

Article 1. GENERAL PROVISIONS

Section 1-1: Purpose; Title

This Ordinance shall be known and may be cited as the Town of Ayden, North Carolina, Zoning and Subdivision Ordinance, and may be referred to as the Zoning and Subdivision Ordinance.

The purpose of this Ordinance is to regulate and control the subdivision of land within the corporate limits and extraterritorial jurisdiction of the Town of Ayden, North Carolina, in order to promote the health, safety, and general welfare of the community. They are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to ensure proper legal description and proper monumenting of subdivided land; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, playgrounds, and other public requirements; to conserve the value of buildings and encourage the most appropriate use of land throughout the corporate and extraterritorial area, and to facilitate the further resubdivision of larger tracts into smaller parcels of land.

Section 1-2: Authority

- (A) This Ordinance is adopted pursuant to the authority contained in North Carolina General Statute 160A-174 which states that a town may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town, and may define and abate nuisances.
- (B) Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes (NCGS) and that section is later amended or superseded, the Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

Section 1-3: Jurisdiction

- (A) This Ordinance shall be effective throughout the Town's planning jurisdiction. The Town's planning jurisdiction comprises the area within the corporate boundaries of the Town as well as the one mile extraterritorial area as shown on the "Official Zoning Map" for the Town of Ayden. Such planning jurisdiction may be modified from time to time in accordance with NCGS 160A-360.

(B) In addition to other locations required by law, a copy of the official zoning map showing the boundaries of the Town's planning jurisdiction shall be available for public inspection in the Town Hall.

Section 1-4: Effective Date

The provisions in this Ordinance were originally adopted and became effective on November 8, 2004.

Section 1-5: Relationship to Existing Zoning and Subdivision Ordinances

To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions that they replace in the Town's zoning and subdivision ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this Ordinance merely by the repeal of the zoning ordinance.

Section 1-6: Relationship to Land Use Plan

It is the intention of the Board of Commissioners that this Ordinance implement the planning policies adopted by the Board of Commissioners for the Town and its extraterritorial planning area, as reflected in the Town's land use plan and other planning documents. While the Board of Commissioners reaffirms its commitment that this Ordinance and any amendment to it be in conformity with adopted planning policies, the Board of Commissioners hereby expresses its intent that neither this Ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

Section 1-7: Prerequisite to Final Subdivision Plat Recordation

After the effective date of this Ordinance, each individual subdivision plat of land within the town's planning jurisdiction shall be approved by the Town of Ayden Board of Commissioners or the Administrator.

Any final plat, either major or minor, shall be recorded with the Register of Deeds within six (6) months from the date of approval by the Administrator or Board of Commissioners. If the final plat is not recorded within this period, it shall expire. The plat may be resubmitted for review and it shall be reviewed against the Ordinance in effect at that time.

Final plats that have been officially approved by the Administrator prior to adoption of this Ordinance, but not recorded in the Pitt County Register of Deeds Office, shall be deemed grandfathered from this deadline.

Section 1-8: Fees

(A) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning certificates of compliance, sign permits, conditional use permits, special use permits, subdivision plat approval, zoning amendments, variances, changes to Zoning Ordinance text and map, and other administrative relief. The amount of the fees charged shall be as set forth in the Town's budget or as established by resolution of the Board of Commissioners filed in the office of the Town Clerk.

(B) Fees established in accordance with Subsection (A) shall be paid upon submission of a signed application or notice of appeal.

Section 1-9: Interpretation and Conflict

Interpretation and application of the provisions of this Ordinance shall be held to 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, abrogate, or annul 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, or is more restrictive in any way than those imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

Section 1-10: Severability

It is hereby declared to be the intention of the Board of Commissioners that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentence, clauses, or phrases of this Ordinance since the same would have been enacted without the incorporation into this Ordinance of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

Section 1-11: Computation of Time

(A) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.

(B) Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

Section 1-12: No Use or Sale of Land or Buildings Except in Conformity With Ordinance Provisions

(A) Subject to Article 19 of this Ordinance (Nonconforming Situations), no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Ordinance.

(B) For purposes of this section, the “use” or “occupancy” of a building or land relates to anything and everything that is done to, on, or in that building or land.

Section 1-13: Required Yards Not to be Used by Buildings

The minimum yards or other open spaces required by this Ordinance for each and every building shall not be encroached upon or considered as meeting the yard and open space requirements of any other building, except as may be set forth in Article 5.

Section 1-14: Relationship of Building to Lot

In no case shall there be more than one principal building and its customary accessory buildings on a lot except in the case of a designed complex of professional, residential, or commercial buildings in an appropriate zoning district, i.e., school campus, shopping center, and industrial park.

Section 1-15: Street Access

No building shall be erected on a lot which does not abut a street or have access to a street, provided that in a business district or in a planned project in a residential district, a building may be erected adjoining a parking area or dedicated open space which has access to a street used in common with other lots.

Section 1-16: Reduction of Lot and Yard Areas Prohibited

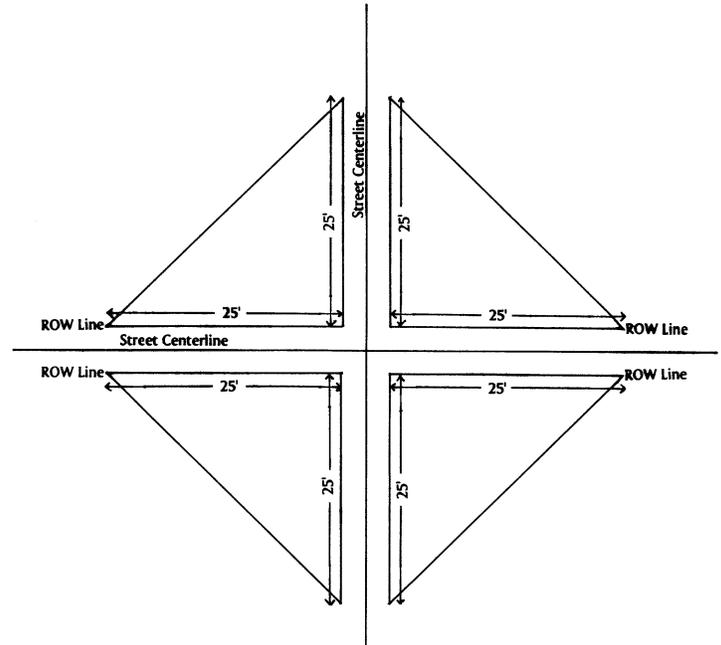
No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yard or lots created after the effective date of this Ordinance shall meet at least these minimum requirements.

Section 1-17: Business Uses of Manufactured Homes and Trailers

No permanent manufactured home, permanent manufactured office, or permanent trailer shall be used in any manner for business or commercial purposes except when used for a sales office on a manufactured home sales lot.

Section 1-18: Corner Visibility

No planting, fence, or other obstruction to visibility of vehicles shall be erected, planted, maintained, or allowed to exist in any district within the range of three (3) feet to ten (10) feet above the centerline grades of the intersecting streets in the triangular area bounded by the street right-of-way lines of such corner lots and a line joining points along these street lines twenty-five (25) feet from the point of intersection. Parcels located in the B-1 district are exempt from this requirement.



Section 1-19: Driveways

No portion of any residential driveway intersection with a Town public street shall be closer than twenty (20) feet to the corner of any intersection, measured along the right-of-way line. In commercial and industrial zones, this distance shall be thirty (30) feet. The width of any driveway intersection with the public street shall not exceed thirty (30) feet at its intersection with curb and street line. Driveway connections to the State of North Carolina Department of Transportation controlled streets must be requested from and approved by DOT on its standard form. Driveways that have double lane ingress and egress (4-lanes) shall be a minimum 60 feet width at intersection with curb and street line.

Section 1-20: Curb Cuts

Construction of curb cuts for purposes of ingress and egress to property abutting a Town public right-of-way shall be approved by the Administrator. The North Carolina Department of Transportation is the approval authority where said curbs affect access to State Highways. Provision for all access work done on state highway right-of-way is subject to approval by the DOT.

Section 1-21: Issued Building Permits

The provisions contained herein shall not affect buildings, structures, and uses for which building and/or zoning certificates of compliance were issued prior to the passage of this

Ordinance, provided that the permit is not revoked and the activities for which the outstanding permits were issued are begun within six (6) months of the date this Ordinance is adopted. Outstanding zoning certificates of compliance not used within six months shall be null and void.

Section 1-22: Standards for Effluent and Emissions

All effluents and emissions into the air or surface or ground waters from new development permitted by this Ordinance must be in conformity with applicable federal, state, county, or Town health and environmental quality regulations.

Section 1-23: Utilities

All structures in all zoning districts, including structures in planned building groups, are required to have remote meter reading devices for both water and electric utilities which satisfy Town of Ayden installation/construction standards.

Section 1-24: Miscellaneous Regulations

- (A) Regulations set forth by this Ordinance shall be minimum regulations. If the requirements set forth in this Ordinance are at variance with the requirements of any other lawfully adopted uses, regulations, or ordinances, the more restrictive or higher standard shall govern.
- (B) Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants inoperative.