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NINTH REVISION

ENACTMENT

ZONING REGULATIONS

ARTICLES 1 THROUGH ~~XVII~~ XVI

ZONING ORDINANCE  
LAKE SANTEETLAH, NORTH CAROLINA

GOALS AND OBJECTIVES

Pursuant to NCGS 160D-701, the Town of Lake Santeetlah (The Town) Planning Board (Planning Board) developed a Town Land Use Plan. The Land Use Plan is based on responses to a community wide survey sent to all property owners. The survey objectives were to:

1. Gain public information to help inform the Land Use Plan process
2. Obtain a benchmark of attitudes and perceptions regarding a variety of key town issues.
3. Gain input on ideas for the future of the Town of Lake Santeetlah

Survey response rate was 53% and was highly reflective of property owners' opinions. The Planning Board tabulated the responses and developed goals and objectives for the future of the Town. After two public hearings, the Land Use Plan was adopted by the Town Council on June 11, 2020. The Land Use Plan forms the basis for this Ordinance and is available for view at Town Hall or on the Town website.

The goal of this Ordinance is to provide for orderly progress in the present and future growth of the Town and to preserve Lake Santeetlah in its natural state. The Town should continue to grow, emphasizing its natural surroundings of forest land, wildlife, and lake. The Ordinance seeks to ensure the serenity of the natural environment and restrict to a minimum any growth which would destroy that which nature has provided.

The following goals serve as a guide for this Zoning Ordinance, as well as future planning elements, and for the fulfillment of the projected needs of the community.

1. To provide for orderly and progressive development within Lake Santeetlah enhancing and accentuating the existing qualities of the Town and to enhance the potential for the most beneficial development of the Town.
2. To promote the coordinated growth and development of the Town of Lake Santeetlah.
3. To provide for orderly residential growth and **regulation** of commercial facilities.
4. To protect the environment and ecology of the Town and its surroundings.

Lake Santeetlah's greatest asset is its natural beauty. In order to ensure the beneficial growth and renewal of the Town of Lake Santeetlah, the natural beauty should be preserved.

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## ARTICLE 1

### TITLE

This Ordinance shall be known and may be cited as “The Zoning Ordinance of the Town of Lake Santeetlah, North Carolina.”

## ARTICLE II

### AUTHORITY AND ENACTMENT

Pursuant to the authority conferred by the North Carolina General Statutes, Chapter 160D-103 Article 1 and 160D-201 (a) et seq., the Town Council of Lake Santeetlah, North Carolina, hereby ordains and enacts into law the following zoning regulations for the purpose of promoting the health, safety, and general welfare of the community **and to preserve the beauty of the Town of Lake Santeetlah in its natural state.** ~~except where amended.~~

## ARTICLE III

### JURISDICTION

The provisions of this Ordinance shall apply within the corporate limits of the Town of Lake Santeetlah, as specifically identified and delineated on the zoning map entitled “The Official Zoning Map of the Town of Lake Santeetlah, North Carolina dated November 17, 2015” and as the same shall be amended from time to time. Said map and all explanatory matter thereon accompanies and is hereby made a part of this Ordinance; the Ordinance shall be on file in the office of the Town Clerk.

## ARTICLE IV

### INTERPRETATIONS AND DEFINITIONS

Section 400 Word Interpretations.

Except as specifically defined herein, all words used in this ordinance have their customary definitions as defined by the Webster Dictionary and Black's Law Dictionary. For the purpose of this ordinance, certain words or terms used herein are defined as follows.

Words in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.

400.01           The word “Town” shall mean the Town of Lake Santeetlah, North Carolina

400.02           The words “Town Council” shall mean the Town Council of Lake Santeetlah, North Carolina.

- 400.03. **Zoning Administrator.** Zoning Administrator shall mean administrative staff and/or contractor as appointed by the Town Council
- 400.04 The words “Board of Adjustment” shall mean the Lake Santeetlah Zoning Board of Adjustment as appointed by the Town Council.
- 400.05 The words “Planning Board” shall mean the Lake Santeetlah Planning Board as appointed by the Town Council.
- 400.06 The word “Zoning Ordinance” shall mean the Zoning Regulations of Lake Santeetlah.
- 400.07 The word “may” is permissive.
- 400.08 The word “shall” is mandatory.
- 400.09 The word “lot” includes the words “plot” or “parcel”.
- 400.10 The word “building” includes the word “structure” which means a building of any size unless specifically exempted by the Zoning Regulations.
- 400.11 The word “street” includes the words “road,” "cartway," "lane," "public thoroughfare," and “highway”.
- 400.12 The words “person” or “applicant” includes a firm, association, organization, partnership, corporation, company, trust, and individual, or government unit.
- 400.13 The words “zoning map” or “Lake Santeetlah Zoning Map” shall mean the Official **Existing and Future** Zoning Map of the Town of Lake Santeetlah.

Section 401 Definitions. **Terms contained in this Ordinance shall have the same definitions as contained in NCGS 160D-102 and are hereby incorporated in this Ordinance. Additional definitions not contained in NCGS 160D-102 shall be as follows:**

~~401.01 Accessory Use. A use customarily incidental and subordinate to the principal use of building and located on the same lot with a building. Accessories such as shipping containers, storage containers and Portable On Demand Storage (PODS) must be removed within thirty (30) days of placement on the subject property.~~

~~401.02. Alley. A public way which affords a secondary means of access to abutting property and not intended for general traffic circulation.~~

401.01 **Authorization for Administrative Staff.** Staff appointed to develop, administer and enforce developmental regulations authorized by 160D-402.

401.02 **Base Elevation.** The vertical distance above the base foundation of the structure to the

highest peak of the roof.

- 401.03 **Base Foundation.** The building's poured concrete adjacent to the highest footer of the structure.
- 401.04 **Buffer Strip.** A buffer strip is vegetation consisting of trees or shrubs located along the side and rear lot lines. **The buffer strip** shall not extend beyond the established setback and/or easement line along any ~~street or road~~. Such buffer strip shall not be less than four **feet in width** and shall be composed of trees and shrubs of a type which at maturity shall not be less than six feet in height **unless otherwise approved by the Town Zoning Administrator or the Town Board of Adjustment.**
- 401.05 **Buildings.** Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons or personal property. The connection of two buildings by means of an open porch, breeze way, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.
- 401.06 **Building, Accessory.** A detached building subordinate to the main building on a lot and used for purposes customarily incident to the main or principal building and located on the same lot. **Accessory buildings such as shipping containers, storage containers, Portable On Demand Storage (PODS) must be removed within thirty (30) days of placement on the subject property, unless prior permission is granted in advance from the Zoning Administrator or the Zoning Board of Adjustment.**
- 401.07 **Building Fee:** A minimum fee charged during the building process for insurance of compliance conformity to Zoning regulations.
- 401.08 **Building Height.** The distance measured from the peak of the roof to the highest base foundation of the subject property. **A chimney that complies with the minimum state building code requirements for height of a chimney shall not be included in the calculations for the height of the building; provided, that the chimney shall not extend more than five feet above the immediately adjoining ridgeline of the roof.**
- 401.09 **Building Permit.** A permit obtained from the Graham County Building Inspector's Office.
- 401.10 **Building Permit Duration.** Duration of Permits shall follow timeframes as set forth in NCGS 160A-108 (d).
- 401.11 **Building, Principal.** A building used for the same purpose as principal use of the lot.
- 401.12 **Building, Street Setback Line.** A line delineating the minimum allowable distance between the ~~property~~ **building line and the nearest road edge, including porches, decks and roof overhangs in which no building or other structure shall be placed unless otherwise provided. Nearest road edge shall be the edge of the roadway pavement nearest the building. If the road is unpaved, the road shall be deemed to be twelve (12) feet in width and the setback line shall be six feet from the nearest edge of the center**

of the road.

- 401.13 Building, Setback line – Rear-Yard. The minimum allowable distance as shown on a survey between the rear of the building, including porches, decks and roof overhangs, to the closest rear property line in which no building or other structure shall be placed
- 401.14 Building, Setback Line – Side-Yard. The minimum allowable distance as shown on a survey between the side of the building, including porches, decks and roof overhangs, to the closest side property line in which no building or other structure shall be placed unless otherwise provided.
- 401.15 Certificate of Zoning Compliance. A certificate issued by the Zoning Administrator informing the applicant of approval of developmental plans.
- 401.16 Commercial Use. Any use, authorized in this ordinance, that is not residential or Governmental.
- 401.17 Conditional Use. A use which is permitted in specified zoning districts only after review by the Zoning Board of Adjustment and approved by the Town Council. The use must meet specific conditions and procedures as set forth in this Ordinance so that the safety and general welfare of the community is maintained. Conditional Use permits only apply to commercial uses. Conditional Use permits are not allowable for residential uses. The cancellation of a Conditional Use permit is set forth in this Ordinance.
- 401.18 Condominium-Apartment. A part of a building consisting of a room or rooms intended, designed or used as a single dwelling unit. where the underlying land is not owned by any individual or corporation and has a functioning homeowners association.
- 401.19 Dwelling Unit. A building, or portion thereof, providing complete and permanent living facilities for one family.
- 401.20 Dwelling Unit, Single-Family. A building arranged or designed to be occupied by one (1) family and not attached to another dwelling. A single unit providing complete independent living facilities, for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- 401.21 Dwelling, Multi-Family Unit. A building or portion thereof used or designed for two (2) or more families living independently of each other. A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.
- 401.22 Easement. A grant by a property owner of a strip of land for a specified purpose and use by the public, a corporation or persons.
- ~~401.18 Family. One or more persons occupying a single dwelling unit, but provided further that domestic servants who reside on the premises may be housed on the premises without being counted as a family or families.~~

- 401.23 Fences, Wall and Hedges: Ornamental wood fences, rock walls and ornamental hedges not to exceed four feet in height may be allowed in districts **(Residential) R-1 and (Commercial District) C-S and (Governmental) G-S, providing its purpose is to enhance the appearance of the property.** Fences made with wire, barbed wire and electrically charged fences are not permitted in the above mentioned districts. Fences in the **GS** district may be permitted where protection of the property from trespassers is essential to the health and safety of the community. Chain link fencing is permitted for the **GS** District in connection with the protection of the water supply, pumping stations water storage and other similar types of services. Fences must be approved prior to construction **pursuant to this Ordinance.** Fences must be built with approved fence wire, standard fence wood, vinyl or metal such as wrought iron. A fence shall not be built with scrap lumber, chicken wire, wood pallets or other unapproved materials. Fence posts and supports must be installed on the side of the fence that faces the owners' house or yard; that is, the owner who is installing such fencing. Any finished side of the fencing must face toward the neighboring home or adjoining property. This definition shall not apply to structural retaining walls.
- 401.24 **Governmental District. Any property used for governmental, administrative or public purposes.**
- 401.25 Gross Floor Area. The total livable floor area of all buildings including **finished** basements, mezzanines and upper floors in square **feet.** It excludes separate service facilities outside the main building. If any such separate structure is planned, it must be allowable under this Ordinance.
- 401.26 Gross Residential Density. The number of dwelling units proposed to be built divided by the area of the tract being developed.
- 401.27 Full-time Primary Resident. For committee appointments, a person who is a property owner in **the Town of Lake Santeetlah.** For other positions, a person must meet the State requirements pursuant to North Carolina General Statute 20-7 et seq., 163-54 et seq. and the North Carolina Constitution, Article VI. A permanent place of abode is supported by a valid North Carolina driver's license and other documents proving that the prior State of domicile has ended.
- 401.28 **Grandfathering. Structures exempt from the building requirements contained in this Ordinance.**
- 401.29 Individual Water System. Any well approved by the appropriate State agency used to supply potable water.
- 401.30 Individual Sewer System. Any septic tank, ground absorption system, or other facility serving a single source or connection **from a single dwelling unit, Permitted Use Development or commercial location** and approved by the County Sanitarian **and other required agencies.** Such systems must be maintained in good working order at all times.
- 401.31 Interested Party. A person who has a right, claim, title, legal share or the advantage accruing from any matter that is a benefit to the person.

- 401.32 Intensity. Modifies the impact of a proposed project for the intended use. For example, a single dwelling unit produces less sewage than a restaurant. The Zoning Administrator and the Zoning Board of Adjustment shall take into account both the density and intensity of a proposed building in their analysis of proposed projects.
- 401.33 Junk. Old or scrapped copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled, wrecked or nonoperational vehicles or parts thereof and watercraft, boat trailers, iron, steel, and other old scrap ferrous or non-ferrous material. Junk vehicles or watercraft shall be determined non-operational if not registered and/or licensed and if not operable. If a vehicle or watercraft or boat trailer meets the definition of non-operational it must be removed within fifteen (15) business days of notice sent by first class mail to the property owner where it is placed and may not be relocated to another property owned by the owner or related parties within Town limits.
- 401.34 Junkyard. An establishment or area which is maintained, operated or used for storing, keeping, buying or selling junk regardless of the length of time that junk is stored or kept, or for maintenance or operation of an automobile graveyard, including construction equipment, boats and trailers not licensed or being utilized for its intended purpose, but shall not include garbage dumps or county operated sanitary landfills.
- 401.35 Lot/Tract. 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.
- 401.36 Lot Depth. The mean surveyed distance between the front and rear lot lines, using the shortest and the longest points.
- 401.37 Lot of Record. Any lot within the Town of Lake Santeetlah for which a plat has been recorded in the Graham County Register of Deeds, or described by metes and bounds, the description of which has been so recorded.
- 401.38 Lot Width. The mean surveyed horizontal distance between side lot lines measured at the front set back line.
- 401.39 Manufactured Home. ~~A structure as defined in NCGS160D143-145(7).—Means 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 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 and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing construction and Safety Standards Act of 1974, 42 U.S.C. Chapter 5401, et seq.~~
- 401.40 Moratoria. A stop-work order issued by the Zoning Administrator in accordance with NCGS 160D-107. The stop-work order may be initiated for a prior development permitting approval.

- 401.41 Nonconforming Use. Any parcel of land, use of land, building or structure existing at the time of adoption of this Ordinance, or any amendment thereto, that does not conform to the use or dimensional requirements of the district in which it is located.
- 401.42 **Notices.** Notices include all required forms and letters regarding developmental issues and sent as a result of zoning applications and determinations. Notices may in in written or electronic form.
- 401.43 **Objecting Party.** Either an owner aggrieved by a decision of the Zoning Administrator or the Zoning Board of Adjustment or a property owner or group of property owners within the Town.
- 401.44 **Parking Space.** An area for parking a vehicle, a boat and/or boat trailer, plus the necessary access space. Parking space(s) shall be provided with vehicular access to a street, and shall always be located outside the dedicated street right-of-way unless a variance has been granted by the **Zoning Administrator or Zoning Board of Adjustment.** A parking space shall not be less than ~~ten feet (10')~~ by ~~twenty two feet (22')~~ **nine feet by eighteen (18) feet.**
- 401.45 **Parks.** The term “park” shall include those areas developed either for passive or active recreational activities. The development may include, but shall not be limited to, walkways, benches, open fields, multi-use courts, swimming and wading pools, amphitheaters, etc. The term “park” shall not include zoos; travel-trailer parks; amusement parks; or vehicle, equestrian or dog racing facilities or similar commercial recreational functions excluding marinas.
- 401.46 **Planned Unit Development (PUD).** Any development where more than one principal building or use is proposed to be constructed on a single tract, ~~or any building with a gross floor area of 25,000 square feet or more,~~ shall be deemed a PUD pursuant to the North Carolina Planned Community Act, North Carolina General Statute Chapter 47F. Prior to the approval **or amendment** of a PUD, the PUD must be completely platted by a licensed, registered surveyor. No later than **thirty (30)** days subsequent to approval by the Town Council, said completed plat must be filed with the Graham County Register of Deeds **and proof provided to the Zoning Administrator** or said approval shall be rendered null and void. A functioning Homeowners Association must be incorporated prior to any conveyances **located within the PUD or additions to property and any changes to the approved plat must be approved by the Town Council.**
- ~~401.47~~ **Principal Use on a Lot.** The primary intent of the structure situated thereon.
- 401.48 **Public Sewer System.** Any sewer system owned and operated by a local unit of government in Graham county, or other sewage treatment facility **servicing two or more connections,** or any wastewater treatment system having a discharge to surface waters when approved by the Department of Environment and Natural Resources, or ground absorption system when approved by the County Sanitarian.
- 401.49 **Public Water System.** Water systems serving **fifteen (15)** or more residential connections or serving more than 25 year-round residents are classified as public water supplies by State law, and plans and specifications must be approved by the Department of Human Resources, Division of Health Services.
- 401.50 **Recreation Use, Non-Profit.** An indoor or outdoor recreation facility operated on a non-profit basis, according to the laws of North Carolina.

- 401.51 Recreation Use, Profit. An indoor or outdoor recreation facility operated on a for profit basis.
- 401.52 Retail Business. ~~Establishments selling commodities and/or providing services to the consumer.~~ A brick and mortar store selling merchandise from a single point of purchase directly to a customer.
- 401.53 Signs Permissible. No sign visible from any public street shall exceed one square foot in size. No sign shall be placed any closer than five feet from the edge of any public street. Only one sale, rental, or sale/rental sign shall be permitted unless the property borders more than one public street. In that case one sign shall be permitted on each public street the property borders. All sale, rental or sale/rental signs must include a name or phone number. Any sign including rental, or sale/rental sign that borders Lake Santeetlah shall be no larger than two feet wide and one and one-half feet long. Portable or moveable signs such as rented or leases signs, not permanently affixed to the ground or to a building are prohibited.
- 402.54 Standing. As defined in NCGS 160D-1402( c).
- 401.55 Street/Road. A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.
- 401.56 Stop Work Order.
- 401.57 Structure. Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.
- 401.57 Structural Retaining Walls. Any wall constructed of wood, rock or masonry; the primary purpose of which is to stabilize the soil. Any fence, wall or hedge which exceeds these dimensions must be approved by the Zoning Administrator or Zoning Board of Adjustment.
- 401.58 Travel Trailers. Any mobile vehicle providing housing for individuals and that is not permanently affixed.
- 401.59 Town home. A residential unit in which the underlying land is owned by the unit owner.
- 401.60 Yard. A space on the same lot with a principal building, open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachment and accessory buildings are expressly permitted.
- 401.61 Yard, Front. An open unoccupied space on the same lot with a principal building. The front yard extends the full width of the lot and is situated between the street or property line and the front line of the building, projected to the side lines of the lot.
- 401.62 Yard, Rear. An open, unoccupied space on the same lot with a principal building. The rear yards extends the full width of the lot and is situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.
- 401.63 Yard, Side. An open, unoccupied space on the same lot with a principal building, situated between the building and the side lot line and extending from the rear line of the front yard to the front line of the rear yard.

- 401.64 Zoning Administrator. An official of The Town of Lake Santeetlah **or a contractor** charged with enforcing and administering the zoning ordinance. The Town Council shall appoint the Zoning Administrator **along with an assistant Zoning Administrator.** The Town Administrator may serve as the Zoning Administrator.
- 401.65 Zoning Board of Adjustment. The person or members who make up a body for the purpose of performing the duties required by the Zoning Regulations for the Town **consistent with NCGS 160D-303.** ~~The Board will consist of five people appointed by the Town Council. Members must be property owners. Members shall be appointed by the Town Council with the goal of geographic representation of the entire Town. The Town Council may appoint one member who is a full-time resident of Graham County as well~~
- 401.66 Zoning District. An area in the Town in which zoning regulations are uniform.
- ~~401.59 Fence. A barrier, railing or other upright structure enclosing an area of ground to mark a boundary, control access or prevent escape.~~
- 401.67 **Zoning Map. As defined in NCGS 160D-105. For purposes of this Ordinance, the term Zoning Map includes the term, Existing and Future.**

**Article V**  
**ADMINISTRATION**

Section 500. The General Process and Duties of the **Town Council**, the Planning Board, the Zoning Administrator and the Zoning Board of Adjustment.

Section 501. **Town Council.**

501.01. **Town Council Duties.** The Town Council shall appoint the Zoning Administrator, members of the Planning Board and the Zoning Board of Adjustment. The Town Council may remove any Board member for good cause. Good cause includes the intentional failure to discharge one's duties, criminal misconduct in office, incapacity, repeated absences from meetings and similar substantive problems.

501.02. **Approval of Land Use Plan and Ordinance.** The Town Council shall review, propose changes to and approve the Land Use Plan, the Ordinance, and amendments and additions to the Ordinance.

Section 502. **Planning Board.**

502.01. **Composition and Duties.** Planning Board Composition and Duties shall be carried out in accordance with NCGS 160D-301 (a) and (b).

502.02. **Members.** The Planning Board shall consist of five members and may have two alternate members. Members shall consist of Town property owners.

502.02. **Terms.** Board members and alternates shall be appointed to three-year terms.

502.03. **Planning Board and Zoning Board of Adjustment membership.** Planning Board members may concurrently serve on the Zoning Board of Adjustment.

502.03. **Dual Office Holding.** A Board member shall not hold more than two elected or appointed offices. If Board members are the same as the Zoning Board of Adjustment Board, this does not constitute two offices.

502.05. **Duties.** The duties and responsibilities of the Planning Board are advisory to the **Zoning Board of Adjustment and the Town Council.** The Planning Board may perform various duties as follows:

- (a) Make studies of the area within its jurisdiction and surrounding areas;
- (b) Determine objectives to be sought in the development of the study area;
- (c) Prepare and recommend plans for achieving these objectives;

- (d) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- (e) Exercise any functions in the administration and enforcement of plans that the Town Council or ZBA may direct;
- (f) Take responsibility for the development of the Town's Land Use Plan and Ordinance;
- (g) Arrange for and supervise the preparation of special studies as approved by the Town Council;
- (h) Prepare ~~land use plans~~, policies and drafts of Ordinances addressing the Town's planning needs;
- (i) Review new **or expanded** construction development proposals and make recommendations to the ~~Town~~ **Zoning Board of Adjustment if an appeal is filed.**
- (j) Review subdivision plats and make recommendations;
- (k) Work with other Planning Boards in the surrounding communities.

502.06. **General Proceedings.** The Board shall annually elect a Chairman and a Vice-Chairman from among its members. The Chairman in turn will appoint a Secretary and such other subordinates as may be authorized by the Town Council. The Town Clerk may serve as Secretary. The Town Clerk shall keep minutes of its meetings.

502.07. **Meetings.**

- (a) **Board Meetings.** Special meetings of the Board may be called at any time by the chairman or by request of three or more members of the Board. At least forty-eight (48) hours written notice of the time and place of meetings shall be given, by the chairman, to each member of the Board. All Board meetings are subject to the Open Meetings Law. All meetings of the Board will be posted on the Town website and the Town bulletin boards.
- (b) **Quorum.** A quorum shall consist of three members of the Board and shall be necessary for the transaction of any business.
- (c) **Voting.** All regular members shall vote on any issue unless a member is disqualified pursuant to Section 501.01 of this Article. In all matters, the vote of at least three of the members present and voting shall decide issues before the Board.

Section 503. **Zoning Administrator.** It shall be the duty of the Zoning Administrator to administer and enforce the provisions of this Ordinance.

503.01. **Questions.** All questions arising in connection with the enforcement of this Ordinance shall be presented in writing first to the Zoning Administrator or who shall be responsible for the day to day administration of this Ordinance.

503.02. Certificate of Zoning Compliance.

- a) Application. ~~The Zoning Administrator shall receive all applications for Zoning Compliance in writing. The Zoning Administrator shall issue a Certificate of Zoning Compliance. Applications shall be accompanied by architectural plans, construction drawings, showing the actual dimensions of the plot to be build; the erected or altered, and such other information as may be necessary to provide for the enforcement of the provisions of this Ordinance. The information shall include a set of constructions drawings. The Town may charge a reasonable fee or the issuance of the Certificate.~~

~~(b) Issuance of Certificate of Zoning Compliance. The Zoning Administrator shall review all questions and applicable sections of this Ordinance, make a site visit if applicable and provide an interpretation and decision on the issue within thirty (30) days of receipt of the Application for Zoning Compliance. No building or other structure shall be erected, moved, added to or structurally altered, nor shall any building application be issued nor shall any change in the use of any building application or land be made until a Certificate of Zoning Compliance has been issued. No Certificate of Zoning Compliance shall be issued except in conformity with the provisions of this Ordinance.~~

~~503.03. Building Application. Upon receiving a Certificate of Zoning Compliance, a building application as provided by the Town's Building Application Process.~~

~~504.07. Certificate of Occupancy, Required. A Certificate of Occupancy issued by Graham County is required in advance of Occupancy.~~

~~Construction Process. Pursuant to the Graham County Building Code, the permit expires within two years if there are no inspections or progress made from the date of the issuance of the Zoning Compliance Certificate. On expiration, the Road Bond is returned; the Building Application fee is not returned. Once a permit becomes invalid, a request to renew requirement~~

~~Compliance. In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this Ordinance, the Town Council, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceedings to prevent such violation.~~

503.05. Conditional Uses/Special Use Permits. ~~The Zoning Administrator shall perform duties as contained in Article IX of this Ordinance.~~

~~503.09. Procedural Appeals from the Zoning Administrator. All questions arising in connection with the enforcement of the Ordinance shall be presented to the ZBA. Any order, requirement or decision or determination made by the Zoning Administrator may be appealed to the ZBA.~~

## Section 504. Zoning Board of Adjustment

504.01. **Composition and Duties.** ZBA Composition and Duties shall be carried out in accordance with NCGS 160D-303 (a) and (b).

504.02. ~~Establishment of a Zoning Board of Adjustment ZBA.~~ A Zoning Board of Adjustment ~~Membership.~~ Said Board shall consist of five members **who are Town property owners.** Members of the Board shall be appointed by the Town Council for three-year terms. **Upon completion of the** initial term of office **subsequent terms** shall be as follows: two members appointed for a term of one year; two members appointed for a term of two years; and one member appointed for a term of three years. Persons to fill vacancies shall be appointed by the Town Council to serve the remainder of the unexpired term. ~~Members must be property owners.~~ One member can be a resident of Graham County **as well as property owner within the Town limits.** The Town Council shall appoint the members to the respective terms **by lots.**

504.03. **Dual Office Holding.** Planning Board members shall become Zoning Board of Adjustment members and shall not be considered as dual office holding.

504.04. **The duties and responsibilities of the ZBA are advisory to Town Council. The powers and duties shall be in accordance with NCGS 160D-302 (b), NCGS 160D-406 and the current UNC School of Government Quasi-Judicial Handbook: a Guide for Boards Making Development Regulation Decisions. General duties are as follows:**

- (a) Interpretation. To interpret the Town's Zoning Map and examine disputed questions of lot lines or district boundary lines and any other questions of interpretation that may rise in the administration of this Ordinance.
- (b) Administrative Review. To hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance as provided in this Ordinance. The concurring vote of four-fifths of the members of the Zoning Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant any matter which it is required to pass under the Zoning Ordinance or to affect any variance to such Ordinance. **The decision of the Zoning Board of Adjustment may be appealed to a court of competent jurisdiction.**
- (c) Conditional Uses. To recommend approval, subject to appropriate conditions and safeguards, for conditional **/Special** uses as authorized in this Ordinance, the Zoning Board of Adjustment shall follow the requirement and procedures outlined in the Ordinance. The duty includes amending or terminating conditional **/Special** Use permits.

(d) Variances. To recommend in specific cases such variance from the terms of this Ordinance pursuant to NCGS 160D-705(d).

504.05. Meetings. Special meetings of the Board may be called at any time by the chairman or by request of three or more members of the Board. At least forty-eight (48) hours written notice of the time and place of meetings shall be given, by the chairman, to each member of the Board. All Board meetings are subject to the Open Meetings Law. All meetings of the Zoning Board of Adjustment will be posted on the Town website and the Town bulletin boards.

(a) Cancellation of Meetings. Whenever there are no appeals, applications for conditional uses or variances, or other business for the Board, or whenever three or more members notify the secretary of inability to attend such that a quorum will not be available the Chairman may dispense with a meeting by giving written or oral notice to all members. A quorum shall consist of three members of the Board and shall be necessary for the transaction of any business. The Board shall not pass upon any questions relating to an appeal from a decision, order, requirement or determination of the Zoning Administrator, or an application for a variance or conditional use permit when there are less than three members present.

(b) Quorum. A quorum shall consist of three members of the Board and shall be necessary for the transaction of business other than appeals.

504.06. Appeals. The Zoning Board of Adjustment shall hear appeals of decisions made by the Zoning Administrator. Prior to review of any application by the Zoning Administrator or the Zoning Board of Adjustment, the Town Clerk must certify that the applicant is current on all taxes, fees or other charges due and owing to the Town including water charges. Appeal procedures are as follows:

- a) The Town shall have a Certification of Compliance Appeal Application form. The form shall set forth the Ordinance standards and solicit the information needed to make a decision. Through the application and related documents, the applicant should: provide evidence and argument to support the applicant's case; properly allege standing; provide evidence or certification supporting the authenticity of any documentary evidence, including photographs and documents.
- b) The appeal application shall be filed within ten business days of the date of the Zoning Administrator's written decision.
- c) The Zoning Administrator or staff shall transmit all relevant materials to the Zoning Board of Adjustment in accordance with NCGS 160D-406 (b).

- d) Upon receipt of the appeal application, the Zoning Board of Adjustment shall place the hearing request on the agenda for a hearing to take place within thirty (30) business days of receipt of the hearing request.
- e) Notice of Hearing. Notice of hearing shall be mailed to the person or entity whose appeal, application or request is the subject of the hearing or to the owner of the property. Notice of Hearing shall be mailed to other persons with standing.
- f) The Notice must be deposited in the mail at least ten days, but not more than twenty-five (25) days prior to the date of the hearing.
- g) The Zoning Administrator or Town Hall staff shall transmit all relevant materials to the ZBA.
- h) The applicant should: provide evidence and argument to support the applicant's case; property allege standing; provide evidence or certification supporting the authenticity of any documentary evidence, including photographs and documents.
- i) Upon receipt of a properly completed application, the ZBA shall put the request on the agenda for a hearing to take place within thirty (30) business days of receipt of the Appeal notice.
- j) Posting Notice of Hearing. Notice of hearing shall be posted on the site within ten to twenty-five (25) days prior to the hearing date.
- k) The hearing date shall be posted at Town Hall, the Town Bulletin Board and the local newspaper. Parties with standing shall be informed of the hearing by US mail no later than ten days prior to the hearing. Notice shall be mailed to: the applicant; the owner of the subject property (if different from the applicant); the owners of land abutting the subject parcel; persons with standing opposed to granting the application.
- l) The Board Chairperson may subpoena witnesses to compel the production of evidence.

**Section 504.07. Conduct of Hearing.** Any party may appear in person or by authorized agent or by attorney at the hearing held by the Zoning Board of Adjustment. The order of business for the hearing shall be as follows:

1. The chairperson shall give a preliminary statement of the matter.
2. All persons wishing to speak during the hearing, other than Board members, shall be sworn in by the Town Clerk.
3. Presentation of Evidence. The applicant, local government and any person with standing has the right to participate in the hearing.
4. The applicant shall present the statements supporting the application.
5. Persons opposed to granting the application shall present statements against the application. Statements should be factual and objective.

6. Both sides will be permitted to present rebuttals to opposing statements.
7. The Zoning Administrator shall be present at the hearing and make necessary inquiries.

**Section 504.08. Decisions.** After consideration of facts and their application to the relevant standards, the Zoning Board of Adjustment shall make a decision at the hearing. A concurring vote of four-fifths of the Board is required for a decision. Vacant Board positions shall not be considered for calculation of the requisite majority. The final decision of the Zoning Board of Adjustment shall be shown in the record of the matter as entered in the minutes of the Board meeting and signed by the Board chairman and the Town Clerk.

**Section 504.09. Expiration of Application.** Unless otherwise specified, any order or decision of the Zoning Board of Adjustment granting a variance shall expire if a building permit is not obtained within three months and the Certificate of Occupancy is not obtained within two years subsequent to the issuance of the issuance of the building permit.

**Section 504.10. Appeals.** Appeals from the Zoning Board of Adjustment may be appealed to the appropriate court of jurisdiction.

Article VI  
Zoning Board of Adjustment  
Deleted and incorporated into Article V, Administration

## Article VI

### ESTABLISHMENT OF ZONING DESTRICTS

Section 600. Use Districts. For the purpose of this Ordinance, the zoning districts of ~~the Town Lake Santeetlah~~ as delineated on the official Zoning Map of Lake Santeetlah, adopted by the Town Council, and shall be referred to the **Existing and Future Zoning Map, hereafter referred to as called the Zoning Map**, shall be divided into the following designated uses:

districts:

R-1 Single ~~family~~ **Dwelling Unit** - Residential District.  
CS – Commercial Service District  
**GS – Governmental District**

Section 601. Establishment of District Boundaries.

The boundaries of these districts are hereby established as shown on the Official Zoning Map of the Town of Lake Santeetlah dated November 17, 2015.

Section 602. Establishment of Zoning Map.

A zoning map entitled the “Official Zoning Map of the Town of Lake Santeetlah North Carolina” clearly setting forth all approved use districts and its respective boundaries is hereby made a part of this Ordinance and shall be maintained in the **Town Hall** ~~office of the Zoning Administrator~~. This map shall be available for inspection during the normal business Hours of ~~the Zoning Administrator~~ **Town Hall**. It shall be the duty of the Zoning Administrator **or the Assistant Zoning Administrator** to maintain said map and post any changes thereto after any changes are adopted by the Town Council.

Section 603. Rules Governing District Boundaries. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following shall apply:

603.01. Boundaries indicated as approximately following the center lines of streets, **the nearest edge of the paved road**, highways, ~~alleys~~, or a body of water, shall be construed to follow such lines.

603.02. Boundaries indicated as approximately following platted lot lines shall be construed as following such lines.

603.03. Where district boundaries are so indicated that they are approximately parallel to the center line of streets, **the nearest edge of the paved road**, highways or right of ways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given,

such dimension shall be determined by the use of the scale shown on said Zoning Map.

- 603.04. Where a district boundary divides a lot of single ownership, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extension shall not include any part of such lot more than **thirty-five** (35) feet beyond the district boundary line.
- 603.05. Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered under these rules, the ~~Town Council~~ **Zoning Board of Adjustment** shall interpret the district.

#### Section 604. Statement of District Intent.

##### 604.01. Single ~~family~~ **Dwelling Unit** Residential District (R-1).

The Single ~~family~~ **Dwelling Unit** Residential District is primarily intended to provide locations for single ~~family~~ **Dwelling Unit** residential and supporting uses in areas where public **utility** services are available or will likely be provided in the near future. This district is further intended to protect existing single ~~family~~ **Dwelling Unit** residential residences from encroachment of incompatible land uses. This district will be applied within those areas ~~designation~~ **designated on** the Land Use Plan as Single ~~family~~ **Dwelling Unit** residential and platted as single ~~family~~ residential subdivision. A Planned Unit Development (PUD) **or amendment thereto** is permissible only through the **Town Council after review by the** Zoning Administrator and ~~for~~ **Planning Board**. **Any appeal of the determination of the Town Council shall be the appropriate court of jurisdiction.**

##### 604.02. Commercial Service District (CS)

The Commercial Service District (CS) is primarily intended to provide suitable locations for clustered commercial ~~and governmental~~ development **and** to encourage the ~~concentration~~ **regulation** of commercial activity in those specified areas with access to major roads. This district will usually be applied to existing commercial ~~and governmental~~ developments on sites within areas designated on the ~~Land Use Plan~~ **Zoning Map**. This district may be applied to suitable areas adjacent to existing commercial concentrations to allow for their expansion **subject to a public hearing and the recommendation or the Zoning Administrator and/or the Zoning Board of Adjustment**. This district may include multi-~~family~~ **dwelling unit** development such as town homes or condominiums so long as this type of housing is compatible with the Commercial Uses.

604.03. **The Governmental Services District (GS) is intended to provide suitable locations for public services. It includes administrative, utility and recreational usage within the Town.**

## ARTICLE VI

### ESTABLISHMENT OF ZONING DISTRICTS AND **EXISTING AND FUTURE ZONING** MAP

Section 600 Use Districts. For the purpose of this ordinance, the zoning districts of Lake Santeetlah as delineated on the Official Zoning Map of Lake Santeetlah, adopted by the Town Council, shall be divided into the following designated use districts:

R-1 Single Residential District

CS Commercial Service District.

**GS Government District**

Section 601 Establishment of District Boundaries. The boundaries of these districts are hereby established as shown on the Official Zoning Map of the Town of Lake Santeetlah dated November 17, 2015.

Section 602 Establishment of Zoning Map. A zoning map entitled the “Official **Existing and Future Zoning Map** of the Town of Lake Santeetlah, North Carolina” clearly setting forth all approved use districts and its respective boundaries is hereby made a part of this Ordinance and shall be maintained in the ~~office of the Zoning Administrator~~ **Town Hall**. This map shall be available for inspection during the normal business hours of ~~the Zoning Administrator~~ **Town Hall**. It shall be the duty of the **Town Hall staff** to maintain said map and post any changes thereto after any changes are adopted by the Town Council.

Section 603 Rules Governing District Boundaries. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following shall apply:

603.01. Boundaries indicated as approximately following the center lines of streets **nearest the edge of the paved road**, highways, ~~alleys~~, or a body of water, shall be construed to follow such lines.

603.02. Boundaries indicated as approximately following platted lot lines shall be construed as following such lines.

603.03. Where district boundaries are so indicated that they are approximately parallel to the center line of streets, **the nearest edge of the paved road**, highways or right-of-ways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.

603.04. Where a district boundary line divides a lot of single ownership, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extension shall not include any part of such lot more than thirty five (35) feet beyond the district boundary line.

603.05. Where physical features existing on the ground are at variance with those

shown on the Official Zoning Map, or in other circumstances not covered under these rules, the **Zoning Board of Adjustment** shall interpret the district boundaries.

Section 604 Statement of District Intent.

604.01. Single **Dwelling Unit Family** Residential District (R-1). The Single **Dwelling Unit Family** Residential District is primarily intended to provide locations for single **dwelling unit family** residential and supporting uses in areas where public **utility** services are available or will likely be provided in the near future. This district is further intended to protect existing single **dwelling unit family** residential residences from encroachment of incompatible land uses. This district will be applied within those areas designated on **the Zoning Map Land Use Plan** as Single **Dwelling Unit Family** Residential and platted as a single **dwelling family** residential subdivision. A Planned Unit Development (PUD) **or amendment thereto is permissible only through approval of the Town Council after review by the Zoning Administrator. Any appeal of the determination of the Town Council shall be to the appropriate court of jurisdictions.**

604.02. Commercial Service District (CS). The Commercial Service District (CS) is primarily intended to provide suitable locations for clustered commercial **and governmental** development, to encourage the concentration of commercial activity in those specified areas with access to major roads. This district will usually be applied to existing commercial **and governmental** developments on sites within areas designated on the **Zoning Map Land Use Plan** or contiguous to the Town limits such as a full-service marina. This district may be applied to suitable areas adjacent to existing commercial concentrations to allow for their expansion. **This district may be subject to a Public Hearing at the recommendation of the Zoning Administrator.** This district may include multi-dwelling development such as town homes or condominiums, **included in a Permitted Use Development**, so long as this type of housing is compatible with the Commercial Uses **and so long as adequate utilities are determined to be available by County and State agencies.**

604.03 **Governmental Service District (GS).** The **Governmental Service District** is primarily intended to include administrative, utility and recreational usage within the Town.

ARTICLE VII  
PERMITTED USE TABLE

P - Permitted  
C - Allowed as a Conditional Use  
Blank Space - Not permitted

Single Dwelling Unit	P	
Multi-Dwelling Unit		
Apartments		
Condominiums		C
Accessory Buildings	P	
Duplex		
Dwelling Secondary		C
Manufactured Home	P	
Portable Housing, RV's Travel Trailers		
Government Services	P	
Child Care Home		
Junkyard		
Retail Businesses		
Restaurant		
Recreational Vehicle Park/Campground		
Bed and Breakfast		
Motel/Motel/Inn		
Hospital/Urgent Care		

Rehabilitation Center		
Thrift Store		
Veterinary Clinic		
Dog Kennel		
Dog Grooming Services		
Gas Station		
Automobile Services/Repair		
Boat Services/Repair		
Mechanical Car Wash		
Banks and other Financial Institutions		
Self Service Laundry and Dry Cleaning Services		
Professional Services		
Hair Salon		
Equipment Exterior Storage		C
Equipment Interior Storage		C
Public Utility Stations and Substations	P	
Public Utility Pumping Stations	P	
Water and Sewer Plants	P	
Water Storage Tanks		C
Radio and TV Tower		
Commercial Satellite Dishes		
Group Care Facility		
Accessory Retail		
ABC Store		
Auto/Mechanical Parts Store		
Bar/Tavern/Nightclub		
Vehicle/Heavy Equipment Sales		
Vehicle/Heavy Equipment Storage		
Pawn Shop		

Amusement/Indoor		
Amusements/Outdoor		
Recreation Facilities Indoor		
Recreation Facilities Outdoor		
Theater/Motion Picture		
Manufacturing/Wholesale Storage		
Manufacturing Heavy		
Manufacturing Light		
Metal Product Fabrication		
Welding		
Mini-Warehouse		
Outdoor Storage Yard		
Warehousing/Distribution Exterior Storage		
Warehousing/Distribution Interior Storage		
Cemeteries		
Public Safety Facilities		
Religious Institutions		
Schools		
Wireless Telecommunication		
Adult Establishment		
Agricultural/Commercial		
Crematories		
Event Center		
Gaming Terminals		

\*All single dwellings must meet dimensional requirements except when located in a PUD or cluster development as described in the Ordinance. **If a PUD approval or amendment request is made any deviations from the requirements of this ordinance must be clearly stated and if wholly or partially approved by the Council so stated in the approval. Conditional Uses are not permitted in a residential district.**

ARTICLE VIII

Minimum Setback Requirements in Feet  
Front Yard

District	From front of building to nearest road edge property line adjacent to Road	Side Yard	Rear Yard	Max Height in feet
R-1 Single-family dwelling unit Residential	<del>25'</del> 15'	10'	10'	30' from highest elevation of subject property. 35" from base foundation to peak of roof
R-3 Multi-Dwelling (PUD) High Density Residence	25'	10'	10'	30' from highest base elevation of subject property. 35" above the base foundation to peak of roof.
CS Commercial Services	<del>85'</del> 30'	10'	10'	30' from highest base elevation of subject property. 35" above the base foundation to peak of roof.
PS Private Public Services	25'	10'	10'	30' from highest base elevation of subject property

Note: Minimum lot area shall be subject to approval from the Graham County Health Department and a county or state agency as required. In all cases, lot areas shall meet setback requirements contained in this Ordinance.

## ORDINANCE ARTICLE IX

### CONDITIONAL USE/SPECIAL USE PERMITS

Section 900 Purpose. The ~~following~~ **afore-noted** conditional/**special** uses would not be appropriate without restriction throughout the zoning districts, but could be acceptable if controlled as to number, area, location or relation to the neighborhood including hours and days of operation. Such uses may be permitted in a zoning district as conditional uses if the provisions of this and all other Articles of this Ordinance are met and continued to be met.

Section 901 Procedure for Obtaining a Conditional Use/**Special Use** Permit.

901.01. A written application for a Conditional Use Permit shall be submitted to the Zoning Administrator.

901.02. After submission of an application for a Conditional Use Permit, the Zoning Administrator shall arrange a conference with the applicant **and/or the Zoning Board of Adjustment**. At the conference, the applicant shall submit a sketch development plan and a brief description of the proposed development strategy. The conference is designed to inform the applicant of the ~~Lake Santeetlah~~ **Town's** regulations and policies concerning development alternatives and to inform ~~Lake Santeetlah~~ **the Town** of the applicant's intentions, enough to be able to give the applicant informal non-binding feedback on the acceptability of the applicant's plan. The greater the level of common understanding between the applicant and ~~Lake Santeetlah~~ **the Town** that can be achieved at the conference stage, the smoother the remaining steps of the review process will be.

901.03. Notice of Hearing. After the Zoning Administrator **and the Zoning Board of Adjustment have** made their recommendations, the **Zoning Administrator** shall ~~give~~ **provide** notice of hearing **in a local newspaper having general circulation in the Town**. In the event of a Planned Unit Development (PUD) approval or amendment the Town Clerk shall mail notices of the hearing to the affected parties, to members of the Zoning Board of Adjustment and to such other persons as the Board shall direct, at least ten days prior to the hearing. Such notices shall state the location of the building or lot, the general nature of the applicant's request, and the time and place of the hearing.

The existing and proposed street system, including location and number of off-street parking spaces, service areas, loading areas, and major points of access to public right-of-way. Notations of proposed ownership of the street system.

901.04. Materials Required: At least one ~~week~~-month prior to the date set for the hearing, the applicant shall submit three copies of the final development plan to the ~~Town Council~~ Zoning Board of Adjustment. The development plan shall contain a map or maps drawn to scale, with the date of preparation and shall contain, where applicable, the following information:

1. Boundary lines of the proposed development, proposed lot lines and plot designs.
2. Boundary lines and use of all existing and proposed structures.
3. Proposed location and use of all existing and proposed structures.
4. Location and size of all areas to be conveyed, dedicated or reserved as common open space, parks, recreational areas and similar public and semi-public uses.
5. The existing and proposed street system, including location and number of off-street parking spaces, service areas, loading areas, and major points of access to public right-of-way. Notations of proposed ownership of the street system.
6. Approximate location of proposed utility system, including documentation approving the proposed water and sewer systems from the appropriate local and state agencies along with documentation of an approved Sedimentation and Erosion Control. Plan shall be submitted where required.
7. Location and/or notation of existing and proposed easements and right-of-ways. This shall be in the form of a survey which may be filed with the Register of Deeds.
8. The proposed treatment of the perimeter of the development including materials and/or techniques such as screens, fences, and walls.
9. Information on adjacent land areas, including land use, zoning classifications, public facilities, and any unique natural features.
10. Where applicable, the following written documentation shall be submitted:
  - (a) A legal description of the total site proposed for development, including a statement of present and proposed ownership.
  - (b) The zoning district or districts in which the project is located.
  - (c) A development schedule indicating approximate beginning and completion

Dates of the development, including any proposed phases.

(d) A statement of the applicant's intentions with regard to the future selling and/or leasing of all or portions of the development.

(e) Quantitative data for the following: proposed total number and type of commercial use units; parcel size; total amount of open space; and parking space.

(f) Plan for maintenance of common areas, recreation areas, open spaces, streets, parking and utilities.

(g) **Conditional Use Permits shall not be issued for a residential district.**

901.05. Conduct of Hearing. Any party may appear in person or by authorized agent or by attorney at the hearing held by the ~~Town Council~~ **Zoning Board of Adjustment or the Town Council (if a Planned Unit Development (PUD))**. The order of business for hearing shall be as follows; (a) ~~The Zoning Board of Adjustment~~ or such person as the ~~Mayor~~ **Chairperson** shall direct, shall give a preliminary statement of the matter; (b) the applicant shall present the statements supporting the application; (c) persons opposed to granting the application shall present statements against the application; (d) both sides will be permitted to present rebuttals to opposing statements. The ~~Town Council~~ **Zoning Board of Adjustment** shall make necessary inquiries.

901.06. Conditions for Granting Approval. If the ~~Town Council~~ **Zoning Board of Adjustment** finds that, in the particular case in question, the use for which the Conditional Use Permit is sought will not adversely affect the health or safety of persons residing or working in the neighborhood **within approximately 1000 foot radius** of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood, a permit may be granted. In granting such a permit, the ~~Town Council~~ **Zoning Board of Adjustment** may designate such conditions in connection therewith as well, in its opinion, assure that the proposed use will conform to the requirements and spirit of this Ordinance. Before any Conditional Use Permit is issued, the ~~Town Council~~ **Zoning Board of Adjustment** shall make written findings certifying compliance with the specific rules governing the individual conditional use as outlined in the Ordinance, and that satisfactory provision and arrangement has been made for at least the following, where applicable:

- (1) Satisfactory ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control.
- (2) Provision of off-street parking and loading areas where required, with particular attention to the items in (1) above, and the ~~economie~~, noise, glare and odor effects of the conditional use on adjoining properties ~~in the area~~ **within approximately 1000 feet of the proposal**.
- (3) Adequate and proper utilities, with reference to locations, availability and compatibility.
- (4) Buffering, with reference to type, location and dimensions.

- (5) Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
- (6) Playgrounds, open spaces, yards, landscaping, access ways, pedestrian ways, with reference to location, size and suitability.
- (7) Buildings and structures, with reference to location, size and use.
- (8) Hours of operations, with particular reference to protecting and maintaining the character of the neighborhood.
- (9) Provision for notice and response in the event of violations by the applicant shall be by First Class Mail to the address on the Town tax bill.
- (10) Provision for notice and approval shall not be unreasonably withheld in the event the applicant sells the property **and a sale shall not be completed until the requirements are met.**
- (11) In any event, a conditional use approval shall not extend more than ten (10) years from the date of approval unless a new public hearing is held by the Town Council. The Town Council may extend the conditional use for an additional period not to exceed ten years.

901.07

Decisions. The **Zoning Board of Adjustment or the** Town Council **if a PUD, shall** consider the matter and make a decision by the next regularly scheduled meeting unless more time is required to make an informed decision about the matter. The final decision of the **Zoning Board of Adjustment or** Town Council shall be shown in the record of the matter as entered in the minutes of the **Zoning Board of Adjustment or** Town Council meeting and signed by the **Town Clerk** upon approval of the minutes by the **Zoning Board of Adjustment or** Town Council. **The approved language must be recorded in the records of the Graham County register of Deeds per this Ordinance.**

- (1) Expiration of Application. Unless otherwise specified, any order or decision of the Town Council (if a PUD) or **Zoning Board of Adjustment** granting a conditional use permit shall expire if a Town Building Application is not obtained within three months. The Certificate of Occupancy must be obtained within two years after the issuance of the Zoning Compliance Form.
- (2) If at any time after a Conditional Use Permit is issued, the ~~Town Council~~ **Zoning Administrator** finds that the conditions imposed and agreement made and signed by the applicant or by a duly authorized representative of the applicant have not been or are not being fulfilled by the holders of a Conditional Use Permit, the Permit ~~shall~~ **may** be terminated and the operation of such use discontinued. **Prior to terminating a Conditional Use Permit, the Zoning Board of Adjustment shall provide notice of the non-compliance, and the owner shall have thirty (30) days to cure the non-compliance.** If a Conditional Use Permit is terminated for any reason, it may be reinstated only after a public hearing is held. New conditions may be imposed.

901.08 The Zoning Administrator shall make periodic inspections during construction as well as a final inspection after construction is complete to determine whether the conditions imposed and agreements made in the issuance of the permit have been met as well as whether all other requirements of this Ordinance have been met. If deemed necessary, periodic inspections will be made to ensure that all operational conditions are met.

901.09 Minor changes in the location, siting or character of buildings and structures may be authorized by the Zoning Administrator, if required by engineering or other circumstances not foreseen at the time the final development program was approved, provided however, no change authorized by the Zoning Administrator under this section may increase the size of any building or structure, nor change the location of any building or structure in any direction, nor make any changes beyond the minimum or maximum requirements set forth in this Ordinance. All other changes, including changes in the site plan, operational plan and in the development schedule, must be submitted to the **ZBA Town Council if a PUD**. In no case shall the following changes be made without re-submission of the development plan according to the procedures in this section:

- (1) A change in the use or character of the development.
- (2) An increase in overall Density, (square feet of construction in relation to overall lot size).
- (3) An increase in Intensity of type of use.
- (4) Alteration of the traffic circulation system.
- (5) A reduction in approved open space.
- (6) A reduction in off-street parking and loading space.

901.10 If no development has occurred within six months after the issuance of a Conditional Use Permit, the Permit shall become null and void without written extension from the **Zoning Board of Adjustment or the** Town Council, and the procedures for application and reviews as outlines in this section shall be required for any development on the subject property.

Section 902 Conditional Use Standards. The following standards are applied to specific conditional uses. Before issuing a Conditional Use Permit, the **Zoning Board of Adjustment or the** Town Council shall find that all standards for specific uses listed in this section as well as all standards listed in the Ordinance have been met.

#### 902.01. Private Recreation Facilities

- (1) **Off-street parking shall be sufficient to meet the requirements found in this Ordinance and amendments thereto.**
- (2) The **Zoning Board of Adjustment** or Town Council may require buffering consisting of evergreen trees or shrubs located along the side and rear lot lines, but shall not extend beyond the established setback line along, any street. Such

buffer strip shall not be less than 4 feet in width and shall be composed of trees or shrubs of a type which at maturity shall be not less than 6 feet in height. This planting requirement may be modified by the **Zoning Board of Adjustment** or Town Council where adequate buffering exists in the form of vegetation and/or terrain. The landscape must be maintained to an industry standard during the term of the Conditional Use approval and **any extension thereof**.

- (3) The proposed hours and days of operation shall not be detrimental to the surrounding property due to noise, flashing lights, traffic, etc.
- (4) All developments shall be compatible with surrounding residential uses; therefore, no signs with flashing lights shall be allowed. All non-flashing illuminated signs shall be so placed so as not to cast light on adjoining residential uses.

#### 902.02 Radio and T.V. Towers, Satellite Dishes, Private Water and Sewer Plants, Private Water Storage Tanks.

- (1) The site shall be appropriately landscaped, including a buffer strip at least 4 feet wide and planted with shrubs or trees which at maturity shall not be less than six feet high along the side and rear property lines. This planting requirement may be modified by the ~~Town Council~~ **Zoning Board of Adjustment, or Town Council if a PUD**, where adequate buffering exists in the form of vegetation and/or terrain. The landscape must be maintained to an industry standard during the term of the Conditional Use approval.
- (2) Entrances and exits shall be designed so as to promote public safety. Signs shall not block the view of drivers or pedestrians.

#### 902.03. Multi-Dwellings Units. Multi-dwellings units are not permitted as a Conditional Use.

#### 902.04. Restaurants.

- (1) Off-street parking shall be sufficient to meet the requirements found in this Ordinance ~~and as amended~~.
- (2) The Town Council or **Zoning Board of Adjustment** may require a buffer strip as defined in this Ordinance.
- (3) Restrooms, sewage disposal and grease traps shall be designed so as to create minimal impact on either septic or sanitary sewer transmission and disposal facilities.

#### ~~902.05 Laundry and Dry Cleaning Services.~~

- ~~(1) Off-street parking shall be sufficient to meet the requirements found in this Ordinance and amendments thereto.~~
- ~~(2) The Town Council may require a buffer strip as defined in this Ordinance.~~

#### ~~902.06 Mechanical Car Wash. Mechanical car washes are not permitted as a conditional use.~~

~~902.07 Professional and Business Offices and Services. This use shall only be permitted as part of an approved Planned Unit Development in the Commercial District.~~

~~902.08 Retail Trade, Commercial Services, Sales and Rental of Goods Merchandise and Equipment. This use shall only be permitted as part of an approved commercial development.~~

## ARTICLE X

### GENERAL PROVISIONS

Section 1000 Zoning Affects Every Building and Use. 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, except as provided in this Ordinance.

Section 1001. Grandfathering. All structures built or under construction at the time of enactment of this Ordinance shall be deemed to be grandfathered in.

Section 1002 Certificate of Zoning Compliance Required. No building or other structure shall be erected, moved, added to or structurally altered, nor shall any building application be issued nor shall any change in the use of any building application or land be made until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator. No Certificate of Zoning Compliance shall be issued except in conformity with the provisions of this Ordinance.

1002.01. Application for Certificate of Zoning Compliance. All applications for certificates of Zoning compliance shall be accompanied by plans showing the actual dimensions of the plot to be built upon, and the location on the lot of the building(s) or structure(s) proposed to be erected or altered, and such other information as may be necessary to provide for the enforcement of the provisions of this Ordinance. The information shall include a set of construction drawings. The Town may charge a reasonable fee for the issuance of the Certificate.

Section 1003. **Building Permit. No Building Permit shall be issued prior to the approval of a Certificate of Zoning Compliance.**

Section 1004. **Certificate of Occupancy. A Certificate of Occupance shall be required by the Graham County Building Inspector.**

Section 1005. Nonconforming Uses. Any parcel of land, use of land, building or structure existing at the time of the adoption of this Ordinance, or any amendment thereto, that does not conform to the use or dimensional requirements of the district in which it is located, may be continued and maintained subject to the following provision:

1003.01. Nonconforming Vacant Lots. This category of nonconformance consists

of vacant lots for which plats or deeds have been recorded in the Graham County Register of Deeds, which at the time of the adoption of this Ordinance fail to comply with the minimum area or width requirements **or with other sections of this Ordinance**, of the districts in which they are located. Any such nonconforming lot may be considered for a variance.

1003.02. Nonconforming Occupied Lots. This category of nonconformance consists of lots, occupied by the buildings or structures at the time of the Ordinance, that failed to comply with the minimum requirements for the area, width, yard and setbacks for the district in which they are located. These lots may continue to be used.

1003.03. Nonconforming Uses of Structures. This category of nonconformance consists of buildings or structures used at the time of the enactment of this Ordinance for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:

- (1) An existing nonconforming use may be changed to another nonconforming use of a higher classification, provided that the other conditions in this section are complied with. For the purpose of this Ordinance, the rank order of uses from higher to lower shall be (1) Residential; (2) **Governmental Services** ~~Private public service~~; and (3) Commercial Service.
- (2) When a nonconforming use has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.
- (3) A nonconforming use may not be extended or enlarged, nor shall a nonconforming structure be altered except as follows:
  - (a) Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.
  - (b) Maintenance and repair necessary to keep a nonconforming structure in sound condition are permissible.
  - (c) Expansion of a nonconforming use of a building or structure into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such conforming use in permissible.
- (4) When any nonconforming use of a building or structure is discontinued for a period in excess of 180 days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located.

1003.04. Reconstruction of Damaged Building or Structure. Any non-conforming use, which has been damaged by fire, wind, flood or other causes, may be repaired and used as before provided **unless the extent of repair costs exceeds 50 percent of the value as established by the Graham County Tax Assessor in the most current tax scroll. In such event the replacement structure must be built to the current requirements of this Ordinance:**

- (1) Repairs are initiated in accordance with ~~the Town requirements and the Graham County Building code~~ **this Ordinance.**
- (2) The total amount of space devoted to a nonconforming use may not be increased **if the repair cost is less than 50 percent.**
- (3) Reconstructed buildings may not be more nonconforming with respect to dimensional restrictions **if the repair cost is less than 50 percent.**

Sections 1004

Off-Street Parking. Off-street automobile, **boat and boat trailers**, storage or parking space shall be provided on every lot on which any of the following uses exist. The number of parking spaces provided shall be at least as great as the number specified below for various uses. When application of said provision results in a fractional space requirement, the next larger requirement shall prevail. Each lot abutting a major thoroughfare, as determined by the Zoning Administrator, shall be provided with vehicular access thereto and shall be provided with adequate space for turning so that no vehicle shall be required to back into the street. A parking space shall consist of an area not less than ten feet ~~(10') by twenty two feet (22')~~, **Nine feet by 18 feet**, plus the necessary access space unless otherwise authorized by the Town Council pursuant to the Parking Ordinance adopted June 17, 2014 and contained in the Code of Ordinances for the Town of Lake Santeetlah.

1004.01. Minimum Parking Requirements. The required number of off-street parking spaces specified below for each use shall be provided. A garage may be counted as a parking space.

Residential & Commercial Uses	Required Parking
Residential Single Dwelling Unit	Minimum of two spaces per dwelling unit plus <del>10% of minimum requirement for visitor parking and</del> disability parking if required.
<b>Planned Unit Development</b>	<b>Minimum of 2 spaces per dwelling unit</b>
Commercial Uses	Depending on the type of facility and parking demand created, the Zoning Administrator shall establish the number of <b>minimum spaces based on Intensity of use as recommended by the Planning Board.</b>
<b>Disability Parking</b>	<b>As Required by Local or State Law</b>

Section 1005

Visibility at Intersections. Sight distances at intersections must meet the standards for secondary roads established by the North Carolina Department of Transportation. On corner lots, no planting, structure, sign, fence, wall or other obstruction shall be erected so as to interfere with said sight distance.

Section 1006 Relationship of Building to Lot. Every building hereafter erected, moved or structurally altered shall be located on a single lot and in no case shall there be more than one (1) principal building and its customary accessory buildings on the lot, except in the case of a Planned Unit Development. **Unless such exception is approved by the Town Council and the original PUD or any modifications thereto.**

Section 1007 Vacant Lots. Vacant lots and open spaces shall be maintained. Vegetation shall be neatly trimmed, and the accumulation of junk or unsightly debris is prohibited.

~~Section 1007 Fences, Wall, and Hedges~~

~~Ornamental wood fences, rock walls and ornamental hedges not to exceed four feet in height may be allowed in districts R-1 and CS, providing its purpose is to enhance the appearance of the property. Fences made with wire, barbed wire and electrically charged fences are not permitted in the above mentioned districts. Fences in the CS district shall be permitted where protection of the property from trespassers is essential to the health and safety of the community.~~

~~Chain link fencing is permitted for the CS District in connection with protection of the water supply, pumping stations, water storage and other similar types of services.~~

~~Fences must be approved prior to construction pursuant to the Fence, Wall and Hedge Ordinance. Fences must be built with approved fence wire, standard fence wood, vinyl or metal such as wrought iron. A fence shall not be built with scrap lumber, chicken wire, wood pallets or other unapproved materials. Fence posts and supports must be installed on the side of the fence that faces the owner's house or yard; that is, the owner who is installing such fencing. Any finished side of the fencing must face toward the neighboring home or adjoining property.~~

~~This section shall not apply to structural retaining walls. Structural retaining walls shall be defined as any wall constructed of wood, rock or masonry; the primary purpose of which is to stabilize the soil. Any fence, wall or hedge which exceeds these dimensions must be approved by the Zoning Administrator.~~

Section 1008. **Overgrown vegetation and weeds. All properties shall be maintained and shall not contain overgrown vegetation and weeds that are in sight of other properties.**

Section 1009. **Vacant Lots. Vacant lots that have been cleared or partially cleared of original forest cover and not built upon shall be maintained.**

## ARTICLE XI

### PLANNED UNIT DEVELOPMENT

- Section 1100 Purpose. The purpose of this section is to encourage and provide for flexibility and innovation in the design and location of structures and land development, to provide for the most efficient use of land resources, and to provide an opportunity to develop land areas in a manner different from the standard arrangements of one principal building on one lot in order to create useful open spaces and preserve natural site features. It is further intended that a Planned Unit Development (PUD) will be in harmony with the character of the district in which it is located. **If the PUD total land area is predominantly in one Zoning District, the design theme of the larger area shall be the design of the entire land area.**
- Section 1101 Planned Unit Development Defined. Any development where more than one principal building or use is proposed to be constructed on a single lot, ~~or any building with a gross floor area of 25,000 square feet or more,~~ shall be deemed a Planned Unit Development (PUD). .
- Section 1102 Land Development Standards. The following land development standards shall apply for all Planned Unit Developments. Planned Unit Developments must be located in the CS District, subject to a finding by the ~~Town Council~~ **ZBA** that certain conditions be met. In any circumstance, residential uses may not be approved as a Conditional Use.
- (1) Ownership Control. The land in a Planned Unit Development shall be under single ownership or management by the applicant before final approval and/or construction, witnessed by legal title filed with the Register of Deeds which shall be provided to the ~~Town Council~~ **Zoning Board of Adjustment**. Evidence that the development can be successfully and financially completed by the applicant within five years is required to be submitted with an application.
  - (2) Frontage Requirements. PUDs shall have access to a highway or road suitable for the scale and density of development being proposed.
  - (3) Land Uses. A mixture of land uses shall be allowed in any PUD. However, commercial uses shall not constitute the primary use in the PUDt, and commercial uses shall be carefully designed to complement the residential uses within the PUD. All PUDs ~~must~~ **shall** be compatible with and not violate the intent of the zoning district.
  - (4) Minimum Requirements:
    - (a) The normal minimum lot size, setbacks and frontage requirements are hereby waived for the PUDS, provided that the spirit and intent of this Section is complied with in the total development plan, as determined by the Town Council. The Town Council shall exercise ultimate discretion as to whether the total development plan does comply with the spirit and intent of this Section. Prior to the approval

or amendment of a PUD, the PUD must be completely platted by a licensed, registered surveyor. No later than thirty (30) days subsequent to approval by the Town Council, said completed plat must be filed with the Graham County Register of Deeds or said approval shall be rendered null and void. There must be a functioning Home Owners Association and an Architectural Review Committee for a PUD.

- (b) Height limitations: No building or structure shall exceed the height limitations of the district in which it is located, as set forth in this Ordinance.
  - (c) Required distance between buildings. The minimum side lot setback distance between buildings shall be twenty feet or as otherwise specified by the ~~Town Council~~ Zoning Board of Adjustment in order to ensure adequate air, light, privacy, and space for emergency vehicles.
  - (d) Every dwelling unit shall have access to a public or private street, walkway or other area dedicated to common use, and there shall be provision for adequate vehicular circulation and parking to all development properties in order to ensure acceptable levels of access for emergency vehicles. The developer shall agree ~~agrees~~ to complete and dedicate all roads to the Town of Lake Santeetlah within twenty four months of approval of the development.
- (5) Enjoyment. Each PUD shall provide reasonable visual and acoustical privacy for all dwelling units. Fences, sound insulation, in structures, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses and reduction of noise. Multi-dwelling residential and commercial buildings shall be located within a PUD in such a way as to dissipate any adverse impact on adjoining single dwelling unit buildings and shall not invade the privacy of the occupants of such single dwelling unit buildings.
- (6) Perimeter Requirements:
- (a) Structures located on the perimeter of the development must be set back from property lines and right-of-ways of abutting streets in accordance with the provisions of the Zoning Regulations controlling the district within which the property is situated.
  - (b) Structures other than single-dwelling detached units located on the perimeter of the development may require screening in a manner which is approved by the ~~Town Council~~ Zoning Board of Adjustment.
- (7) Plans and accompanying documentation to ensure that the water sanitary systems, storms, drainage and lighting proposed for the PUD have been approved by the appropriate local and state agencies shall be submitted as part of the application.
- (8) Preliminary plans shall include parking provisions for all proposed uses within the PUD in accordance with this Ordinance. When more than one use is located in the PUD, the minimum required parking shall be the sum of the

required parking for each use within the development.

- (9) Any pedestrian and bicycle path circulation system and its related walkways shall be designed to minimize conflicts between motorized vehicles, pedestrian and bicycle uses.
- (10) Layout of parking areas, service areas, entrances, exits yards, courts and landscaping, and control of signs, lighting, noise or other potentially adverse elements shall be such as to protect the character within the zoning districts and desirable character in any adjoining district.
- (11) Conveyances and maintenance of open space, recreational areas and community facilities shall be in accordance with the Unit Ownership Act, Chapter 47 of the North Carolina General Statutes, and/or any other appropriate mechanisms acceptable to the Zoning Board of Adjustment.
- (12) Regardless of 1102 of this of Section, there is no waiver submittal of a Zoning Compliance Form for the elements of a PUD as those elements are built.
- (13) PUD application approvals shall have a maximum time limit and a proposed schedule in detail for the buildout of the entire project.
- (14) The Town does not assume responsibility for the enforcement of the Architectural Guidelines for a PUD. Such Guidelines shall be filed with the Register of Deeds.
- (15) Any PUD proposal must be accompanied by a proposed Development Agreement which shall be reviewed as an element of the PUD review process. The Development Agreement when approved or amended must be filed with the Graham County Register of Deeds.

## ARTICLE XII

### RECOVERY OF COSTS FOR APPLICATION AND APPEALS

Section 1200 The Zoning Administrator shall annually develop a schedule of fees for the various procedures required under this Ordinance for review and adoption by the Town Council. Such fees shall be paid in advance by the applicant or appellant prior to the initiation of any action by the Town.

## ARTICLE XIII

### EXCEPTIONS AND MODIFICATIONS

Section 1300. Compliance with the requirements of this Ordinance is mandatory; however, under the specific conditions enumerated in the following sections, the requirements may be waived or modified as so stated as provided in this Ordinance.

Section 1301 Completion of Building Under Construction. Nothing in this Ordinance shall require any change in the plans, construction or designated use of a building under construction at the date of the passage of this Ordinance, provided that construction of such building is diligently pursued and the entire building is completed and granted a Certificate of Occupancy from Graham County within **twenty-four (24)** months from the date of passage of this Ordinance. A building shall be deemed to be under construction upon the effective date of this Ordinance if a **Zoning Compliance Certificate** has been issued by the Town.

## ARTICLE XIV

### AMENDMENT

Section 1400 Amendments. This Zoning Ordinance, including the Zoning Map, may be amended by the Town Council in accordance with the provisions of this Article.

Section 1401 Amendment Recommendations. Proposed changes or amendments may be initiated by the Town Council, the Zoning Administrator, the Zoning Board of Adjustment, or **the Planning Board** or one or more owners of property within the area proposed to be changed or affected.

Section 1402 Application. Before any action on a proposed change or amendment, an application shall be submitted to the Zoning Administrator at least thirty **(30)** days prior to the Zoning Board of Adjustment's meeting at which the application is to be considered. The application shall contain the name(s) and address(es) of the owner(s) of the property in question, the location of the property and a description and/or statement of the present and proposed zoning regulation or district. Applications requesting a change in the Zoning Map shall include a description of the property in question. The

Zoning Administrator ~~and Town Council~~ will not consider an application for property denied within the preceding **twelve (12)** months by the ~~Town Council~~ **Zoning Board of Adjustment**.

- Section 1403 **Town Council Action.** Before taking any action on a proposed amendment to the Ordinance, the Town Council shall consider the recommendations of the Zoning Administrator, the Zoning Board of Adjustment and the Planning Board on each proposed amendment. The Town Council will place the matter on the Agenda at the next regularly scheduled meeting to hear the recommendations. At the next regularly scheduled meeting, the Council shall determine the process of proceeding with the recommendations.
- Section 1404 **Public Hearing.** Before enacting any amendment to this Ordinance, the Town Council shall hold a public hearing. A Notice of such public hearing shall be published in a newspaper of general circulation in the Town of Lake Santeetlah once a week for two successive weeks, at the first publication shall not appear less than ten days or more than 25 days prior to the date fixed for the public hearing. The notice shall include the time, place, and date of the hearing and include a description of the property or the nature of the change or amendment to the Ordinance and/or the **Zoning Map**.
- Section 1405 **Decision.** The Town Council shall make a decision on the proposed amendment within sixty (60) days after the public hearing. Neither the Zoning Board of Adjustment nor the Town Council shall consider specific development proposals on any property when considering an amendment involving the re-zoning of such property or the amendment of the Zoning Map.

## ARTICLE XV

### VIOLATIONS, PENALTIES AND REMEDIES

Section 1500. Violations. Whenever, by the provisions of this Ordinance, the performance of any act is prohibited, or whenever any regulation, dimension or limitation is imposed on the use of any land, or on the erection or alterations or the use or change of use of a structure, or the uses within such structure, a failure to comply with such provisions of this Ordinance, shall constitute a ~~separate violation. and a separate offense.~~

1500.01. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, moved or maintained, or any building, structure or land is used in violation of this Ordinance, the ~~Town Council~~ **Zoning Administrator**, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure on land, or to prevent any illegal act, conduct of business or use in or about the premises.

1500.02. Remedies. Unless otherwise specifically provided, violation of any provision of this Ordinance shall subject the offender to the remedies provided in this Article, except that where the General Statutes of North Carolina provide specific civil remedies for violations of provisions of the Ordinance adopted pursuant to such statutes, such remedies available for enforcement of this Ordinance shall be in addition to the remedies stated in this Article.

Section 1501. Enforcement. Upon determination of a violation of any section of this Ordinance, the penalty for which is a civil penalty, the Zoning Administrator shall cause a warning citation to be issued to the offender setting out the nature of the violation, the Ordinance section violated, the date of the violation and an order to cease the violation within ten business days. The warning citation shall be served directly on the offender or his duly designated agent or registered agent, if a corporation, in person or posted in the United States mail service by first class mail addressed to the last known address of the offender as contained in the Graham County tax records, the records of TOLS or obtained from the offender. The offender shall be deemed to have been served upon the mailing of such warning citation

1501.01 Notices of Violations. When staff determines work or activity has been undertaken in violation of this Ordinance adopted pursuant to NCGS 160D-404 and NCGS 14.4, the Zoning Administrator shall issue a written citation in the form of a Notice of Violation.

1500.02. **Notice of Violation Delivery.** ~~Notice of violation must be sent by Certified Mail to the owner of the property at the address recorded in the Graham County Tax Collector records.~~ **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 shall be provided by similar means to the occupant of the property or the person undertaking the work or activity. Graham County tax records may be used to obtain an address.**

1501.03. **The Notice of Violation shall be deemed to have been received upon issuance of the Notice.**

1500.04. **Notice Timeframe.** **The Notice of Violation shall include a response time of ten business days from the date of the Notice issuance.**

Section 1501. **Appeal.** A property owner may appeal the notice of violation within ten **business** days ~~of receipt~~ **of issuance** of the notice by ~~mailing~~ **providing** to the Zoning Administrator a **written** request to be heard by the Zoning Board of Adjustment.

Section 1502. **Failure to Respond to the Notice of Violation.** Upon failure of the offender to respond to the Notice of Violation, a civil citation shall be issued by the Zoning Administrator setting out the nature of the violation, the Ordinance section violated, the date of the violation, and the date the warning citation was issued along with the order to cease date. The offender shall be deemed to have been served upon the mailing of such citation. The citation shall direct the offender to pay the penalty, pursuant to NCGS 14-4, in person at Town Hall, or alternatively pay the penalty by mail, within ten business days of the date of the Notice with the date shown. The violation for which the citation is issued must have been corrected by the time the full penalty is paid; otherwise, further citations shall be issued and other remedies available to the Town may be pursued.

Section 1503. **Penalties.**

1503.01. **Penalty Payment.** Penalties shall be paid in full at Town Hall. A partial payment of the penalty due shall not be accepted.

1503.02. If the violator does not pay the penalty within ten **business** days of issuance of the citation, the Town ~~may~~ **shall** recover such penalty and related legal and Court costs in a civil action in the nature of a debt.

1503.03. **Continuing Violations.** Each day's continuing violations of any provision of this Ordinance shall constitute a separate and distinct violation after ten **business** has expired from the issuance of the citation.

1504.02. **Penalty Duration.** Penalties shall be remain in effect until the Zoning Administrator determines the violation has been corrected.

Section 1505. Civil Action. If the offender fails to respond to a citation within ten business days of its issuance or fails to take action to remedy the violation and to pay the penalty prescribed therein, or fails to file an appeal, the Zoning Administrator shall institute a civil action in the nature of debt in the Graham County Court for the collection of the penalty and/or pursue any other remedies available to the Town.

1505.01. Civil Violation. Civil Violation of this Ordinance shall subject the offender to a civil penalty in the amount of ~~Two Hundred Fifty Dollars (\$250.00)~~ **One Hundred Fifty Dollars (\$150.00)** for each violation to be recovered by the Town.

Section 1506. Court Equitable Remedy. Any provision of this Ordinance may be enforced by an appropriate equitable remedy issuing from a court of jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Town for equitable relief that there is an adequate remedy at law.

Section 1507. Misdemeanor. Any person adjudged in violation of this Ordinance shall be guilty of a misdemeanor and shall be ~~punished~~ **subject to provisions in NCGS 14.4(a).**

Section 1508. Stop Work Order. The Zoning Administrator may issue a Stop Work Order in accordance with NCGS 160D-404 (b).

Section 1507. Order of Abatement. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Zoning Administrator shall execute the order of abatement within the time allowed by the court. The Town shall have a lien on the property for the cost of executing an order of abatement in accordance with NCGS 160A-175(c). The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction with such order.

Section 1508. Enforcement. The provisions of this Article may be enforced by any one, all or a combination of the remedies authorized and prescribed by this Article, except that any provision, the violation of which incurs a civil penalty, shall not be enforced by criminal penalties.

Section 1509. Separate and Distinct Offense Penalties. Except as otherwise specifically provided, each day's continuing violation of any provision of this Article shall be a separate and distinct offense. Penalties shall be determined in accordance with NCGS 14.4 or amounts otherwise set by the Town Council.

ARTICLE XVI

LEGAL STATUS PROVISIONS AND EFFECTIVE DATES

Section 1600 Severability. It is the legislative intent of the Town Council in adopting this Ordinance that all provisions and sections thereof shall be liberally construed to protect and preserve the peace, health, safety and general welfare of the inhabitants of the Town of Lake Santeetlah, and further, that should any provision, portion, section or subsection of this Ordinance be held to be invalid by a court of competent jurisdiction such ruling shall not be construed as affecting the validity of any of the remaining provisions, portions, sections or subsections; it being the intent of the Town Council that this Ordinance shall stand, notwithstanding the invalidity of any provision or section, or part thereof.

Section 1601 Conflict with Other Laws.

When provisions of this Ordinance require a greater width or size of yard or courts, or require a lower height of a building or fewer number of floors, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, provisions of this Ordinance shall govern. When the provision of any other statute or local ordinance or regulations require a greater width or size of yards or courts, or required a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the provisions made by this Ordinance, the provisions of that statute or local ordinance or regulation shall govern.

This Ordinance shall take effect and be in force beginning \_\_\_\_\_.