

ARTICLE IX

GENERAL PROVISIONS

Section 900. NONCONFORMING USES.

900.1 NEW USES OR CONSTRUCTION. After the effective date of this ordinance, all new construction shall conform to the use, area, and bulk regulations for the district in which it is to be located.

900.2 CONFORMING USES. After the effective date of this ordinance, land or structures, or the uses of land or structures which conform to the regulations for the district in which it is located may be continued, provided that any structural alteration or change in use shall conform to the regulations herein specified for the district which it is located. Furthermore, after the passage of this ordinance, no subdivision of property in single ownership shall be made which results in leaving the remaining lot with a width or area below the minimum requirements of this ordinance. Nor shall the newly made lot be less than the width or area requirements unless it is to be combined with a pre-existing lot which will result in the two meeting the width and area requirements of this ordinance.

900.3 CONTINUATION OF NONCONFORMING USES. After the effective date of this ordinance, land, lots, or structures, or the use of land, lots, or structures which would be prohibited under the regulations for the district in which it is located shall be considered as nonconforming. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their continued use. Unless otherwise indicated, and subject to Section 508.21, nonconforming structures or uses may be continued provided they conform to the provisions below: (*amended 6 July 2015*)

900.31 Nonconforming Lots

- (a) **Minimum Single Lot Requirements.** Where the owner of a lot at the time of the adoption of this ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this ordinance, such lot may be used as a building site for a single family residence with related accessory buildings in a district in which residences are permitted. There shall be no alteration of the setback requirements on such lot except where the West Jefferson Board of Adjustment finds, after a public hearing, that the values of the neighboring properties would not be unduly depreciated nor would the public safety or welfare be impaired by such action.

- (b) **Minimum Multi-Lot Requirements.** 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, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this ordinance for the district in which such lots are located. No portion of said parcel shall be used or sold which does not meet the area and width requirements established by this ordinance nor shall any division of the parcel be made which leaves any lot remaining with width or area below the requirements of this ordinance.

900.32 Nonconforming uses of Land and/or Buildings.

- (a) Nonconforming use of land or structures shall not hereafter be enlarged or extended in any way.
- (b) Any nonconforming uses of land or structures may be changed to any conforming use or with the approval of the Board of Adjustment, to any use or structure more in character with the uses permitted in the district. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this ordinance.
- (c) Should any nonconforming structure or use of land be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is relocated.
- (d) Normal maintenance, repair, and incidental alteration in a building occupied by a nonconforming use is permitted provided it does not increase the nonconforming use.
- (e) If a building occupied by a nonconforming use or nonconforming building is destroyed by any means to an extent of more than 80% of its appraised value for tax purposes at the time of destruction, such building may not be restored for any nonconforming use. Mobile homes made nonconforming by the adoption of extraterritorial jurisdiction may be replaced with a comparable nonconforming mobile home in the event such mobile home is damaged or destroyed. (*amended 04-02-18*)

900.4 EXTENSION OF NONCONFORMING USES. A nonconforming use shall not be extended or enlarged nor shall a nonconforming structure be altered except as follows:

900.41 Structural alterations as required by law or the ordinance or as ordered by the Zoning Administrator to secure the safety of the structure;

900.42 Maintenance and repair necessary to keep a nonconforming structure in sound condition.

900.5 RE-ESTABLISHMENT OF NONCONFORMING USES. A nonconforming use may not be reestablished after discontinuance for a period of one-hundred eighty (180) days.

900.6 NON-CONFORMING SIGNS AND BILLBOARDS. Nonconforming signs and billboards will be allowed to remain in good repair for a period of three (3) years after the effective date of this ordinance, at which time all signs and billboards must conform to the regulations of this ordinance. Billboards made nonconforming by the adoption of extraterritorial jurisdiction may remain. In the event such nonconforming billboard is damaged or destroyed, it may be replaced with a comparable billboard that is no larger in size.

Section 901. PARKING.

There shall be provided at the time of erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one type of use or occupancy to another, permanent off-street parking space in the amount specified in this section.

901.1 CERTIFICATE OF MINIMUM PARKING REQUIREMENTS. Each application for a zoning permit or certificate of occupancy submitted to the Zoning Administrator shall include information as to the location and dimensions of off-street parking and loading spaces, and means of ingress and egress to such space. This information shall be of sufficient detail to enable the Zoning Administrator to determine whether the requirements of this section are met.

901.2 COMBINATION OF REQUIRED PARKING SPACE. The required parking spaces for any number of spaces may be combined in one (1) lot or premise, but the required parking space for any other use shall not be used or counted as the required space for any other use except that one half (.) of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.

901.3 REMOTE PARKING SPACE. If adequate parking facilities cannot be provided on the same lot where the principal use is located, it may be provided on another lot not more than five hundred (500) feet from the principal use, provided that

such space is rented and/or leased on a long-term basis or is in the same ownership as the principal use.

901.4 REQUIREMENTS FOR PARKING LOTS IN RESIDENTIAL DISTRICTS.

Where parking lots for more than five (5) automobiles are permitted or required in residential districts, the following stipulations shall be met:

- (a) The lot may be used only for parking in relation to the principal use of the lot and not for any type of loading sales, repair work, dismantling or servicing.
- (b) All entrances, exits, barricades at sidewalks, and drainage works shall be approved by the Zoning Administrator prior to construction;
- (c) Only one (1) entrance and one (1) exit sign not exceeding four (4) square feet prescribing parking regulations may be erected at each entrance or exit. No other signs shall be permitted.

901.5 MINIMUM PARKING REQUIREMENTS. The required number of off-street parking spaces specified below for each use shall be provided.

LAND USE	REQUIRED PARKING SPACE
Automobile sales and repair garages or	One (1) space for each two (2) employees at maximum employment on a single shift, plus two (2) spaces for each 300 square feet of repair or maintenance space.
Bowling Alleys	Two (2) spaces for each lane, plus one (1) additional space for each two (2) employees.
Churches and Funeral homes	One (1) space for each four (4) seats in the main chapel.
Elementary schools and Junior High schools, both public and private.	One (1) space for each classroom and administrative office.
Hospitals	One (1) space for each four (4) patient beds plus one (1) space for each staff or visiting doctor plus one (1) space for each four (4) employees.

Hotels	One (1) space for each two (2) rooms plus one (1) additional space for each five (5) employees.
Libraries	One (1) space for each four (4) seats provided for patron use.
Motels, tourist homes and tourist courts	One (1) space for each accommodation plus two (2) additional spaces for employees
Child care facilities	One (1) for each two (2) employee and one (1) for each four hundred (400) square feet of floor area. <i>(amended 01-09-17)</i>
Mobile homes	Two (2) spaces for each mobile home.
Offices, businesses, professional or public, including banks	One (1) space for each two hundred (200) square feet of gross floor area.
Places of public assembly including private clubs and lodges, auditoriums, dance halls, pool rooms, theaters, stadiums, gymnasiums, amusement parks, community centers, and all similar places of public assembly.	One (1) space for each four (4) fixed seats provided for patron use, plus one (1) space for each one hundred (100) square feet of floor or ground area used for amusement or assembly but not including fixed seats.
Rescue squads and armories	Parking space equivalent to three (3) times the gross floor space in the main building.
Residential dwellings, single-family and two-family	Two (2) spaces for each dwelling unit.
Restaurants, drive-in	Parking space equivalent to five (5) times the gross floor space in the main building.
Retail business and consumer service outlets	One (1) space for each two hundred (200) square feet of gross floor area
Rooming and boarding houses for the owners or managers.	One (1) space for each accommodation, plus one (1) additional space
Sanitariums, rest and convalescent homes, homes for the aged, and similar institutions	One (1) space for each six (6) patient beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each four (4) employees.

Senior High Schools, and Colleges, both public and private	One (1) space for each ten (10) students for whom the school was de-signed, plus one (1) space for each classroom and administrative offices.
Service stations	Two (2) spaces for each gas pump plus three (3) spaces for each grease rack or similar facility
Shopping centers	One (1) parking space for each seventy (70) square feet of gross floor area.
Wholesaling and Industrial uses	One (1) space for each two (2) employees at maximum employment of a single shift.

901.6 Establishments located (or locating) in the community shopping district are exempt from these provisions.

Section 902. OFF STREET LOADING AND UNLOADING SPACE.

The number of off-street loading berths required by this section shall be considered as the absolute minimum and the developer shall evaluate his own needs to determine if they are greater than the following minimum. Every building or structure used for business, trade, or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Each space shall have access to an alley, or, if there is no alley, to a street. For the purpose of this section, off-street loading space shall have a minimum dimension of twelve (12) feet by forty (40) feet and an overhead clearance of fourteen (14) feet in height above the alley or street grade. A loading space requirement may be modified or waived by the Board of Adjustment on application in the case of a bank, theater, assembly hall, or other building of similar loading space requirements.

902.1 Square feet of Gross Floor Area	Required Number of Berths
0 - 25,000	1
25,000 - 40,000	2
40,000 - 100,000	3
100,000 - 160,000	4
160,000 - 240,000	5
240,000 - 320,000	6
320,000 - 400,000	7
Each 90,000 above 400,000	1

Exceptions: New businesses or services moving into existing vacant buildings within the C-S District are exempt from these requirements; if moving into a new structure, however, these provisions do apply.

Section 903. EXTERIOR BUILDING MATERIALS ON CERTAIN STREETS.

- 903.01** (a) For developments other than one and two-family developments located on the street sections listed below, no building elevation, including foundation, that is prominently visible from the street or adjoining residentially zoned property, may be covered (exposed) with sheet or corrugated aluminum, iron or steel, plain concrete, plain concrete block, or exterior panelized plywood. Except, however, such materials may be used as secondary exterior finish materials if they cover no more than 20% of a facade. Buildings may consist of any of the following materials: utility brick, standard brick, stucco, synthetic stucco, colored split-faced block, glass, stone, tile or other similar high quality materials.
- (b) Buildings that are constructed that are less than 1,700 square feet may be covered with existing façade materials of other buildings on the same property. However, if the building is larger than 1,700 square feet 80% of its façade must be covered in high quality materials (i.e. utility brick, standard brick, stucco or vinyl siding). (*amended 4 March 2013*)

903.02 Street segments to which this section applies:

- 903.021** North and South Jefferson Ave. (US HWY 221 BUS. & NC HWY 194);
- 903.022** Second St. (US HWY 221 BUS.) from N. Jefferson Ave. to Town Zoning Limits;
- 903.023** NC HWY 194 North (from Radio Rd. to Skyline);
- 903.024** Mount Jefferson Rd. (SR 1149);
- 903.025** NC HWY. 163 (US HWY 221 to Dr. Pepper Bottling Plant);
- 903.026** Buck Mountain. Rd. and E. Buck Mountain. Rd. (SR 1134);
- 903.021.** Ray Taylor Rd. (SR 1188);
- 903.021.** Main St.

Section 904. Tattoo and body piercing services. (*amended 12 September 2016*)

Tattoo shops or similar businesses that place, mark or draw on a person's body any type of body art and/or that perform any type of body piercing are prohibited within the Town, but are permitted within the Highway Commercial zoning district, by obtaining a conditional use permit from the West Jefferson Board of Adjustment (*amended 12 September 2016*). Each conditional use must meet the requirements of Article VIII. This includes a service that makes any type of permanent mark or design on the skin by a process of pricking and ingraining an indelible pigment or by raising scars.

Section 904 does not apply to a medical office that provides medical services by or under the direction of a doctor licensed by the NC Medical Board.

This Section does not apply to drawing art on a person's body that is temporary and that can be removed by normal bathing.

This Section does not apply to businesses that limit the body piercing services to the customer's ears.