

Town of Turkey North Carolina

Zoning Ordinance

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**AN ORDINANCE PROVIDING FOR THE ZONING OF THE TOWN OF TURKEY,
NORTH CAROLINA**

SECTION 1. LEGAL PROVISIONS

1.1 PURPOSE

In order to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote the public health, safety and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the efficient and adequate provisions of transportation, sewerage, schools, parks, and other public requirements; to conserve the value of buildings; to protect the public water supply, and encourage the most appropriate use of land throughout the corporate and extra-territorial areas, there is hereby adopted and established an official Zoning Ordinance of the Town of Turkey.

1.2 AUTHORITY

This Zoning Ordinance is adopted pursuant to the authority vested in the Town of Turkey by its charter and the General Statutes of North Carolina, particularly Chapter 160A, Article 19, Part 3.

1.3 JURISDICTION

The provisions of this Ordinance shall apply within the corporate limits of the Town of Turkey, North Carolina and its legally established extra-territorial jurisdiction area, as shown on the zoning map on file in the Town Hall.

1.4 MINIMUM REGULATIONS

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with, abrogate, or annul easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

1.5 VALIDITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid by the courts, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Commissioners hereby declares that it has passed this Ordinance and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

1.6 VESTED RIGHTS

A vested right shall be deemed established with respect to any property upon the valid approval, or conditional approval, of a site specific development plan or a phased development plan (Refer to definitions on page 24), following notice and public hearing by the Board of Commissioners. Such vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan or the phased development plan including any amendments thereto. The Board may approve a site specific development plan or a phased development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by such terms and conditions will result in a forfeiture of vested rights. The Board of Commissioners shall not require a landowner to waive his vested rights as a condition of developmental approval. A site specific development plan or a phased development plan shall be deemed approved upon the effective date of the Board's action. A right which has been vested shall remain vested for a period of two years.

A vested right, once established, precludes any zoning action which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site specific development plan or an approved phased development plan except:

- A. With written consent of the affected landowner.
- B. Upon findings that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan or the phased development plan.
- C. To the extent that the affected landowner receives compensation for all costs, expenses, and losses incurred.
- D. Upon findings that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the town of the site specific development plan or the phased development plan; or
- E. Upon the enactment of a State or federal law or regulation which precludes development as contemplated in the site specific development plan or the phased development plan.

1.7 EFFECTIVE DATE

This Ordinance and its provisions governing the use of land and buildings, the height of buildings, and other matters as hereinafter set forth are hereby established and declared to be in full force and effect from and after its passage.

Approved and adopted by the Board of Commissioners this 21st day of December, 2006.

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORMED:

Town Attorney

SECTION 2. OFFICIAL ZONING MAP AND ZONING DISTRICTS

2.1 ZONING MAP

For the purposes of this Ordinance, the Town of Turkey, including its extra-territorial jurisdiction area, is hereby divided into zoning districts whose locations and boundaries are shown on the Official Zoning Map for the Town of Turkey, which is hereby adopted by reference and declared to be a part of this Ordinance.

This Zoning Map and all the notations, references, and all amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described and set out herein. The Zoning Map properly attested is on file in the Town Hall and is available for inspection by the public.

The Zoning Officer or his representative shall be responsible for the maintenance and revision of the Official Zoning Map. Upon notification by the Town Board that a zoning change has been made, the Zoning Officer shall make the necessary changes on the Official Zoning Map within seven (7) calendar days of notification.

2.2 ZONING DISTRICTS

In order that the purpose of this Ordinance may be accomplished, the incorporated territory of the Town of Turkey and its extra-territorial jurisdiction area, as set forth on the accompanying zoning map, are hereby divided into two (2) districts as follows:

Agricultural / Residential - AR
Residential / Business - RB

2.3 INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of zoning districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Unless otherwise specifically indicated, where district boundaries are shown on the Zoning Map as approximately parallel or following the center lines of streets, highways, utility easements, or stream beds, or such lines extended, then such lines shall be construed to be such district boundaries.
- B. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- C. Where a district boundary line divides a lot in single ownership, the requirements for the district in which the greater portion of the lot lies shall be extended to the balance of the lot, provided that such extension shall not include any part of such lot which lies more than fifty (50) feet beyond the district boundary, and further provided that the remaining parcel shall not be less than the minimum required for the district in which it is located.

- D. Where any public street is hereafter officially vacated or abandoned, the regulations applicable to parcels of abutting property shall apply to that portion of such street or alley thereto by virtue of such vacation or abandonment.
- E. The Board of Adjustment shall be empowered to interpret the intent of the Zoning Map as to the location of district boundaries in case any further uncertainty exists.

SECTION 3. APPLICATION AND ENFORCEMENT

3.1 APPLICATION

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

3.2 ENFORCEMENT

A. ZONING OFFICER

The Town Board shall appoint a Zoning Officer to enforce the provisions of this Ordinance. The Zoning Officer will keep records of all variances and amendments to this ordinance. The assistance of such other persons may be provided as the Town Board may direct.

If the Zoning Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of such violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violations of its provisions.

B. CERTIFICATE OF ZONING COMPLIANCE AND BUILDING PERMIT REQUIRED

Except as provided in Section 3.2, H. below, no land shall be used or occupied and no building hereafter erected, structurally altered, or moved or its use changed until a Certificate of Zoning Compliance shall be issued by the Zoning Officer in conformity with the provisions of this Ordinance or after written order from the Board of Adjustment. (Amended 1/2000)

A Building Permit cannot be issued by the Building Inspector unless zoning compliance is certified.

A record of all certificates shall be kept on file in the office of the Zoning Officer and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land involved.

C. APPLICATION PROCEDURES

Each application for a Certificate of Zoning Compliance shall be accompanied by two (2) sets of plans drawn to scale, one (1) of which shall be returned to the applicant upon approval. The plan shall show the following:

- (1) The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;
- (2) The location of said lot with respect to adjacent rights-of-way;

- (3) The shape, dimensions, and location of all buildings, existing and proposed, on the said lot;
- (4) The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot; and
- (5) Any other information which the Zoning Officer may deem necessary for consideration in enforcing the provisions of this Ordinance.

A fee, set by the Town Board, shall be charged for the processing of such application. The adopted fee schedule shall be posted in the Town Clerk's Office.

D. RIGHT OF APPEAL

If the Certificate of Zoning Compliance is denied, the applicant may appeal the action of the Zoning Officer to the Board of Adjustment; and that from the decision of the Board of Adjustment, recourse shall be had to courts as provided by law. It is further the intention of this Ordinance that the duties of the Town Board in connection with the Ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof, but that the procedure for determining such questions shall be as herein set out in the Ordinance, and that the duties of the Town Board in connection with this Ordinance shall be only the duty of considering and passing upon any proposed conditional use, amendment, or repeal of the Ordinance as provided by law.

E. PENALTY

The Zoning Officer will notify any person, firm, or corporation of a suspected violation of this ordinance in person or in writing. Any person, firm, or corporation who violates the provisions of this Ordinance shall upon conviction be guilty of a misdemeanor and shall be fined not exceeding five hundred (\$500) dollars and/or imprisoned not exceeding thirty (30) days. Each day of violation shall be considered a separate offense.

F. REMEDIES

In any case where a building is created, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation of this Ordinance, the Zoning Officer, or any other appropriate Town authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violation.

G. CANCELLATION OF PERMITS

A building or occupancy permit shall be cancelled by the Zoning Officer when the method of construction or use violates any provisions contained in these regulations.

H. ACCESSORY BUILDING EXEMPTION FROM CERTIFICATE OF ZONING COMPLIANCE AND FEE

Accessory buildings three hundred (320) square feet in area or less need not obtain a "Certificate of Zoning Compliance" nor pay a permit fee. However, such accessory buildings must still be setback from lot lines in accord with this ordinance (see Section 5.5 and Section 6.0) and an application filed whereby the applicant signifies knowledge of the requirements and that non-compliance is a violation of this ordinance.

SECTION 4. NONCONFORMING USES

After the effective date of this Ordinance, pre-existing lots or structures, or uses of lots or structures which are prohibited under the regulations for the district in which located, shall be considered as nonconforming. Nonconforming lots, structures or uses may be continued, provided they conform to the following provisions.

4.1 SUBSTANDARD LOTS OF RECORD

Any lot of record existing at the time of the adoption of this Ordinance which has an area or width which is less than required by this Ordinance, shall be subject to the following exceptions and modifications:

A. **ADJOINING AND VACANT LOTS OF RECORD**

If two (2) or more adjoining and vacant lots of record are in a single ownership at any time after the adoption of this Ordinance and such lots individually have less frontage or area than the minimum requirements of the district in which such lots are located, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used which does not meet lot width and area requirements established by this Ordinance.

B. **LOTS NOT MEETING LOT SIZE REQUIREMENTS**

Except as set forth in (A) above, if a lot, which was recorded prior to the passage of this Ordinance, fails to meet lot area or width requirements or both in a district where single family dwellings are permitted, such lot may be used as the location of a single-family dwelling with related accessory buildings. In such cases, the Zoning Officer is authorized to issue a permit with reduced width or area requirements, but in no case shall the lot size and/or yard requirements be reduced by more than ten (10%) percent.

4.2 EXTENSION OF NONCONFORMING USES

Nonconforming portions of structures and nonconforming uses of structures or land shall not be enlarged or extended.

4.3 CHANGE OF NONCONFORMING USES

Any nonconforming use may be changed to any conforming use, or with the approval of the Board of Adjustment, to any use in character with the uses permitted in the district. In permitting such changes, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance.

4.4 DESTRUCTION OF NONCONFORMING USES

If a nonconforming structure or a structure occupied by a nonconforming use is destroyed by any means, such structure may be restored or reconstructed.

4.5 REPAIR AND ALTERATION OF NONCONFORMING USES

Normal maintenance and repair of a building occupied by the nonconforming use is permitted, provided it does not increase the bulk of the structure nor extend the nonconforming use.

SECTION 5. GENERAL PROVISIONS

5.1 REQUIRED YARDS NOT TO BE USED BY ANOTHER BUILDING

The minimum yards or other open spaces required by this Ordinance for each and every building hereafter erected, moved, or structurally altered shall not be encroached upon or considered as meeting the yard or open space requirements of any other building.

5.2 RELATIONSHIP OF BUILDING TO LOTS

Every building hereafter erected, moved, or structurally altered shall be located on a lot and in no case shall there be more than one principal building and its customary accessory buildings on the lot except as permitted in Section 5.6 below or in the case of a designed complex of institutional, residential, commercial, or industrial buildings in an appropriate zoning district, i.e., school campus, cluster housing, shopping center, etc. (Amended 5/1999)

5.3 STREET ACCESS

No building shall be erected on a lot which does not abut a public street for a distance of at least twenty-five (25) feet or does not have access to a public street by a valid right-of-way of at least twenty-five (25) feet wide which is in writing and recorded in the office of the Register of Deeds of Sampson County, North Carolina. However, a building erected as part of a designed shopping center may be erected adjoining a parking area used in common with other lots.

5.4 REDUCTION OF LOT AND YARD AREAS PROHIBITED

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

5.5 ACCESSORY BUILDINGS

No accessory building shall be located in any required front or side yard but may be located to within five (5) feet of any rear property line or of a side property line when located behind the principal structure. (Amended 3/1999.)

5.6 TWO RESIDENTIAL HOMES ON A SINGLE LOT to read as follows:

Two single-family dwelling units, only one of which may be a single-wide mobile home, may be located as 2 principal structures on the same lot as long as each unit will be located so that if the lot was further divided, each dwelling unit would have the minimum lot area for the district and all setback requirements for the district would be met. A plot plan (drawing) drawn to scale showing how the dwellings will meet the separate lot requirements shall be provided at the time of application. The placement of a single-wide mobile home shall be governed further by the standards of "Section 6. District Regulations." If a conditional use permit is required, those procedures shall be followed. (Amended 5/1999)

SECTION 6. DISTRICT REGULATIONS

6.1 AGRICULTURAL / RESIDENTIAL DISTRICT (AR)

The agricultural - residential district is established to accommodate low density single-family residential developments at minimum urban densities; to stabilize existing residential areas by limiting conflicting uses from occurring in such residential areas; to prevent unduly dense development in areas not receiving urban services; and to enhance the prospects for future residential development in an orderly manner.

A. PERMITTED USES

Agriculture - including orchards, pasture land for grazing animals, field crops, and forestry. Commercial poultry and swine production, cattle feed lots, and fur bearing animal farms are strictly prohibited.

Class "A" Manufactured Homes

Manufactured Homes - Single-wide - (for living accommodations only) in good condition at the time of application as follows:

- 1) All windows & doors are in place and in working order;
- 2) All siding is in place and no visible damage;
- 3) All painting is not peeling, faded or cracking;
- 4) All roofing is in place;
- 5) The unit was manufactured after July 1, 1976;
- 6) If deemed necessary, the Zoning Officer may still inspect the unit personally;
- 7) Color photos of ALL sides and top of the unit must accompany the application. (Amended 1/2000 - Complete Use section added.)

Single-family dwellings

Schools - elementary and/or secondary, meeting all requirements of the compulsory education laws of North Carolina.

Public parks and recreation facilities

Religious uses including churches and other places of worship; religious education buildings and parish houses

Home occupations

Accessory uses and structure. Any use or structure customarily incidental to a principal use or structure or to a conditional use for which a permit has been issued. (Amended 3/1999)

On Premises Business Signs (total sign area shall not exceed thirty-two (32) square feet.

B. CONDITIONAL USES

Cemetery

Social uses such as social halls, lodges, fraternal organizations, clubs, and similar activities

Nursing home, rest home, medical clinic, or dental clinic

Mortuary or funeral home

Libraries, and other public institutions

Private nonprofit outdoor recreation facilities

Public utility and municipal transformer station, pumping station, water and sewer treatment plant, etc. All structures except fences shall be set back from all property lines by at least one foot for every foot of structure height. All such structures shall be architecturally in keeping with surrounding development to the maximum extent possible.

C. DIMENSIONAL REQUIREMENTS

Lot	Width	Minimum 100 feet
	Area	Minimum 20,000 square feet
Yards	Front	Minimum 35 feet
	Rear	Minimum 25 feet
	Side	Minimum 15 feet
	Corner	
	Side	Minimum 25 feet

6.2 RESIDENTIAL / BUSINESS DISTRICT (RB)

The residential / business district is established to accommodate the historic mix of small businesses and single-family residential developments traditionally associated with the town.

A. PERMITTED USES

Automobile service stations and garages

Agriculture - including orchards, pasture land for grazing animals, field crops, and forestry. commercial poultry and swine production, cattle feed lots, and fur bearing animal farms are strictly prohibited.

Class "A" Manufactured Homes

Manufactured Homes - Single-wide - (for living accommodations only) in good condition at the time of application as follows:

- 1) All windows & doors are in place and in working order;
- 2) All siding is in place and no visible damage;
- 3) All painting is not peeling, faded or cracking;
- 4) All roofing is in place;
- 5) The unit was manufactured after July 1, 1976;
- 6) If deemed necessary, the Zoning Officer may still inspect the unit personally;
- 7) Color photos of ALL sides and top of the unit must accompany the application. (Amended 1/2000 - Complete Use section added.)

Single-family dwellings

Schools - elementary and/or secondary, meeting all requirements of the compulsory education laws of North Carolina.

Shopping centers

Social uses such as social halls, lodges, fraternal organizations, clubs, and similar activities

Public parks and recreation facilities

Religious uses including churches and other places of worship; religious education buildings and parish houses

Home occupations

Retail / wholesale shops and stores

Offices for business and professional purposes

Governmental offices and services

Public utilities and facilities, excluding outside storage yards

Parking lots

Banks

Accessory uses and structure. Any use or structure customarily incidental to a principal use or structure or to a conditional use for which a permit has been issued.

On Premises Business Signs (total sign area shall not exceed thirty-two (32) square feet.

B. CONDITIONAL USES

Bed and breakfast establishments

Cemeteries

Nursing homes rest homes, medical clinics, or dental clinics

Mortuary or funeral homes

Libraries, and other public institutions

Private nonprofit outdoor recreation facilities

Storage provided the use is within a building and the use is not visible from outside the building.

C. DIMENSIONAL REQUIREMENTS

Residential Uses:

Lot	Width	Minimum 80 feet
	Area	Minimum 6,000 square feet

Yards	Front	Minimum 20 feet
	Rear	Minimum 20 feet
	Side	Minimum 10 feet

Commercial / Business Uses

Lot	Width	Minimum 100 feet
	Area	Minimum 20,000 square feet

Yards	Front	None required
	Rear	Minimum 25 feet
	Side	Minimum 15 feet

SECTION 7. CONDITIONAL USES

7.1 PURPOSE

The development and execution of this Ordinance is based on the division of the Town of Turkey, and its extra-territorial jurisdiction area, into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are some land uses that are basically in keeping with the intent and purposes of the district in which they are to be located, but that may have an impact on the area around them which can only be determined by review of the specific proposal. These uses may be established, under certain conditions and with proper controls, in such a manner as to minimize any adverse effects. In order to insure that these uses, in their proposed locations, would be compatible with surrounding development and in keeping with the purposes of the district in which they are to be located, their establishment shall not be as a matter of right, but only after review and approval of a Conditional Use Permit preceded by a Public Hearing.

7.2 APPLICATION FOR CONDITIONAL USE

Applications for Conditional Use Permits, signed by the applicant, shall be addressed to the Town Clerk and forwarded to the Zoning Officer. A fee as posted in the Town Clerk's office shall be paid to the Town of Turkey for each application to cover the costs of advertising and administrative costs. Each application shall contain or be accompanied by such legal descriptions, maps, plans and other information so as to completely describe the proposed use and existing conditions.

The applicant shall provide to the Town Clerk a list of names and addresses of all adjacent property owners, at least eight (8) days prior to the public hearing. The Town Clerk shall then mail a copy of the legal notice to each adjacent property owner.

7.3 PUBLIC HEARING

The Town Board, through the Zoning Officer, shall schedule a public hearing on the application for a Conditional Use Permit to be held within 60 days after the application is filed. Public notice of the hearing shall be published in a newspaper of general circulation in the town at least once each week for two successive weeks prior to the public hearing. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing. The Zoning Officer shall also post notice on the property involved for a period of one week prior to the hearing.

7.4 ACTION BY THE TOWN BOARD

The Town Board shall review the application and conduct the public hearing.

The Town Board shall approve, modify or deny the application for Conditional Use Permit following the public hearing. A member of the board shall not participate in or vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. In

granting a Conditional Use Permit the Town Board shall make written findings that the applicable regulations of the district in which it is located are fulfilled. With due regard to the nature and state of all adjacent structures and uses, the district within which same is located, and official plans for future development, the Town Board shall also make written findings that the following provisions are fulfilled:

- A. The use requested is listed among the conditional uses in the district for which application is made; or is similar in character to those listed in that district.
- B. The requested use is essential or desirable to the public convenience or welfare;
- C. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor be detrimental to the health, morals, or welfare, nor create a nuisance or hazard;
- D. The requested use will be in conformity with the Land Use Plan;
- E. Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided;
- F. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets, and
- G. That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

No Conditional Use Permit shall be issued until after review and approval by the Town of Turkey Board of Commissioners.

7.5 GENERAL PROVISIONS IN GRANTING CONDITIONAL USE PERMITS

A. COMPLIANCE WITH OTHER CODES

Granting of a Conditional Use Permit does not exempt applicant from complying with all of the requirements of building codes and other ordinances.

B. REVOCATION

In any case where the conditions of a Conditional Use Permit have not been or are not being complied with, the Zoning Officer shall give the permittee notice of intention to revoke such permit at least ten (10) days prior to a Town Board review thereof. After conclusion of the review, the Town Board may revoke such permit.

C. EXPIRATION

In any case where a Conditional Use Permit has not been exercised within one (1) year, then without further notice, the permit shall be null and void. "Exercised" as set forth in this section shall mean that binding contracts for the construction of the main building have been let; or in the absence of contracts that the main building is under construction to a substantial degree; or that prerequisite conditions involving

substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the condition set forth in the permit.

D. DURATION OF CONDITIONAL USE

Any conditions imposed in a conditional use authorized and exercised shall be perpetually binding upon the property unless expressly limited by the Conditional Use Permit or subsequently changed or amended by the Town Board after a public hearing.

SECTION 8. BOARD OF ZONING ADJUSTMENT

8.1 CREATING THE BOARD OF ADJUSTMENT

- A. The Town of Turkey Zoning Board of Adjustment is hereby established. The word "Board" when used in this Section shall be construed to mean the Zoning Board of Adjustment. Said Board shall consist of five (5) members and two (2) alternate members, appointed by the Board of Commissioners, each to be appointed for a term of three (3) years. The original appointment shall be made in this manner: One member shall be appointed for a term of one (1) year; two members shall be appointed for a term of two (2) years; and two members shall be appointed for a term of three (3) years. Alternate members shall serve only to replace regular members who are absent or cannot vote because of conflicts. At the expiration of the terms of all members first appointed, all new or reappointments shall be made for a term of three (3) years. All appointments to fill vacancies shall be for the un-expired term. The Board shall elect a Chairman from its membership and such other officers as the Board deems best. The members of the Board shall receive no compensation for their services.
- B. All meetings of the Board shall be held at a regular place and shall be open to the public. The Board shall keep minutes of its proceedings in a book maintained for that purpose only, showing the vote of each member upon each question, or if absent or failing to vote, an indication of such fact; and final disposition of appeals shall be by recorded resolution indicating the reasons of the Board therefore, all of which shall be a public record. No final action shall be taken on any matter without the concurring vote of four-fifths (4/5's) of the members of the board. For the purposes of this section, vacant positions on the board and members who are disqualified from voting due to a conflict of interest shall not be considered "members of the board" for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members. A member of the board shall not participate in or vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation, and that member does not recuse himself/herself, the remaining members shall by majority vote rule on the objection.

Board of Zoning Adjustment

- C. An appeal from the decision of the Zoning Officer may be taken to the Board of Adjustment by any person aggrieved or any officer, department, board or bureau of the town affected by such decision. Such appeal shall be taken within a reasonable time as provided by the rule of the Board by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The office to whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- D. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Officer certifies to the Board after the notice of appeal shall have been filed with him by reasons of fact stated in the certificate, a stay would in his opinion cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this Ordinance. In such case proceedings shall not be stayed except by a restraining order, which may be granted by the Board or by a court of record on application of notice to the Zoning Officer and on due cause shown.

8.2 POWERS AND DUTIES

The Board of Adjustment shall have the following powers and duties:

A. Administrative Review

To reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the premises. To this end the Board shall have all the powers of the Zoning Officer from whom the appeal is taken.

B. Variance

To authorize upon appeal in specific cases such variances from the terms of the Ordinance as will not be contrary to the public interest where, owing to special conditions a literal enforcement of the provisions of the Ordinance will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. The existence of a nonconforming use of neighboring land, buildings, or structures in the same district or of permitted or nonconforming uses in either districts shall not constitute a reason for the requested variances.

Such variances may be granted in such individual case of unnecessary hardship only upon findings by the Board of Adjustment after a public hearing that the following conditions exist:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
2. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.

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3. A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
4. The requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or to the general welfare.
5. The special circumstances are not the result of the actions of the applicant.
6. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

8.3 APPEAL PROCESS

Appeals from the enforcement and interpretation of this Ordinance and requests for variances, shall be filed with the Zoning Officer specifying the grounds thereof. The Zoning Officer shall transmit to the Board of

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Adjustment all applications and records pertaining to such appeals and variances.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide it within a reasonable time.

The concurring vote of four-fifths of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Officer or to decide in favor of the applicant any matter upon which it is required to pass under any Ordinance, or to grant a variance from the provisions of this Zoning Ordinance.

Every decision of the Board shall be subject to review by the Sampson County Superior Court by proceedings in the nature of certiorari. Any appeal to the Superior Court shall be taken within thirty (30) days after the decision of the Board is filed in the office of the Zoning Officer, or after a written copy thereof is delivered to the appellant by personal service or registered mail, whichever is later.

8.4 ADMINISTRATION OF OATHS

The Chairman or any member temporarily acting as chairman is authorized to administer oaths to witnesses in any matter coming before the Board. All testimony before the Board must be under oath and recorded.

8.5 FEES FOR VARIANCE OR APPEALS

The Board of Commissioners shall set a fee, payable to the Town of Turkey, North Carolina, to cover the necessary administrative costs and advertising of each application for a variance or appeal. The set fee shall be posted in the Town Clerk's office.

SECTION 9. CHANGES AND AMENDMENTS

The Town Board may amend, supplement, or change the text regulations and zoning district lines according to the following procedures:

9.1 ACTION BY THE APPLICANT

The following actions shall be taken by the applicant:

A. Initiation of Amendments:

Proposed changes or amendments may be initiated by the Board of Commissioners, Planning Board, Board of Adjustment, or by the owner(s), or their agent, of property within the area proposed to be changed.

B. Application:

Application for any change or amendment shall be filed with the Town Clerk at least twenty-five (25) days prior to the Board of Commissioners' meeting in which advertisement of a hearing for the proposed amendment will be considered. The application shall contain a description of the proposed amendment and the names and addresses of property owners directly affected by the proposed change. The Planning Board shall review each proposed amendment after which it shall make recommendations to the Board of Commissioners.

C. Fee

The Town Board shall set a fee payable to the Town of Turkey, North Carolina, to cover the necessary administrative costs and advertising of each application for a change or amendment. The set fee shall be posted in the Town Clerk's Office.

D. Notice of Public Hearing Letters

When a change in the zoning classification of a piece of property is requested, the applicant shall provide to the Zoning Officer a list of names and addresses, as obtained from the county tax listings and tax abstracts of all adjacent property owners, and all owners of property within the area under consideration for rezoning along with one set of business (No. 10) envelopes stamped with a first-class stamp and addressed to each person on the list. These addressed envelopes and the list shall be submitted at least eight (8) working days prior to the public hearing.

The Town Clerk shall then mail notices of the public hearing to each person on the list and shall certify that fact to the Town Board. Such certification shall be deemed conclusive in the absence of fraud.

9.2 ACTION BY THE PLANNING BOARD

The Planning Board shall consider and make recommendations to the Board of Commissioners concerning each proposed zoning amendment. As part of its recommendation, the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board; however, 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 Board of Commissioners.

The following policy guidelines shall be followed by the Planning Board concerning zoning amendments and no proposed zoning amendment will receive favorable recommendation unless:

- A. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
- B. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.
- C. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved.)
- D. There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.
- E. The proposed change is in accord with a comprehensive plan and sound planning principles.

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9.3 ACTION BY THE BOARD OF COMMISSIONERS

A. Notice and Public Hearing

No amendment shall be adopted by the Board of Commissioners until after public notice and hearing. Notice of a public hearing shall be given once a week for two successive calendar weeks in a newspaper of general circulation in the Town of Turkey, said notice to be published the first time not less than ten (10) nor more than twenty-five (25) days prior to the date fixed for said hearing. The first class mail notice required by this section shall not be required if the rezoning directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, and the town elects to use the expanded published notice in a newspaper of general circulation within the area where the rezoning is proposed. The expanded published notice shall consist of an advertisement of the public hearing that is no less than one-half (1/2) of the newspaper page in size. In computing this period, the date of publication shall not be counted, but the date of the hearing shall be. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that 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 mailed notice. In addition to the newspaper notice, notice shall also be made by posting the subject property with a sign indicating a public hearing. When multiple parcels are involved, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice to interested persons. The zoning administrator may elect to take any other action deemed to be useful or appropriate to give notice of the public hearing on any proposed amendment. The notice(s) shall be posted no less than ten (10) days prior to date of the public hearing.

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B. Board of Commissioners Action

Before taking such lawful action as it may deem advisable, the Town Board shall consider the Planning Board's recommendation on each proposed zoning amendment. If no recommendation is received from the Planning Board within thirty (30) days after public hearing by the Town Board, the proposed amendment shall be deemed to have been approved by the Planning Board.

A board of commissioners member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

E. Protests

To qualify as a protest under this section, the petition must be signed by the owners of either:

- (1) twenty percent (20%) or more of the area included in the proposed change; or
- (2) five percent (5%) of a one hundred (100) foot wide buffer extending along the entire boundary of each discrete or separate area proposed to

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be rezoned. A street right-of-way shall not be considered in computing the one hundred (100) foot buffer area as long as the street right-of-way is one hundred (100) feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the one hundred (100) foot buffer shall be measured from the property line of the parcel. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine "owners" of potentially qualifying areas.

Such amendment shall not become effective except by favorable vote of three-fourths of all members of the Town Board. For the purpose of this section, vacant positions on the board of commissioners and members who are excused from voting shall not be considered "members of the board" for calculation of the requisite supermajority. Qualified protests shall not be applicable to any amendment that initially zones property added to the territorial coverage of this ordinance as a result of annexation or otherwise, or to an amendment to an adopted special use district, conditional use district, or conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening as approved for the special use district, conditional use district, or conditional district. A person who has signed a protest petition may withdraw his/her name from the petition at any time prior to the vote on the proposed zoning map amendment.

No protest petition shall be valid unless it is:

1. Written;
2. Bears the actual signatures of the requisite number of property owners and states that they protest the proposed amendment; and
3. Is received by the Town Clerk in time to allow at least two (2) normal working days (excluding weekends and legal holidays) prior to the public hearing on the amendment, so as to allow time for municipal personnel to check the accuracy and sufficiency of the petition.

D. Reconsideration; One-Year Limitation

Whenever an application requesting an amendment has been acted on and denied by the Town Board, such application, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial.

E. Moratorium

Any proposed moratorium adopted that affects any development allowed under the provisions of this ordinance shall follow regulations as set out in GS 160A-381E.

SECTION 10. DEFINITIONS

Except where specifically defined herein all words used in this Ordinance shall carry their customary meanings. Words used in the present tense shall include the future tense; the singular number includes the plural; the word "building" includes the word "structure"; the word "lot" includes the word "plot" or "parcel"; the term "shall" is always mandatory; the words "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

Building. Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or other public or private purposes or accessory thereto, and including tents, lunch wagons, dining cars, trailers, free-standing outdoor advertising signs and similar structures whether stationary or movable.

Building, Accessory. A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal building or use.

Building, Principal. A building in which is conducted the principal use of the lot on which said building is situated.

Building Line. See Setback Line.

Development Plan, Phased. A plan which has been submitted to the Zoning Officer by a landowner for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan determined by the Zoning Officer to be a site specific development plan.

Development Plan, Site Specific. A plan which has been submitted to the Zoning Officer by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property.

Dwelling Unit. A building or portion thereof providing complete living facilities for one family. The term "dwelling" shall not be deemed to include a motel, hotel, tourist home, or other structures designed for transient residents.

Dwelling, Single Family. A detached residence designed for or occupied by one family only.

Family. One or more persons related by blood, marriage, or adoption occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging, or hotel.

Frontage. The distance between the two side lot lines as measured along the front street line.

Home Occupations. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof, and in connection with which there is no display and no person not a resident on the premises is employed specifically with the home occupation, except that no more than one (1) assistant may be employed by the following home occupations: attorney, dentist, physician, chiropractor, and osteopath. Provided further, that no mechanical equipment is installed or used except such that is used for domestic or professional purposes, and that not over twenty-five (25%)

percent of the total floor space of any structure is used for home occupations.

Lot. A parcel of land having frontage on a public street or other officially approved means of access occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of this Ordinance and the following definitions.

Lot, substandard. A parcel of land held in separate ownership having frontage on public street, occupied or intended to be occupied by a principal building or structure together with accessory buildings, and uses, having insufficient size to meet the lot width, lot area, yard, or other open space provisions of this Ordinance.

Lot, depth. The mean horizontal distance between front and rear lot lines.

Lot of Record. A lot which is part of a subdivision or plat of which has been recorded in the office of the Register of Deeds of Sampson County, or a lot described by metes and bounds, the description of which has been so recorded.

Lot, width. The distance between side lot lines measured at the building line.

Manufactured Home. A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (iii) exceeds forty feet in length and eight feet in width (commonly called a mobile home).

Manufactured Home, Class A. A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following size and appearance standards:

- a. The manufactured home has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis;
- b. The manufactured home has a minimum of 1,200 square feet of enclosed and heated living area;
- c. The pitch of the roof of the manufactured home has minimum vertical rise of three and two tenths feet for each twelve feet of horizontal run (3.2 feet and 12 feet) and the roof is finished with a type of composition shingle that is commonly used in standard residential construction;
- d. The roof eaves and gable overhangs shall be 6-inch minimum (rain gutters may not be included in the minimum dimensions);

- e. The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- f. The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home;
- g. The front entrance to the manufactured home has stairs and a porch, the porch being at least four feet by six feet in size. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the North Carolina State Building Code; and
- h. The moving hitch, wheels, axles, and transporting lights have been removed.

It is the intent of these criteria to insure that a Class "A" manufactured home, when installed, shall have substantially the appearance of an on-site conventionally built, single-family dwelling, to include landscaping in harmony with surrounding dwellings.

Modular Home. A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the North Carolina State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

Nonconforming Use. The use of a building or land which does not conform to the use regulations of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments which may be incorporated into this Ordinance.

Service Station. A building or lot dedicated to the rendering of services such as the sale of gasoline, oil, lubricants, and accessories and the minor repair of automobiles such as tune-ups, brake adjustments, and tire changes excluding body work, overhauling, and painting.

Setback Line. The line on the front, rear, and sides of a lot, set according to the district regulations, which delineates the area upon which a structure may be built or maintained.

Shopping Center. Two or more commercial establishments planned and constructed as a single unit with off-street parking and loading facilities provided on the property and related in location, size, and type of shops to the trade area which the unit serves.

Street. A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Structure. Anything constructed or erected, the use of which requires permanent or semi-permanent location on the ground, or attachment to something having permanent location on the ground, including advertising signs.

Vested Right. The right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan or an approved phased development plan.

Yard. A required open space on the same lot as the principal building, unoccupied and unobstructed (other than for vegetation) from the ground upward except as otherwise provided herein.

Yard, front. A yard extending across the front of a lot measured from side lot line to side lot line and lying between the abutting street right-of-way and the front building setback line.

Yard, rear. A yard extending across the rear of the lot measured from side lot line to side lot line and lying between the rear property line and the rear building setback line.

Yard, side. A yard extending along either side of a lot measured from front yard line to rear yard line and lying between the side lot line and the side setback line.

Zoning Officer. The person or official or his authorized representative, whom the Town Board has designated as its agent for administration of this Ordinance.