

# TOWN OF MINERAL SPRINGS

## NOTICE OF SPECIAL MEETING

NOTICE IS HEREBY GIVEN that the Town of Mineral Springs will conduct a special meeting on Tuesday, June 29, 2021, at 7:30 PM via "Zoom". The purpose of the meeting shall be:

- To adopt an ordinance on the NCGS 160D text amendments
- To adopt an ordinance to amend the FY2021-2022 budget

This the 24<sup>th</sup> day of June, 2021.

By   
Frederick Becker III, Mayor

# Town of Mineral Springs

## *Mayor*

*Frederick (Rick) Becker*

## *Mayor Pro Tem*

*Valerie Coffey*

## *Council Members*

*Jerry Countryman*

*Janet Critz*

*Lundeen Cureton*

*Bettylyn Krafft*



## *Town Clerk*

*Vicky Brooks*

## *Mailing Address*

*P.O. Box 600*

*3506 Potter Road S*

*Mineral Springs, NC 28108*

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## \*\*\*\*\*PUBLIC NOTICE\*\*\*\*\*

June 24, 2021

The Mineral Springs Town Council will conduct a special called meeting scheduled for Tuesday, June 29, 2021, at 7:30 p.m. with council members participating remotely via Zoom software.

The public can view the meeting:

1. Join the meeting through Zoom on your computer or cellphone.  
Simply click on the following link or type it into your internet browser:  
<https://us02web.zoom.us/j/7623238311> Meeting ID 762 323 8311

If you have not used Zoom before, you are encouraged to download the application from their website at Zoom.us and try it out prior to the meeting. There are no costs associated with the software or attending the meeting. If you are having trouble downloading the software, please call Town Clerk Vicky Brooks before 2:00 p.m. on Tuesday, June 29<sup>th</sup>, so she can try to assist you.

2. Join the meeting through audio only via telephone.  
Simply call one of the following numbers: 1-346-248-7799 US (Houston), 1-669-900-6833 US (San Jose), 1-929-205-6099 US (New York), 1-301-715-8592 US, 1-253-215-8782 US, or 1-312-626-6799 US (Chicago). When prompted, enter meeting ID 762 323 8311 followed by the pound (#) sign. Depending on your carrier, long distance charges may apply.

**Town of Mineral Springs**  
**Electronic Meeting via Zoom**  
**Meeting ID#762 323 8311**  
**Mineral Springs Town Council**  
**Special Meeting**  
**June 29, 2021**  
**7:30 P.M.**  
**AGENDA**

**ATTENTION:** This meeting will be conducted virtually. In order to comply with the open meetings law, the town is providing you with the ability to attend this meeting virtually via Zoom by calling one of the following numbers +1-346-248-7799 US (Houston), +1-669-900-6833 US (San Jose), +1-929-205-6099 US (New York), +1-301-715-8592 US, +1-253-215-8782 US (Tacoma), or +1-312-626-6799 US (Chicago) or by visiting <https://us02web.zoom.us/j/7623238311>. The meeting ID# is 762 323 8311 for either method (phone or web).

**1. Opening**

The meeting will be called to order and roll call will be conducted.

**2. Consideration of Adopting O-2020-03 – Action Item**

The council will consider adopting O-2020-03 on the General Statute 160D text amendments that were the subject of a public hearing held on May 13, 2021.

**3. Consideration of Adopting O-2020-04 – Action Item**

The council will consider adopting O-2020-04 to amend the FY2021-2021 budget to allocate the funds for the Benchmark Planning update of the Land Use Plan.

**4. Adjournment**

STATE OF NORTH CAROLINA  
TOWN OF MINERAL SPRINGS

**AN ORDINANCE AMENDING THE TEXT OF VARIOUS CHAPTERS OF  
THE MINERAL SPRINGS DEVELOPMENT ORDINANCE IN  
COMPLIANCE WITH NORTH CAROLINA GENERAL STATUTE 160D  
O-2020-03**

**WHEREAS**, the Town of Mineral Springs maintains an ordinance concerning numerous development regulations; and

**WHEREAS**, on April 11, 2019, the North Carolina General Assembly enacted Part II of NC Session Law 2019-111, which was intended to collect and organize existing statutes regarding local planning and development into a single Chapter of the General Statutes and to consolidate the statutes affecting cities and counties; and

**WHEREAS**, on June 19, 2020, the North Carolina General Assembly enacted NC Session Law 2020-25, which mandated that governments shall amend their development regulations to conform to the provisions of Part II of NC Session Law 2019-111 on or before July 1, 2021; and

**WHEREAS**, pursuant to NC General Statutes 160D-601; 160D-604, and Article 3, Section 3.10.1 of the Mineral Springs Development Ordinance, the Mineral Springs Town Council may amend its development regulations after holding a public hearing and after the Mineral Springs Planning Board has had the opportunity to review, comment, and make a recommendation to the Town Council regarding the amendment as well as whether the same is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable; and

**WHEREAS**, the Mineral Springs Planning Board has reviewed the proposed amendments at a regular meeting that was opened on March 23, 2021, held virtually in accordance with law; and

**WHEREAS**, the Mineral Springs Planning Board recommended in a vote of 5 to 0 on March 23, 2021, that the Mineral Springs Town Council adopt the proposed amendments; and

**WHEREAS**, in accordance with NC General Statute 160D-601 and the provisions set forth in Article 3, Section 3.10.1 of the Mineral Springs Development Ordinance, the Town Council duly advertised and held a public hearing to consider the proposed amendments; and

**WHEREAS**, after reviewing the written recommendation of the Mineral Springs Planning Board, the proposed amendments, conducting a public hearing on May 13, 2021, and careful review, the Town Council determines that:

1. The proposed amendments are consistent with the Mineral Springs Land Use Plan and Vision Plan contained therein, which specifically calls for periodic review to make sure the Ordinance is as up to date as possible.

2. The proposed amendments are reasonable as they bring the Mineral Springs Development Ordinance into compliance with General Statute 160D and one specifically clears up the procedures for minor subdivisions.

**NOW THEREFORE, BE IT ORDINAED BY THE MINERAL SPRINGS, NORTH CAROLINA THAT:**

Section 1. That this Town Council does hereby adopt the proposed amendments as outlined in Exhibit A attached hereto.

Section 2. That if any section, subsection, clause or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance; and

Section 3. That all ordinances and clauses of ordinance in conflict herewith be and are hereby repealed to the extent of such conflict.

Section 4. This ordinance is effective upon adoption.

**ADOPTED** this 29<sup>th</sup> day of June 2021.

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Frederick Becker III, Mayor

ATTEST:

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Vicky Brooks, CMC, NCCMC, CZO

## **EXHIBIT A**

(O-2020-03)

Strikethrough = deletion Underline/Bold = insertion

### ARTICLE 1 – PURPOSE, AUTHORITY, & LEGAL STATUS

#### *Section 1.3 AUTHORITY*

- A. This Ordinance is adopted pursuant to the authority granted by North Carolina General Statutes (NCGS) Chapter 160D (~~formerly 160A, Article 19~~).
- B. In accordance with the requirements of NCGS **160D-703** ~~160D-7-3 (formerly 160A-382)~~ that zoning regulation be by districts, the Town, as shown on the Zoning Map accompanying this Ordinance, is divided into districts, as set forth in Article 4, which shall be governed by all of the uniform use and dimensional requirements of this Ordinance.

#### *Section 1.7 PLAN CONFORMITY AND RIGHT-OF-WAY DEDICATION*

- A. In accordance with the requirements of NCGS **160D-701** ~~160D-7-1 (formerly 160A-383)~~, the regulations adopted pursuant to this Ordinance shall be consistent with the Town's Land Use Plan and any specific plans adopted by the Town Council. All new developments shall be designed in conformance with adopted plans including but not limited to adopted comprehensive plans, comprehensive transportation plans, small area plans, land use plans, parks and recreation plans and any other adopted plans.

#### *Section 1.8 VESTED RIGHTS OF DEVELOPMENT AGREEMENTS*

#### ~~1.8 VESTED RIGHTS AND DEVELOPMENT AGREEMENTS~~

### **1.8 DEVELOPMENT APPROVALS AND VESTED RIGHTS**

#### **1.8.1 ESTABLISHMENT OF DEVELOPMENT VESTED RIGHTS**

~~Pursuant to NCGS 160D-1-8 (formerly 160A-385.1) and notwithstanding any other provision of this Ordinance or amendment thereto, a landowner may apply for a site specific development plan approval which shall entitle said landowner to develop property in accordance with said site specific development. The procedure for establishing a vested right is set forth in Section 3.11.~~

### 1.8.1 DEVELOPMENT APPROVAL DURATION

- A. Pursuant to NCGS 160D-1109, building permits expire six months after issuance unless work under the permit has commenced and work has not been discontinued for a period of more than 12 months after the work has commenced.
- B. Unless otherwise specified, local development permits expire one (1) year after issuance unless work authorized by the permit has substantially commenced. A local land development regulation may provide for a longer permit expiration period. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive. Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.
- C. Where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.
- D. A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven (7) years from the time a site plan approval is granted for the initial phase of the multi-phased development.
- E. Following issuance of a development permit, a local government may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original application.
- F. If a land development regulation is amended between the time a development

**permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, then NCGS 143-755 applies.**

4.8.4 **1.8.2** ESTABLISHMENT OF **EXTENDED** DEVELOPMENT VESTED RIGHTS

Pursuant to NCGS **160D-108.1** ~~160D-1-8 (formerly 160A-385.1)~~ and notwithstanding any other provision of this Ordinance or amendment thereto, a landowner may apply for a site specific **vesting** development plan approval which shall entitle said landowner to develop property in accordance with said site specific development. The procedure for establishing a vested right **for two (2) to five (5) years** is set forth in Section 3.11.

4.8.2 **1.8.3** EFFECT OF VOLUNTARY ANNEXATION ON VESTED RIGHTS

A petition for annexation filed with the Town shall contain a signed statement declaring whether or not any zoning vested right with respect to the property subject to the petition has been established under NCGS **160D-108** ~~160D-1-8 (formerly 160A-385.1 or 153A-344.1)~~. A statement that declares that no zoning vested rights has been established or the failure to sign a statement declaring whether or not a zoning vested right has been established shall be binding on the landowner and any zoning vested right shall be terminated.

4.8.3 **1.8.4** DEVELOPMENT AGREEMENTS

Development Agreements may be approved by the Town Council in accordance with NCGS Chapter 160D, Article 10 ~~(formerly 160A-400.2-32)~~.

## ARTICLE 2. ADMINISTRATION

### *Section 2.2 ADMINISTRATOR*

**G. In accordance with NCGS 160D-109 (c), the Administrator shall not make a final decision on an administrative decision if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the Administrator or if the applicant or other person subject to that decision is a person with whom the Administrator has close family, business, or associated relationship.**

### *Section 2.4.1 ESTABLISHMENT AND COMPOSITION*

A. A Planning Board for the Town is hereby created under the authority of NCGS **160D-301** ~~160A-361~~. The Planning Board shall consist of seven (7) regular members. At the discretion of the Town Council, the same members of the Planning Board may serve as the Board of Adjustment.



#### Section 2.4.2 RULES OF PROCEDURES

- F. In accordance with NCGS 160D-109(b), members of the Planning Board shall not vote on an advisory or legislative decision where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member. Members of the Planning Board shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with who the member has a close familial, business or associational relationship ~~may not participate in or vote on any matter on which they have a fixed opinion prior to the hearing, have undisclosed ex parte (without equal representation) communications or close family, business or associational ties with an affected person, or have a financial interest in the outcome of the case. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.~~

#### Section 2.4.3 POWERS AND DUTIES

- B. The Town Council may request the Planning Board to advise them on other matters as designated in NCGS 160D-301 ~~160D-3-1 (formerly 160A-361)~~ including:
1. ~~To make studies of the Town and surrounding areas;~~ To prepare, review, maintain, monitor, and periodically update and recommend to the Town Council a comprehensive plan, and such other plans deemed appropriate, and conduct ongoing related research, data collection, mapping and analysis.
  2. ~~To determine objectives to be sought in the development of the Town and propose and recommend plans for achieving these objectives;~~ To facilitate and coordinate citizen engagement and participation in the planning process.
  3. To develop and recommend to the Town Council policies, ordinances, development regulations, administrative procedures and other means for carrying out plans in a coordinated and efficient manner; and
  4. ~~To designate redevelopment areas.~~ To advise the Town Council concerning the implementation of plans, including, but not limited to, review and

comment on all zoning text and map amendments as required by NCGS 160D-604.

5. To exercise any functions in the administration and enforcement of various means for carrying out plans that the Town Council may direct.

6. To perform any other related duties that the Town Council may direct.

#### *Section 2.5.1 ESTABLISHMENT AND COMPOSITION*

A. A Board of Adjustment is hereby created as provided in NCGS 160D-302 ~~160D-3-2~~ (formerly 160A-388). The Board of Adjustment shall consist of five (5) members and two (2) alternate members to serve in the absence of regular members. At the discretion of the Town Council, the same members of the Planning Board may serve as the Board of Adjustment.

#### *Section 2.5.2 RULES OF PROCEDURE*

E. All meetings of the Board of Adjustment shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, an indication of such fact. The final disposition of appeals, variances and conditional **special** uses shall be made by recorded resolution indicating the reasons of the Board therefor and all pertinent findings of fact, all of which shall be a public record.

G. In accordance with NCGS 160D-109(d). Members of the Board of Adjustment **shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional right to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communication, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.** ~~may not participate in or vote on any matter on which they have a fixed opinion prior to the hearing, have undisclosed ex parte (without equal representation) communications or close family, business or associational ties with an affected person, or have a financial interest in the outcome of the case. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.~~

### *Section 2.5.3 POWERS AND DUTIES*

The Board of Adjustment shall have the following powers and duties pursuant to NCGS **160D-302** ~~160A-388~~:

- A. To hear and decide requests for Special Use Permits, acting in the capacity as a Board of Adjustment in accordance with Section 3.4 and pursuant to NCGS **160D-406** ~~160D-4-6~~ (formerly ~~160A-388~~);
  
- F. The Board of Adjustment through the Chair, or in the Chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under NCGS **160D-1402(c)** ~~160D-14-2(e)~~ (formerly ~~160A-393(d)~~) may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

### *Section 2.6 TOWN COUNCIL*

- 4. To hear and decide request for Alternative Design Proposals, acting in the capacity as a Board of Adjustment in accordance with Section 3.8 and pursuant to NCGS **160D-406** ~~160D-4-6~~ (formerly ~~160A-388~~);
  
- 5. To enter into development agreements in accordance with Section 3.11 and pursuant to Chapter 160D, Article 10 (formerly ~~160A-400.2-32~~); and
  
- C. **In accordance with NCGS 160D-109 (a), a Town Council member shall not vote on any legislative decision regarding a development regulation adopted where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Town Council member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a**

**person with whom the member has a close familial, business, or other associational relationship.**

*Section 2.7 ENFORCEMENT*

2.7.1 VIOLATIONS

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Section and by State law, specifically **NCGS 160A-175, 160D-404 and NCGS 14-4** ~~160D-4-4 (formerly 160A-175, 160A-365, 160A-389) and NCGS 14-4:~~

2.7.1.2 DEVELOPMENT OR USE INCONSISTENT WITH PERMIT **DEVELOPMENT APPROVAL**

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form or authorization granted for such activity.

*Section 2.7.2.1 INSPECTION AND INVESTIGATION*

B. The Administrator or designee shall ~~have the right~~ **be authorized** upon presentation of proper credentials **and the consent of the property owner or an** ~~and~~ inspection warrant, if necessary, to enter ~~on~~ any premises **(not open to the public)** within the jurisdiction at any reasonable hour for the purposes of inspection, determination of plan compliance, or other enforcement action.

*Section 2.7.2.2 NOTICE OF VIOLATION*

B. **Subject to NCGS 160D-404 (a),** the Administrator or designee shall give the property owner written notice (by certified mail to his or her last known address, by personal service, or by posting notice conspicuously on the property) of the following:

*Section 2.7.2.3 APPEAL*

2.7.2.3 APPEAL

Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Administrator to the Board of Adjustment within 30 days following the date of the Notice of Violation. The Board of Adjustment shall hear an appeal subject to the

provisions set forth in NCGS **160D-405** ~~160D-4-5 (formerly 160A-388)~~ and Section 3.6 of this Ordinance. The Board of Adjustment may affirm, modify or revoke the Notice of Violation. In the absence of an appeal, the decision of the Administrator shall be final. Citations that follow the original Notice of Violation may not be appealed.

### *Section 2.7.3 REMEDIES & PENALTIES*

- A. **Subject to NCGS 160A-175, 160D-106, 160D-404, and NCGS 14-4** ~~160D-4-4 (formerly 160A-175, 160A-365, 160A-389) and NCGS 14-4~~, any person, firm or corporation violating any provision of this Ordinance shall be subject to a civil penalty of fifty dollars (\$50.00) per day for each calendar day that the violation exists. Violations of this Ordinance shall not constitute a misdemeanor or infraction. Proceeds from civil penalties collected under this Ordinance shall go into the Town's general fund.
- D. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance or other regulation made under authority conferred thereby, the Town in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land or to prevent any illegal act, conduct, business or use in or about the premises. **Such action may include the issuance of a stop-work order, subject to NCGS 160D-404 (b).**
- F. **For development or use of a property inconsistent with the development approval, the Town may revoke the development approval in the same manner in which the approval was given, subject to NCGS 160D-403 (f).**

## ARTICLE 3 – REVIEW & APPROVAL PROCEDURES

### *Section 3.1 PURPOSE & APPLICABILITY*

- B. **Pursuant to NCGS 160D-403 (a), all applications for development approval shall be made by a person with a property interest in the property or a contract to purchase the property, except for government-initiated map or text amendments.**

C. In accordance with NCGS 160D-104, all development approvals run with the land unless otherwise provided for in this ordinance. In order for a development approval to be revoked, the same process that used for the approval must be followed, in accordance with NCGS 160D-403 (f).

B. D. The development review process applies to all new development and alterations of existing development within the Town. The Administrator may waive the required development review for a change in principal use, where such change would not result in a change in lot coverage, parking, or other site characteristics. The development review may also be waived if the Administrator determines that the submission of a development plan in accordance with this Section would serve no useful purpose. The following chart indicates the appropriate approval process for each development type: Article 3 Review & Approval procedures.

### *Section 3.2.1 GENERAL PROVISIONS*

H. If a Zoning Permit is denied, the Administrator shall specify the reasons for denial in writing and transmit the written denial within five (5) days of his/her decision to the applicant by first class mail. The applicant may appeal the action of the Administrator to the Board of Adjustment. Such appeal shall be made within 30 days of such permit denial, in accordance with Section 3.6 and NCGS **160D-405** ~~160D-4-5 (formerly 160A-388)~~.

### *Section 3.3.1 SUBDIVISION DEFINED*

B. In accordance with NCGS **160D-802** ~~160D-8-2 (formerly 160A-376)~~, "Subdivision" shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this Section:

### *Section 3.3.2 SUBDIVISION EXEMPTION*

If the Administrator determines that a division of land does not meet the definition of a subdivision as set forth by NCGS **160D-802** ~~160D-8-2 (formerly 160A-376)~~, then the division shall be considered a subdivision exemption and shall not be subject to the subdivision

review process. The Administrator shall ensure that resultant lots comply with the dimensional, frontage and access requirements of the zoning district in which the property is located. Where a public street is to be created, dedicated and platted as part of the division, the division shall not be exempt from the provisions of this Ordinance regardless of any other factors. If the Administrator determines that the proposed division is exempt from the subdivision provisions of this Ordinance, the plat shall be endorsed with the following certificates, signed and dated by all record property owner(s) with direct interest in the property, the surveyor, and the Administrator:

**Certificate of Subdivision Type by Surveyor**

“This survey is of another category of subdivision such as recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision per NCGS 160D-802 ~~160D-8-2 (formerly 160A-376)~~.”

- **Exempt Plat Certificate**  
 I certify that this plat is exempt from subdivision regulations in accordance with NCGS 160D-802 ~~160D-8-2 (formerly 160A-376)~~ and meets the minimum zoning standards of the Town of Mineral Springs.

\_\_\_\_\_   
 Ordinance Administrator

\_\_\_\_\_   
 Date

*Section 3.3.3 MINOR SUBDIVISION DEFINED*

D. Minor Subdivisions shall follow the review procedures of Steps 1 and 10-12 in Section 3.3.6. **Prior to Final Plat approval, the applicant shall provide documentation of satisfactory approval by the Union County Health Department for onsite septic suitability for each new lot created.**

*Section 3.3.6 SUBDIVISION PROCEDURES*

*STEP 9. IMPROVEMENTS INSTALLED AND INSPECTED OR GUARANTEED*

C. In lieu of requiring the completion, installation and dedication of all improvements prior to Final Plat approval, the Town Council may enter into an agreement with the developer whereby the developer shall agree to complete all required improvements as specified by the approved Preliminary Plat and Construction Drawings for that portion of the

subdivision to be shown on the Final Plat within one (1) year of Final Plat approval. Once the security required herein is provided, the Final Plat may be approved by the Administrator, if all other requirements of this Ordinance are met. The Administrator shall require a certified cost estimate from a licensed contractor or engineer for the cost of completion of such improvements. The developer shall provide one (1) of the following guarantees in lieu of installation, in accordance with NCGS 160D-804 (g) ~~160D-8-4(g)~~ (formerly 160A-372 (f)):

### Section 3.3.7 NO SUBDIVISION OR IMPROVEMENTS WITHOUT PLAT APPROVAL

- A. The Union County Review Officer or Union County Register of Deeds, pursuant to NCGS 160D-803 ~~160D-8-3~~ (formerly ~~160A-373~~) and NCGS 47-30.2, shall not certify or record a plat of a subdivision of land lying within the jurisdiction of this Ordinance that has not been approved in accordance with the provisions contained herein; nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with the provisions or intent of this Ordinance. Without approval, the filing or recording of a subdivision plat shall be null and void.

### Section 3.3.9 PRELIMINARY PLAT VALIDITY

- D. The applicant shall submit an amended application for review as an original application substantial amendments or modifications are proposed after Preliminary Plat approval. This shall not apply to minor **modifications** ~~changes~~. A change may be considered a minor **modification** ~~change~~ if it does not involve any of the following:

### Section 3.3.10 DEDICATION AND MAINTENANCE OF IMPROVEMENTS

No street shall be maintained by the Town, nor shall any street dedication be accepted for ownership and maintenance in any subdivision by virtue of enactment of this Ordinance. Pursuant to NCGS 160D-806 ~~160D-8-6~~ (formerly ~~160A-374~~), approval of a plat required under this Ordinance shall not be deemed to constitute or effect acceptance by the Town or NCDOT of the dedication of any street or other ground, public utility or other public facility shown on the plat. Rather such acceptance, if and when granted, will be by separate action.



### *Section 3.4.1 SPECIAL USE PERMIT PROCEDURES*

Pursuant to NCGS **160D-705 (c)** ~~160D-7-5(c) (formerly 160A-388)~~, the Board of Adjustment, shall hear and decide requests for Special Use Permits for uses indicated in the Permitted Uses Table in Section 4.3.3 and as otherwise set forth in this Ordinance. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.

Step shown in boxes:

- STEP 4 NOTICE OF PUBLIC **EVIDENTIARY** HEARING
- STEP 5 BOARD OF ADJUSTMENT PUBLIC HEARING & DECISION

### *Section 3.4.1 SPECIAL USE PERMIT PROCEDURES*

#### STEP 4. NOTICE OF **EVIDENTIARY** PUBLIC HEARING

The Administrator or Town Clerk shall provide notice of the public **evidentiary** hearing in the following manner as prescribed by NCGS **160D-406** ~~160D-4-6 (formerly 160A-388)~~. Notice of Special Use Permit hearings shall be mailed to the person or entity whose application is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the Union County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

#### STEP 5. BOARD OF ADJUSTMENT **EVIDENTIARY** PUBLIC HEARING AND DECISION

- A. The Board of Adjustment shall conduct a quasi-judicial **evidentiary** public hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter.
- F. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Hearings may be continued, at the discretion of the ~~Town Council~~ **Board**, to permit the applicant to provide additional, missing or incomplete

information, when requested, to aid the Board of Adjustment in reaching a proper determination and/or to permit the Board to independently obtain such information. All reasonable expenses incurred by the Town for investigating and processing the matters before the Board are the responsibility of the applicant. These expenses may include, but are not limited to, the solicitation of Professional Engineers' Services, legal advice, expenses of public hearing(s) and the like; and shall be paid in full prior to delivery of the final notification of Board action for the subject matter.

- H. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402 ~~160D-4-6 (formerly 160A-393)~~. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance this Section. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

#### *Section 3.4.2 EFFECT OF APPROVAL*

- C. Minor modifications ~~changes~~ in the detail of the approved plan may be made upon submittal to and the subsequent approval of the Administrator as long as the changes will not:
1. Alter the basic relationship of the proposed development to adjacent property;
  2. Alter the uses permitted or increase the density of development;
  3. Decrease the off-street parking ratio; and/or
  4. Reduce the yards provided at the boundary of the site.

The Administrator shall take action on such requests for minor modifications ~~changes~~ within 14 days, unless additional information is requested. A written decision shall be provided to applicant, and, if positive, a copy shall be forwarded to the Union County Register of Deeds. Any applicant may appeal a negative decision of the Administrator to the Board of Adjustment, which shall determine if an amendment to the Special Use Permit is required in order to allow the proposed minor modifications ~~change~~ to be made to the approved plan.

#### *Section 3.5.1 VARIANCE PROCEDURES*

Pursuant to NCGS 160D-705 ~~160D-7-5 (formerly 160A-388)~~, the Board of Adjustment may authorize Variances from the terms of this Ordinance as will not be contrary to the public

interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.

*Steps shown in boxes:*

- *STEP 4 NOTICE OF PUBLIC **EVIDENTIARY** HEARING*
- *STEP 5 BOARD OF ADJUSTMENT PUBLIC HEARING & DECISION*

#### STEP 4. NOTICE OF **EVIDENTIARY** PUBLIC HEARING

The Administrator or Town Clerk shall provide notice of the **evidentiary** public hearing in the following manner as prescribed by NCGS **160D-406** ~~160D-4-6 (formerly 160A-388)~~. Notice of Board of Adjustment hearings shall be mailed to the person or entity whose application is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the Union County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

#### STEP 5. BOARD OF ADJUSTMENT **EVIDENTIARY** PUBLIC HEARING AND DECISION

A.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance, **except as necessary to make reasonable accommodation under the Federal Fair House Act for disabled residents;**

G. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS **160D-1402** ~~160D-4-6 (formerly 160A-393)~~. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance this Section. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

### Section 3.6.1 GENERAL PROVISIONS

- A. Any person who has standing under NCGS **160D-1402 (C)** ~~160D-14-2(e) (formerly 160A-393(d))~~, or the Town, may appeal a decision to the Board of Adjustment.

### Section 3.6.2 APPEAL PROCEDURES

Pursuant to NCGS **160D-405** ~~160D-4-5 (formerly 160A-388)~~, the Board of Adjustment shall hear and decide Appeals from any order, requirement, decision or determination made by an administrative official charged with the enforcement of this Ordinance. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.

*Steps shown in boxes:*

- **STEP 4 NOTICE OF PUBLIC EVIDENTIARY HEARING**
- **STEP 5 BOARD OF ADJUSTMENT PUBLIC HEARING & DECISION**

#### STEP 3. NOTICE OF **EVIDENTIARY** PUBLIC HEARING

The Administrator shall provide notice of the **evidentiary** ~~public~~ hearing in the following manner as prescribed by NCGS **160D-406** ~~160D-4-6 (160A-388)~~. Notice of hearing shall be mailed to the person or entity whose application is the subject of the hearing, to the owner of the property that is the subject of the hearing (if the owner did not initiate the hearing), and to owners of property adjacent to the property for which the Appeal has filed. The mailed notices shall be deposited in the mail at least 10 days, but no more than 25 days, prior to the date of the hearing. The Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing on an adjacent street or highway right-of-way. This notice shall be posted at least 10 days, but no more than 25 days, prior to the date of the hearing.

#### STEP 4. BOARD OF ADJUSTMENT **EVIDENTIARY** PUBLIC HEARING AND DECISION

- B. The Board of Adjustment shall conduct a quasi-judicial **evidentiary** ~~public~~ hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter.
- D. When hearing an appeal pursuant to NCGS **160D-947 (e)** ~~160D-9-47(e) (formerly 160A-400.9(e))~~ or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in NCGS **160D-1402 (k)** ~~160D-14-2(k) (formerly 160A-393(k))~~.

H. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402 ~~160D-4-6 (formerly 160A-393)~~. A petition shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

### *Section 3.7.1 CERTIFICATE OF NONCONFORMITY ADJUSTMENT PROCEDURES*

#### 3.7.1 CERTIFICATE OF NONCONFORMITY ADJUSTMENT PROCEDURES

A Certificate of Nonconformity Adjustment may be granted by the Board of Adjustment to enlarge, expand, or otherwise alter a nonconforming use or structure as set forth in Article 8. Certificates shall be issued in accordance with quasi-judicial proceedings prescribed in NCGS 160D-406 ~~160D-4-6 (formerly 160A-388)~~. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.

*Steps shown in boxes:*

- *STEP 4 NOTICE OF PUBLIC EVIDENTIARY HEARING*
- *STEP 5 BOARD OF ADJUSTMENT PUBLIC HEARING & DECISION*

#### STEP 3. NOTICE OF EVIDENTIARY ~~PUBLIC~~ HEARING

The Administrator shall provide notice of the evidentiary ~~public~~ hearing in the following manner as prescribed by NCGS 160D-406 ~~160D-4-6 (formerly 160A-388)~~. Notice of hearing shall be mailed to the person or entity whose application is the subject of the hearing, to the owner of the property that is the subject of the hearing (if the owner did not initiate the hearing), and to owners of property adjacent to the property for which the Certificate of Nonconformity Adjustment is requested. The mailed notices shall be deposited in the mail at least 10 days, but no more than 25 days, prior to the date of the public hearing. The Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing on an adjacent street or highway right-of-way. This notice shall be posted at least 10 days, but no more than 25 days, prior to the date of the hearing.

#### STEP 4. BOARD OF ADJUSTMENT EVIDENTIARY ~~PUBLIC~~ HEARING AND DECISION

A. The Board of Adjustment shall conduct a quasi-judicial evidentiary ~~public~~ hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter. The

Board of Adjustment shall make the following findings-of-fact in granting a Certificate of Nonconformity Adjustment:

- E. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402 ~~160D-4-6 (formerly 160A-393)~~. A petition shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

### *Section 3.8.1 ALTERNATIVE DESIGN PROPOSAL PROCEDURES*

Pursuant to NCGS 160D-406 ~~160D-4-6 (formerly 160A-388)~~, the Town Council, acting as a Board of Adjustment, shall hear and decide requests for Alternative Design Proposals that differ from the requirements of Article 5 or 6 of this Ordinance in regards to landscaping, parking, infrastructure or building design due to unique site circumstances or creative design proposals, provided that the intent of this Ordinance is met. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.

*Steps shown in boxes:*

- *STEP 4 NOTICE OF PUBLIC EVIDENTIARY HEARING*
- *STEP 5 TOWN COUNCIL ~~PUBLIC HEARING & DECISION~~*

#### STEP 4. NOTICE OF PUBLIC HEARING

The Administrator or Town Clerk shall provide notice of the evidentiary ~~public~~ hearing in the following manner as prescribed by NCGS 160D-406 ~~160D-4-6 (formerly 160A-388)~~. Notice of Alternative Design Proposal hearings shall be mailed to the person or entity whose application is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the Union County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

## STEP 5 TOWN COUNCIL PUBLIC HEARING AND DECISION

- A. The Town Council shall conduct a quasi-judicial **evidentiary** public hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter.
- H. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS **160D-1402** ~~160D-4-6 (formerly 160A-393)~~. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance this Section. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

### *Section 3.9.1 MAP AMENDMENT PROCEDURES*

The Town Council may amend the Official Zoning Map in accordance with this section and NCGS Chapter 160D, Article 6 (~~formerly 160A-384~~). The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.

*Steps shown in boxes:*

- STEP 5 NOTICE OF **LEGISLATIVE** PUBLIC HEARING
- STEP 6 TOWN COUNCIL **LEGISLATIVE** PUBLIC HEARING & DECISION

## STEP 2. APPLICATION SUBMITTAL

- A. Applications to amend the Zoning Map may be initiated by Town Council, the Planning Board, or Town Staff, ~~or anyone who owns~~ **Except for a government-initiated zoning map amendment, when an application is filed by a** property or resides in the area of jurisdiction of this Ordinance or the agent of such person **and not filed by the landowner or authorized agent, then actual notice shall be provided to the landowner subject to NCGS 160D-602 (d). No reduction in zoning district intensity shall be initiated by any person other than the landowner or authorized agent, except for government-initiated amendments.** ~~except that~~ Conditional Zoning district requests may only be initiated by the property owner or agent of legal or equitable interest in the subject property.

## STEP 6. TOWN COUNCIL LEGISLATIVE PUBLIC HEARING AND DECISION

- A. The Town Council shall take action on map amendments after a public hearing has been held. Subject to NCGS 160D-605, by a simple majority vote, the Town Council shall adopt one of the following statements to approve or deny the amendment:

## STEP 4. PLANNING BOARD REVIEW & RECOMMENDATION

- B. By simple majority vote, the Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Council. Subject to NCGS 160D-604 (d), the Planning Board shall ~~may~~ advise the Town Council by making ~~make~~ one of the following recommendations regarding the amendment's consistency with adopted plans to the Town Council:

## STEP 5. NOTICE OF EVIDENTIARY PUBLIC HEARING

In accordance with NCGS 160D-602 ~~160D-6-2 (formerly 160A-384)~~, the following notices shall be provided prior to the public hearing. The Administrator or Town Clerk shall certify that the requirements of subsections have been met. The Town shall charge the petitioner a separate fee to cover notification costs incurred.

- C. A notice shall be posted in a conspicuous place on the subject property or on an adjacent street or highway right-of-way at least ten (10) calendar days prior to the public hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested parties.
- D. At least ten (10) calendar days prior to the public hearing, a notice of the proposed zoning change shall be sent by first class mail to all adjacent property owners that lie within 200 feet as measured in all directions from the exterior boundaries of the property(ies) proposed for rezoning. In the case of large-scale rezonings (more than 50 properties owned by a total of at least 50 different property owners), the Town may elect to publish notice of hearing per Subsection A, provided that each of the advertisements shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulations of the newspaper which



publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail.

- E. For map amendments initiated by a third party, property owner(s) who are not signatories of the application for zoning map amendment must be notified through personal delivery or registered, certified, or delivery receipt mail. Such notice shall state the existing zoning classification and the classification requested by the third party and the date, time and location of the public hearing. The notice shall be written by the Administrator, yet the burden for making this actual notice is on the third party requesting the rezoning, the proof of which shall be provided to the Administrator prior to the public hearing. This requirement shall not apply if a map amendment is initiated by the Town.

#### STEP 6. TOWN COUNCIL LEGISLATIVE PUBLIC HEARING AND DECISION

- A. The Town Council shall take action on map amendments after a public hearing has been held. Subject to NCGS 160D-605, by a simple majority vote, the Town Council shall adopt one of the following statements to approve or deny the amendment:

#### STEP 7. ADDITIONAL APPROVALS (AS REQUIRED)

- B. If no Zoning Permit has been issued or Preliminary Plat has been approved within two (2) years of the date of approval, or a Zoning Permit or Building Permit has expired for an approved Conditional Zoning District, then the Town Council may vote to rescind the Conditional Zoning District after having held a public hearing. The zoning district shall revert to the district in place prior to the approval of the Conditional Zoning district.

#### *Section 3.9.2 CONDITIONAL ZONING DISTRICT PROCEDURES*

**D. In accordance with NCGS 160D-703 (b), specific conditions may be proposed by the petitioner or the Town, but only those conditions mutually approved and agree upon in writing by be incorporated into the zoning regulations.**

~~D.~~ **E.** Once a Conditional Zoning district has been approved, the Administrator shall have the authority to allow for minor **modifications** deviations from the approved site plan when, in the Zoning Administrator's opinion, such deviation (1) would not materially impact any adjacent or nearby properties, (2) is not in conflict with the spirit and intent of this Ordinance; and (3) would uphold the public's general interest and well-being, **and (4) would not modify the permitted uses, land use intensities, or residential densities.** Any **modifications** deviations that are deemed by the Administrator not to be "minor"

shall require the submittal of a new conditional zoning application and following the map amendment process.

### *Section 3.10.1 TEXT AMENDMENT PROCEDURES*

The Town Council may amend the text of this Development Ordinance in accordance with this section and NCGS Chapter 160D, Article 6 (~~formerly 160A-384~~). The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.

*Steps shown in boxes:*

- STEP 5 NOTICE OF **LEGISLATIVE** PUBLIC HEARING
- STEP 6 TOWN COUNCIL **LEGISLATIVE** PUBLIC HEARING & DECISION

#### STEP 4. PLANNING BOARD REVIEW & RECOMMENDATION

- A. By simple majority vote, the Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the governing board. **Subject to NCGS 160D-604 (d)**, the Planning Board **shall** ~~may~~ **advise the Town Council by** making ~~make~~ one of the following recommendations regarding the amendment's consistency with adopted plans to the Town Council.

#### STEP 5. NOTICE OF **LEGISLATIVE** PUBLIC HEARING

- A. A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the ~~public~~ hearing.
- B. A notice shall be placed at a conspicuous public place within the corporate limits of the Town not less than 10 calendar days nor more than 25 calendar days before the date established for the ~~public~~ hearing.

## STEP 6. TOWN BOARD LEGISLATIVE PUBLIC HEARING AND DECISION

- A. Following a ~~public~~ hearing, the Town Council shall take action on text amendments after a ~~public~~ hearing has been held. By a simple majority vote, the Town Council shall adopt one of the following statements to approve or deny the amendment:

### *Section 3.11.1 EXTENDED VESTED RIGHTS PROCEDURES*

The Town Council may approve Extended ~~zoning~~ Vested Rights for site-specific vesting ~~development~~ plans subject to NCGS 160D-108.1 ~~160D-1-8 (formerly 160A-385.1)~~. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.

## STEP 1. PRE-APPLICATION DISCUSSION WITH ADMINISTRATOR

- A. To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the proposed Extended Vested Rights proposal is required. The Administrator shall review the request and discuss it with the applicant.

## STEP 2. APPLICATION AND MATERIALS

To apply for a extended vested right, a landowner shall submit to the Administrator an application, fee, and site-specific vesting ~~development~~ plan meeting the requirements for Section 3.2.5 Site Plan (Step 2) or Section 3.3.6 Subdivision Preliminary Plat (Step 2), whichever is applicable.

## STEP 4. PLANNING BOARD REVIEW & RECOMMENDATION

- A. Once the Administrator and Technical Review Committee deem the site-specific vesting ~~development~~ plan to be complete and meeting all applicable regulations, he or she shall schedule it to be reviewed by the Planning Board at their next regularly scheduled meeting. The Administrator must receive the complete plan at least 10 days prior to the Planning Board's next meeting date to place it on their agenda.
- B. Once the site-specific vesting ~~development~~ plan is forwarded, the Planning Board shall review the application and make a recommendation to the Town Council. The Planning Board shall have up to 30 days from their first meeting date to make such

recommendation. Alternatively, the Planning Board may request additional information of the applicant in order to aid them in their review of the application.

## STEP 6. TOWN COUNCIL PUBLIC HEARING AND DECISION

- A. Once the public hearing has been conducted and concluded, the Town Council shall determine whether or not to approve the site-specific **vesting** development plan and accord the vested right. In approving an application for vested rights of a site-specific **vesting** development plan, the Town Council may attach fair and reasonable ad hoc conditions which tend to support the requiring finding of facts as herein listed.
- C. The Town Council may approve the site-specific **vesting** development plan if it has evaluated an application and determined that:
3. If the site-specific **vesting** development plan is vested for a period of greater than two (2) years, this decision shall be based on one or more of the following factors preventing the developer from securing all building permits within two (2) years:
    - The sizing and phasing of the development;
    - The level of investment;
    - The need for the development; or
    - Economic cycles or market conditions.
- E. If the use or development for which the site-specific **vesting** development plan is submitted is a conditional use, the Town Council may approve the site-specific **vesting** development plan contemporaneously with the approval of the Special Use Permit, in accordance with quasi-judicial procedures. In no case, however, may a site-specific **vesting** development plan be approved for a use or development which requires the issuance of a Special Use Permit without the Special Use Permit having first been issued.

## ARTICLE 4 ZONING DISTRICTS & USES

### *Section 4.4.2.3 ACCESSORY TEMPORARY HEALTH CARE STRUCTURES*

Temporary health care structures as defined by NCGS **160D-915** ~~160D-9-14 (formerly 160A-383.5)~~ are permitted as residential accessory structures provided that the following conditions are met:

#### *Section 4.4.2.5 FAMILY CARE HOMES*

In accordance with NCGS **160D-907** ~~160D-9-6 (formerly 122C, 131D and 168)~~, these uses are deemed residential uses and are permitted in all residential districts subject to the following conditions:

#### *Section 4.4.7.6 TELECOMMUNICATIONS TOWERS AND FACILITIES*

##### R. Collocation of Small Wireless Facilities

Collocation of small wireless facilities are permitted pursuant to NCGS **160D-935** ~~160D-9-35 (formerly 160A-400.54-57)~~, provided that all new pole structures meet the aesthetic standards for lighting set forth in Section 5.6.5.

### ARTICLE 5 FLOODPLAIN DAMAGE PREVENTION STANDARDS

#### *Section 5.3.3.1 STATUTORY AUTHORIZATION*

The Legislature of the State of North Carolina has in NCGS Ch. 143, Art. 21, Part 6 and NCGS **160D-923** ~~160D-9-23 (formerly NCGS. Ch. 160A, Art. 19, Part 3, 5 and 8)~~, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry including the regulations set out in this chapter. Therefore, the Town Council of Mineral Springs, North Carolina, does ordain as follows in this Section.

### ARTICLE 8 NONCONFORMITIES

#### *Section 8.7 CERTIFICATE OF NONCONFORMITY ADJUSTMENT*

B. The Board of Adjustment shall conduct **an evidentiary** ~~a public hearing~~ on the application in accordance with the requirements of Section 3.7 in the manner prescribed in NCGS **160D-406** ~~160D-4-6 (formerly 160A-388)~~.

### ARTICLE 9 DEFINITIONS

**APPEAL.** A request for the review of an Administrator determination in relationship to the interpretation of this Ordinance subject to the statutory requirements set for in NCGS **160D-405** ~~160D-4-5 (formerly 160A-388)~~ and Section 3.6 of this Ordinance.

**BEDROOM. A fully enclosed interior room with a closet, door, and window for egress.**

*BOARD, PLANNING.* An appointed advisory board to the Town Council to be tasked with the duties set forth in NCGS **160D-301** ~~160D-3-1 (formerly 160A-361).~~

*BOARD OF ADJUSTMENT.* An appointed review board tasked with the duties set forth in NCGS **160D-302** ~~160D-3-2 (formerly 160A-388)~~ to make quasi-judicial decisions upon appeals, variances and Special Use Permits.

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

**DWELLING UNIT. A single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.**

*FAMILY CARE HOME.* A facility subject to NCGS **160D-907** ~~160D-9-6 (formerly 168-22)~~ that is licensed by the State of North Carolina as a family care home with support and supervisory personnel that provide room and board, personal care, and habilitation services in a family environment in a single housekeeping unit for not more than six (6) resident persons, with a temporary or permanent physical, emotional, or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others. "Dangerous to others" means that within the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is prima facie evidence of dangerousness to others.

**SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.**

*TEMPORARY HEALTH CARE STRUCTURE.* A transportable residential structure permitted under NCGS **160D-915** ~~160D-9-14 (formerly 160A-383.5)~~, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one (1) occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and NCGS 143-139.1(b).

STATE OF NORTH CAROLINA  
TOWN OF MINERAL SPRINGS

**AN ORDINANCE AMENDING THE BUDGET OF  
THE TOWN OF MINERAL SPRINGS  
FOR THE FISCAL YEAR 2021-2022  
O-2020-04**

**WHEREAS**, NC G.S. 159-15 authorizes a municipal governing board to amend the annual budget ordinance at any time after the ordinance’s adoption;

**NOW, THEREFORE BE IT ORDAINED** by the Council of the Town of Mineral Springs, North Carolina, the following, Amendment #2021-01:

**SECTION 1. Appropriations and Amounts.**

<u><b>INCREASE</b></u>	
Planning	\$25,000
<b>Total</b>	<b>\$25,000</b>

**SECTION 2. Revenues and Amounts.**

<u><b>INCREASE</b></u>	
Fund Balance Appropriated	\$25,000
<b>Total</b>	<b>\$25,000</b>

**SECTION 3. Effective Date.** This ordinance is effective upon adoption.

**ADOPTED** this 29th day of June, 2021. Witness my hand and official seal:

\_\_\_\_\_  
Frederick Becker III, Mayor

Attest:

\_\_\_\_\_  
Vicky A. Brooks, Clerk