provide for natural and engineered methods for managing the stormwater which flushes contaminants off of impervious surfaces in the watershed critical areas and which may reach water supply reservoirs unless controlled.

1-3.12 Soil Erosion and Sedimentation Control Purpose

The soil erosion and sedimentation control regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate in order to:

- (A) Regulate certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and
- (B) Establish procedures through which the purpose of soil erosion and sedimentation control can be fulfilled.

1-3.13 Flood Control Purpose

The flood control regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate in order to:

- (A) Permit only that development within the floodplain which is appropriate in light of the probability of flood damage and which represents a reasonable social and economic use of land in relation to the hazards involved; and

- (B) Minimize public and private losses due to flood conditions in specific areas by enactment of provisions designed to;
- 1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
 - 2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - 3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in accommodation of flood waters;
 - 4) Control filling, grading, dredging, and other development which may increase erosion or flood damage;
 - 5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
 - 6) Protect human life and health;
 - 7) Minimize expenditure of public money for costly flood control projects;
 - 8) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - 9) Minimize prolonged business interruptions;
 - 10) Minimize damage to public facilities and utilities such as water, sewer, gas, electric, and telephone lines and streets and bridges located in floodplains;
 - 11) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
 - 12) Permit and encourage the retention of open land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the community and which will not impede the flow of floodwaters; and
 - 13) Ensure that potential buyers are notified whenever property is in a flood hazard area.

1-4 JURISDICTION

The provisions of this Ordinance shall apply to all the territory encompassed in the Town of Gibsonville, North Carolina and areas within its extraterritorial jurisdiction. This Ordinance shall govern the development and use of land and structures therein.

1-5 AUTHORITY

This Ordinance is adopted pursuant to portions of one or more of the following authorities in NCGS: Chapter 63 (Aeronautics), Chapter 69 (Fire Protection), Chapter 74 (Environmental Controls), Chapter 95 (Department of Labor and Labor Regulations), Chapter 106 (Agricultural Regulations), Chapter 113A (Pollution Control and Environment), Chapter 119 (Gasoline and Oil Inspection and Regulations), Chapter 121 (Environmental Controls), Chapter 130A (Public Health), Chapter 133 (Public Works), Chapter 136 (Roads and Highways), Chapter 143 (State Departments, Institutions, and Commissions), Chapter 157 (Housing Authorities), Chapter 160A (Cities and Towns), Chapter 168 (Handicapped Persons). This Ordinance may be amended from time to time as required or allowed by subsequent legislative enactments.

1-6 ABROGATION

This Ordinance is not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. Whenever regulations imposed by this Ordinance are less restrictive than regulations imposed by any governmental authority through regulation, rule, or restriction, the regulations imposed by that authority shall govern. Regardless of any other provision of this Ordinance, no land shall be developed or used, and no structure shall be erected or maintained in violation of any state or federal regulation.

1-7 INTERPRETATION OF ORDINANCE

1-7.1 Minimum Requirements

In the interpretation and application of this Ordinance, all provisions shall be considered to be minimum requirements and deemed neither to limit nor repeal any other powers granted under state statutes.

1-7.2 Greater Restrictions Apply

These shall be the minimum requirements for administration, enforcement, procedures, restrictions, standards, uses, variances, and all other areas addressed by this Ordinance, and, if any other existing Ordinance or regulation allows lesser regulation this Ordinance shall govern so that, in all cases, the more restrictive limitation or requirement shall govern.

1-7.3 Rounding of Numbers

All calculations that result in a part or fraction of a whole number shall be rounded up to the next highest whole number, unless otherwise provided in this Ordinance.

1-7.4 Density

(A) Rounding: In calculating density, all calculations that result in a part or fraction of a whole number shall be rounded down to the next lowest whole number.

(B) Dwelling Unit Equivalence: For the purposes of calculating density for congregate care facilities and private dormitories, two bedrooms shall be equivalent to one dwelling unit.

1-8 RULES OF CONSTRUCTION

1-8.1 Word Interpretation

Words not defined in this Ordinance shall be given their ordinary and common meaning, and where a word or words may be interpreted in more than one manner, the more restrictive meaning shall be adopted.

1-8.2 Rules of Construction

For the purposes of this Ordinance, the following rules of construction shall apply:

(A) Tense: Words used in the present tense include the future tense;

(B) Singular and Plural: Words used in the singular number include the plural number and the plural number includes the singular number unless the context of the particular usage clearly indicates otherwise;

(C) Mandatory Meaning: The words “shall,” “will,” and “must” are mandatory in nature implying an obligation or duty to comply with the particular provision;

(D) Gender: Words used in the male gender include the female gender; and

(E) References: Any reference to an Article or Section shall mean an Article or Section of this Ordinance, unless otherwise specified.

1-9 COMPLIANCE

1-9.1 Compliance

No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained, or moved, and no land use shall be commenced, maintained, or modified except as specifically, or by necessary implication, authorized by this Ordinance.

1-9.2 Voluntary Compliance

Nothing in this Section shall be deemed to preclude voluntary compliance with the provisions of this Ordinance for development approved prior to the effective date of this Ordinance.

1-9.3 Conformance with Requirements

Except as herein provided, no applicable permit shall be issued or granted that does not conform to the requirements of this Ordinance. Developments which have received Technical Review Committee or staff approval, Enforcement Officer approval, or a building permit prior to the effective date of this Ordinance, may proceed in accordance with such approval or permit while such approval or permit remains in effect.

1-10 **RELATION TO THE COMPREHENSIVE PLAN**

The administration, enforcement, and amendment of this Ordinance shall be accomplished with the proper consideration of recommendations presented in the documents comprising the Comprehensive Plan. These documents include, but are not limited to, the following: Land Use Plan, Thoroughfare Plan, Collector Street Plan, Neighborhood Plans, Area Plans, Capital Improvement Plan, Economic Development Strategies, Housing Assistance Plan, Recreation Plan, and Greenways Plan.

1-11 **ESTABLISHMENT OF OFFICIAL ZONING MAP**

1-11.1 Official Zoning Map

The Jurisdiction is hereby divided into zones, or districts, as established in Article IV (Zoning) and as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

1-11.2 Map Certification

The Official Zoning Map shall be identified by the signature of the Town Manager, be attested by the Clerk and bear the seal of the Jurisdiction together with the effective date of the adoption of this Ordinance.

1-11.3 Map Changes

If changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map.

1-11.4 Unauthorized Changes

No changes in zoning district boundaries of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this

Ordinance. Any unauthorized changes of whatever kind by any person shall be considered a violation of this Ordinance.

1-11.5 Map Location

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the Town Hall, shall be the final authority as to the current zoning status of property within the jurisdiction.

1-11.6 Map Damage and Replacement

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Governing Body may by resolution adopt a replacement Official Zoning Map which shall supersede the prior Official Zoning Map. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant remaining parts thereof, shall be preserved, together with all available records pertaining to its adoption or amendment.

1-11.7 Replacement of Official Zoning Map

The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The replacement Official Zoning Map shall be identified by the signature of the Town Manager, be attested by the Clerk, and bear the seal of the Jurisdiction.

1-12 **INTERPRETATION OF DISTRICT BOUNDARIES**

1-12.1 Boundary Interpretation

Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply:

- (A) Centerline: Where a boundary line lies within and follows a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated road bed or utility easement.

- (B) Edge Line: Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated road bed or utility easement.
- (C) Lot Line: Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.
- (D) City Limits: Boundaries indicated as approximately following city limits or extraterritorial boundary lines shall be construed as following the city limits or extraterritorial boundary lines.
- (E) County line: Boundaries indicated as approximately following the county line shall be construed as following the County line.
- (F) Watercourses: Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- (G) Extensions: Boundaries indicated as parallel to or extensions of street or alley rights-of-way, channelized waterways, railroad rights-of-way, utility easements, lot lines, city limits, county lines, or extraterritorial boundaries shall be so construed.
- (H) Scaling: In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map. In the case of Flood Zones, Corp of Engineering work maps, if available, shall be used for scaling.

1-12.2 Interpretation by Board of Adjustment

Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or are not covered by Section 1-12.1 (Boundary Interpretation), the Board of Adjustment shall interpret the district boundary.

1-12.3 Annexation

If any portion of the territory subject to county jurisdiction under this Ordinance shall be annexed by a municipality or taken into a municipality's extraterritorial jurisdiction by act of

the General Assembly or in accordance with NCGS 160A, Article 4A or NCGS 160A-360, county regulations and powers or enforcement shall remain in effect until:

- (A) The municipality has adopted regulations for said annexed or extraterritorial area; or
- (B) A period of sixty (60) days has elapsed following the effective date of annexation or extension of extraterritorial jurisdiction.

1-13 **SEVERABILITY**

1-13.1 Invalidation

Should any Section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional by a Court of competent jurisdiction of either the State of North Carolina or of the United States, such decision shall not affect, impair, or invalidate the validity of the remaining parts of this Ordinance which can be given effect without the invalid provision.

1-13.2 Prejudicial Application

If any Section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional in its application to a particular case, such decision shall not affect or prejudice its application to other cases.

1-13.3 Lawful Presumption

There shall be a conclusive presumption when an Enforcement Officer or board authorizes regulatory action, that such officer or board would not have authorized such action except in the belief that such action was lawful.