

ZONING ORDINANCE  
OF THE  
TOWN OF ANDREWS, NORTH CAROLINA

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ARTICLE I  
TITLE

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

ARTICLE II  
AUTHORITY AND ENACTMENT

In pursuance of the authority conferred by the North Carolina General Statutes, particularly Chapter 160A, Article 19, Part 3, the Board of Aldermen of the Town of Andrews, North Carolina, hereby ordains and enacts into law the following articles and sections for the purposes of: lessening congestion in the streets, securing safety from fire, panic and other dangers; promoting health and the general welfare; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; conserving the value of buildings; and encouraging the most appropriate use of land through the Town of Andrews.

ARTICLE III  
JURISDICTION

The provisions of this ordinance shall apply within the corporate limits of the Town of Andrews as specifically identified and delineated on the map entitled “The Official Zoning Map of the Town of Andrews, North Carolina.” Said map and all explanatory material thereon are hereby made a part of this ordinance. The zoning ordinance and zoning map shall be maintained on file in the office of the Town Clerk.

ARTICLE IV  
DEFINITIONS

Section 400. Word Interpretation.

Except as specifically defined herein, all words used in this ordinance shall have their customary dictionary definitions. For the purpose of this ordinance, certain words or terms used therein are defined as follows:

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

- 400.02 The word “Town” shall mean the Town of Andrews, North Carolina.
- 400.03 The words “Board of Alderman” shall mean the Board of Aldermen of the Town of Andrews, North Carolina.
- 400.04 The words “Planning Board” shall mean the Planning Board of the Town of Andrews, North Carolina.
- 400.05 The words “Board of Adjustment” or “Board” shall mean the Zoning Board of Adjustment of the Town of Andrews, North Carolina.
- 400.06 The word “may” is permissive.
- 400.07 The word “shall” is mandatory.
- 400.08 The word “lot” includes the words “plot” or “parcel.”
- 400.09 The word “structure” includes the word “building.”
- 400.10 The words “used” or “occupied” as applied to any land or building shall be construed to include the meaning “intended, arranged or designed to be used or occupied.”
- 400.11 The words “person” or “applicant” include a firm, association, organization, partnership, corporation, company, trust, individual, or government unit.
- 400.12 The word “street” includes the words “road” or “highway.”
- 400.13 The words “ordinance” or “Zoning Ordinance” shall mean the Zoning Ordinance of the Town of Andrews, North Carolina.
- 400.14 The words “Zoning Map” shall mean the Official Zoning Map of the Town of Andrews, North Carolina.

#### Section 401. Definitions.

- 401.01 Accessory Use of Structure. A use or structure customarily incidental and subordinate to the principal use of structure and located on the same lot with such principal use or structure.

- 401.02 Alley. A public way which affords only a secondary means of access to abutting property and which is not intended for general traffic circulation.
- 401.03 Apartment. A part of a building consisting of a room or rooms intended, designed or used as a residence by an individual or single family.
- 401.04 Apartment, Garage. A part of a garage consisting of a room or rooms intended, designed or used as a residence by an individual or single family.
- 401.05 Boarding House or Rooming House. A building where, for compensation, lodging and/or meals are provided for not more than ten (10) persons for terms of occupancy of one (1) week or more.
- 401.06 Buffer Strip. A planting strip at least ten (10) feet in width, composed of evergreen trees or shrubs which at maturity shall be not less than twelve (12) feet in height. The buffer strip shall be planted and maintained in a healthy growing condition by the property owner who, under the terms of this ordinance, is required to provide the buffer strip.
- 401.07 Buildable Area. The portion of a lot remaining after required yards have been provided.
- 401.08 Building. Any structure having a roof supported by columns or walls, and intended for shelter, housing or enclosure of persons, animals, or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport, or other such structure, with or without a roof, shall not be deemed to make them one building.
- 401.09 Building, (Customary) Accessory. A building located on the same lot with a principal building, subordinate to the principal building on the lot, and used for purposes clearly incidental to those of the principal building on the lot.
- 401.10 Building Height. The distance from the highest ground level at the foundation of the building to the highest point of the roof.
- 401.11 Building Line. A line fixed parallel to a lot line beyond which a building cannot extend under the terms of this ordinance. Included are front, side and rear building lines.

- 401.12 Building, Principal. A building in which is conducted the main or principal use of the lot on which said building is situated.
- 401.13 Conditional Use. A use which is permitted in specified zoning districts only after review by the Board of Adjustment and found to meet specific conditions and procedures as are now or hereafter set forth in this ordinance so as to maintain the safety and general welfare of the community. Such uses shall be permitted only upon the issuance of a conditional use permit by the Board of Adjustment.
- 401.14 Day Nurseries and Kindergartens. A use of land and buildings to provide group care for children.
- 401.15 District. Any section of the Town of Andrews and its zoning jurisdiction within which regulations are uniform.
- 401.16 Dwelling. Any building or portion thereof which is designed for living and/or sleeping purposes, excluding motels, hotels, rooming or boarding houses, tourist homes, or other structures designed for transient residence.
- 401.17 Dwelling, Multi-Family. A building arranged or designed to be occupied by three (3) or more families living independently of each other.
- 401.18 Dwelling, Single-Family. A building arranged or designed to be occupied by one (1) family.
- 401.19 Dwelling, Two-Family. A building arranged or designed to be occupied by two (2) families living independently of each other.
- 401.20 Dwelling Unit. A building or portion thereof providing complete and permanent living facilities for one (1) family.
- 401.21 Easement. A grant by a property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.
- 401.22 Family. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over five (5) persons.

- 401.23 Flood. A temporary rise in water levels or an accumulation of water runoff resulting in inundation of areas not ordinarily covered by water.
- 401.24 Floodplain. Any land susceptible to inundation by water from any source including, at a minimum, that area subject to a one-percent or greater chance of flooding in any given year.
- 401.25 Floodway. The channel of the stream and those portions of the adjoining floodplain which carry and discharge waters of a particular flood event.
- 401.26 Flood Fringe. The area of a floodplain which is outside of the floodway.
- 401.27 Gross Residential Density. The number of dwelling units to be built divided by the area of the tract being developed.
- 401.28 Group Care facility. An establishment qualified for a license by the State of North Carolina to provide resident services to individuals of whom one or more are unrelated. Such individuals are handicapped, aged, and/or disabled; are undergoing rehabilitation or extended care; and are provided services to meet their needs by the group care facility. Group care facilities include group homes for all ages, halfway houses, and foster and boarding homes.
- 401.29 Group Development. A group of two (2) or more principal structures built on a single lot, tract or parcel of land not subdivided into the customary streets and lots and which will not be so subdivided, and designed for occupancy by separate families, businesses or other enterprises. Examples would be: cluster-type subdivisions, row houses, apartment courts, housing projects, school and hospital campuses, shopping centers and industrial parks.
- 401.30 Home occupation, Customary Incidental. An occupation conducted entirely within a dwelling and carried on by the occupants thereof provided that: a) The use of the dwelling unit for the home occupation shall be clearly incidental and secondary to the use of the dwelling for residential purposes, and such occupation shall be carried on solely within the main dwelling and shall not occupy more than twenty-five percent (25%) of the total floor space of the dwelling; b) There shall be no display, no outside storage, no change in

the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than the signs permitted in each district; c) No more than two persons not in residence on the premises shall be employed in connection with the home occupation; d) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conducted of such home occupation shall be met off the street and other than in a required front shall be met off the street and other than in a required front yard; e) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot; f) In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

- 401.31 Hotel. A building used as an abiding place of ten (10) or more persons who, for compensation, are lodged with our without meals, and in which no provision is made for cook in any individual room or suites.
- 401.32 Junkyard. The use of six hundred (600) or more square feet of any lot or tract for the outdoor storage and/or sale of waste paper, rags, scrap, metal or other such materials, including storage or dismantling or motor vehicles or machinery.
- 401.33 Kennel. An establishment either offering lodging and boarding facilities for dogs, cats, and other domestic pets for a fee, or breeding five or more animals.
- 401.34 Lot. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.
- 401.35 Lot, Corner. A lot which occupies the interior angle at the intersection of two (2) street lines. The street line forming the least frontage shall be deemed the front of the lot except where two (2) street lines front equally, in which case the owner shall be required to specify the front of the lot when requesting a zoning compliance permit.

- 401.36 Lot, Depth of. The average distance between front and rear lot lines.
- 401.37 Lot line. A line dividing one parcel of property from another parcel of property or from a street right-of-way.
- 401.38 Lot Line, Front. The street right-of-way boundary at the front of the lot, that is, the line which separates the lot from the street at the front of the lot.
- 401.39 Lot Line, Rear. That line of a lot which is opposite and farthest from the front lot line. Where a lot abuts a street along the rear of the lot, the rear lot line shall be deemed to coincide with the street right-of way boundary.
- 401.40 Lot Line, Side. Any lot line which meets an end of a front lot line. Where a lot abuts a street along the side of the lot, the side lot line shall be deemed to coincide with the street right-of-way boundary.
- 401.41 Lot of Record. Any lot for which a plat has been recorded in the Registry of Deed or Cherokee County, or a lot described by metes and bounds, the description of which has been so recorded.
- 401.42 Lot, Width of. The distance between side lot lines measured at the front building line.
- 401.43 Manufactured Building. A building mass-produced in a factory either independently or as a module for combination with other elements to form a building on site, and designed and constructed for transportation to a site for installation and use when connected to required facilities.
- 401.44 Manufactured Home. A manufactured building or portion of a building designed for long-term residential use.
- 401.45 Mobile Building. A manufactured building constructed on chasses and used for non-residential purposes. A mobile building shall be construed to remain a mobile building subject to all regulations applying thereto, whether or not wheels, axles, hitches or other appurtenances of mobility are removed, and regardless of the nature of the foundation provided.

- 401.46      Mobile Home. A manufactured home built on a chassis. A mobile home shall be construed to remain a mobile building subject to all regulations applying thereto whether or not wheels, axles, hitches or other appurtenances of mobility are removed, and regardless of the nature of the foundation provided.
- 401.47      Mobile Home Park. A contiguous parcel of land under single ownership which has been developed for the placement of mobile homes for non-transient use. Excluded from this definition are mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sale.
- 401.48      Mobile Home Site. A plot of ground within a mobile home park designated for the accommodation and use of one (1) trailer or mobile home and containing all improvements and utility connections required under this ordinance as well as all other applicable regulations.
- 401.49      Mobile Unit, Double Wide. For the purposes of this ordinance, a double-wide mobile unit shall include both mobile home and mobile buildings. A double-wide unit consists of two (2) or more separate mobile homes or mobile buildings which are designed to be connected on a site to form a single structure for one or more residential or non-residential uses. The exterior dimensions of the double-wide mobile unit when assembled for use shall be not less than 32' X 24'. Such a unit shall be placed on a permanent, enclosed foundation with the wheels and pulling tongue removed.
- 401.50      Motel. A commercial building or group of buildings containing sleeping rooms, designed for or used temporarily by automobile transients, with garage or parking space conveniently attached to each unit.
- 401.51      Nonconformity or Nonconforming Use. Any parcel of land, use of land, building or structure, existing at the time of adoption or amendment of this ordinance, that does not conform to the requirements, use or dimensional of the district in which it is located.
- 401.52      Parking Space. An area of not less than 200 square feet exclusive of necessary access and maneuvering space. Parking space(s) shall be provided with vehicular access to

a street or alley, shall not be provided in a required front yard area, and shall always be located outside the dedicated street right-of-way.

- 401.53 Retail Business. An establishment selling commodities and/or providing services directly to the consumer.
- 401.54 Service Station. Any building or land used for the dispensing, sale, or offering for sale of any automobile fuels, lubricants, or tires, except that indoor car washing, minor motor adjustment, and tire repair may be performed only incidentally to the conduct of the facility.
- 401.55 Setback. The required distance between any structure and the applicable lot line(s) (front, side or rear) of the lot on which the structure is located.
- 401.56 Sign. Any outdoor notice containing words, letters, figures, numerals, emblems, devices, trademarks, or trade names, or combinations thereof.
- 401.57 Sign Area. The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the matter displayed. However, in computing sign area only one (1) side of a double-faced sign structure shall be considered. Frames and structural members not bearing advertising matter shall not be included in computation of the surface area.
- 401.58 Sign, Advertising. Any sign, including a standard poster panel, either freestanding or attached to a structure which directs attention to a business, commodity, service, entertainment or other activity conducted, sold, or offered at another place other than on the property on which the sign is located.
- 401.59 Sign, Business Identification. A sign which directs attention to a business commodity, service, entertainment, or other activity conducted, sold or offered on the premises up on which the sign is located.
- 401.60 Street. A public thoroughfare of right-of-way for vehicular traffic which afford a principal means of access to abutting properties.

- 401.61 Street Line. The street right-of-way boundary, that is, the line in which separates the street from the lot.
- 401.62 Structure. Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. The term “structure” includes, but is not limited to, buildings, fences, signs, sheds and towers.
- 401.63 Temporary Use Structure. A non-residential structure intended for temporary offices, headquarters or storage of materials on the same lot or tract of land being used or developed for a directly related permanent use. A temporary use structure shall require a temporary certificate of zoning compliance from the Zoning Administrator, which shall extend for a maximum period of one year, with renewal extensions of six (6) months.
- 401.64 Tourist Home. A building where, for compensation, lodging and/pr meals are provided for not more than ten (10) persons for terms of occupancy of less than one (1) week.
- 401.65 Travel Trailers. A vehicle less than thirty-two (32) feet in length designed primarily as a temporary dwelling for travel, recreation or vacation uses.
- 401.66 Travel Trailer Park. A parcel of land designed and equipped to accommodate travel trailers and to serve as a campground.
- 401.67 Use. The purpose or activity for which a piece of land or its structures is designed, arranged, or intended, or for which it is occupied or maintained.
- 401.68 Use, Principal. The main use of land or structures on a lot, as distinguished from an accessory use.
- 401.69 Variance. A relaxation of the terms of the zoning ordinance which will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in an unnecessary and undue hardship. A variance may be granted only by the Zoning Board of Adjustment.

- 401.70 Yard. A space on the same lot with a principal building which is open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.
- 401.71 Yard, Front. A yard extending the full width of the lot on which a principal building is located and situated between the front lot line and a line parallel thereto passing through the nearest point of the building.
- 401.72 Yard, Rear. A yard extending the full width of the lot on which a principal building is located and situated between the rear lot line and a line parallel thereto passing through the nearest point of the building.
- 401.73 Yard, Side. A yard on the same lot as a principal building situated between the side lot line and a line parallel thereto passing through the nearest point of the building, and extending from the front yard to the rear yard.
- 401.74 Zoning Administrator. An official of or person designated by the Town of Andrews charged with enforcing and administering the zoning ordinance.

ARTICLE V  
ADMINISTRATION, ENFORCEMENT AND APPEALS

Section 500. The General Process and the Duties of the Zoning Administrator, Board of Adjustment, Planning Board, Board of Aldermen and Courts on Matters of Administration.

All questions arising in connection with the enforcement of this ordinance shall be presented first to the Zoning Administrator who shall be responsible for the day to day administrations of this ordinance. The Board of Adjustment shall have the authority to rule on matters of interpretation of this ordinance, consider appeals from decision of the Zoning Administrator, issue conditional use permits, and grant variances. Any appeal from a decision of the Board of Adjustment shall be to the courts as provided by law. The duties of the Board of Aldermen in connection with the ordinance shall not include the hearing and passing upon of disputed questions that may arise in connection with the enforcement thereof; the procedure for determining such questions shall be as herein set out in this ordinance. The duties of the Board of Aldermen in connection with this ordinance shall consist of considering and passing upon the initial ordinance and nay proposed amendments or repeal of this ordinance as provided by law, after receiving recommendations from the Planning Board.

Section 501. Zoning Administrator.

The Board of Alderman shall appoint a Zoning Administrator. It shall be the duty of the duly appointed Zoning Administrator to administer and enforce the provisions of this ordinance.

501.01      Duties. The Zoning Administrator shall issue certificates of zoning compliance and certificates of occupancy as prescribed herein. The Zoning Administrator shall serve as clerk to the Board of Adjustment, and all applications for variances and conditional use permits shall first be presented to the Zoning Administrator who in turn shall refer the applications to the Board of Adjustment.

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

Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

Section 502. Certificate of Zoning Compliance Required.

No building or other structure shall be erected, moved, added to or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a certificate of zoning compliance shall have been issued by the Zoning Administrator. No certificate of zoning compliance shall be issued except in conformity with the provisions of this ordinance. Upon approval of a conditional use permit or variance by the Board of Adjustment, the Zoning Administrator shall issue a certificate of zoning compliance for the specified purpose.

502.01      Applications for Certificate of Zoning Compliance. All applications for certificate of zoning compliance shall be accompanied by plans showing the actual dimensions of the plot to be built upon, and the location on the lot of the building or structure proposed to be erected or altered, and such other information as may be necessary to provide for the enforcement of the provisions of this ordinance.

Section 503. Building Permit Required.

Upon receiving a certificate of zoning compliance, a building permit shall be obtained pursuant to the requirements of the North Carolina State Building Code.

Section 504. Certificate of Occupancy Required.

A certificate of occupancy issued by the Zoning Administrator is required in advance of:

- (1) Occupancy or use of a building hereafter erected, altered or moved.
- (2) Change of use of any building or land.

A certificate of occupancy , either for the whole or part of a building, shall be applied for coincident with the application for a certificate of zoning compliance and shall be issued within ten (10) days after the erection or structural alterations of such building, or part, shall have been completed in conformity with the provisions of this ordinance. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance. If the certificate of occupancy is denied, the Zoning Administrator shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Zoning Administrator and copies shall be furnished on

request to any person having a proprietary or tenancy interest in the building or land involved. In addition to the requirements of this section, a certificate of compliance is also required to be issued under the provisions of the North Carolina State Building Code.

Section 505. Construction Progress.

If no construction progress has been made within six (6) months of the date of the issuance of the certificate of zoning compliance, the building permit before invalid.

Section 506. Compliance.

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

Section 507. Appeal from the Zoning Administrator.

All questions arising in connection with the enforcement of the ordinance shall be presented first to the Zoning Administrator, and such questions shall be presented to the Board of Adjustment only on appeal from a ruling of the Zoning Administrator. Any order, requirement, decision or determination made by the Zoning Administrator may be appealed to the Board of Adjustment pursuant to the procedure found in the rules of procedure of the Board of Adjustment.

Section 508. Construction and Use to be as provided in Applications, Plans, Permits, and Certificates of Zoning Compliance.

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this ordinance, and punishable by Article XIII.

ARTICLE VI  
ZONING BOARD OF ADJUSTMENT

Section 600. Establishment of Zoning Board of Adjustment.

A Zoning Board of Adjustment is hereby established. The Zoning Board of Adjustment (the "Board") shall consist of five (5) regular members and two (2) alternate members. All Board members shall be citizens of the Town of Andrews, and shall be appointed by the Board of Aldermen. Initial appointments to the Board shall be made as follows one (1) member for a term of three (3) years; two (2) members, each for terms of one (1) year. Two (2) alternate members shall also be appointed to serve three (3) year terms. As the terms of these seven (7) members expire, new appointments for (overlapping) terms of three (3) years each shall be made. Vacancies occurring for reasons other than expiration of appointed terms shall be filled as they occur by the Board of Aldermen for the period of the unexpired term. Members shall serve without pay, but may be reimbursed for an expenses incurred while representing the Board. Regular attendance of the meetings of the Board is considered a prerequisite for maintenance of membership on the Board. Each alternate member, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

Section 601. Proceedings of the Board of Adjustment.

- 601.01      Rules of Procedure. The board of Adjustment shall adopt rules of procedure separate from this ordinance which shall, at a minimum, provide for a) general rules, b) officers and duties, c) alternate members, d) rules of conduct for members, e) meetings, f) zoning appeals and applications, and g) amendments. Such rules of procedure shall accompany but shall not be made part of this zoning ordinance. Such rules shall be consistent both this is ordinance and the provisions of Chapter 160A, Article 19, Part 3 of the North Carolina General Statutes. All meetings of the Board shall be open to the public and minutes shall be kept of al meetings.
- 601.02      Appeals. The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator. An appeal may be taken by any person aggrieved or by an officer, department, board, or bureau of the town. Appeals shall be taken within times prescribed by the Board of Adjustment by general rule, by filling with the Zoning Administrator and with the Board of Adjustment a notice of appeal, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays

all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment, after notice of appeal has been filed with him, that because of facts 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 the ordinance. IN that case, proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Zoning Administrator, and on due cause shown. 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 Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appeal 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 Administrator.

- 601.03 The concurring vote of four-fifths of the member of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or decide in favor of the applicant any matter upon which it is required to pass under the zoning ordinance, or to grant a variance from the provisions of the ordinance.
- 601.04 The chairman of the Board of Adjustment or any member temporarily acting as chairman is authorized in his official capacity to administer oaths to witnesses in any matter coming before the Board.
- 601.05 All decisions and findings of the Board of Adjustment shall in all cases be final administrative decision, subject to review as provided in section 601.06.
- 601.06 Every decision of the Board of Adjustment shall be subject to review by the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the decision of the Board is filed in its minutes, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairman of the Board at the time of its hearing of the case, whichever is later. The decision of the Board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

Section 602. Powers and Duties of the Board of Adjustment.

The powers and duties of the Board of Adjustment shall be as follows:

- 602.01      Interpretation. To interpret zoning maps and pass upon disputed questions of lot lines or district boundary lines and any other questions of interpretation that may arise in the administration of this ordinance.
- 602.02      Administrative Review. To hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this ordinance.
- 602.03      Conditional Uses. To grant in particular cases and subject to appropriate conditions and safeguards, permits for conditional uses as authorized by this ordinance and set forth as conditional uses under the various use districts.
- (1)      When a conditional use permit is required by the terms of this ordinance, application for such a permit shall accompany the application for a zoning compliance permit. The application shall be transmitted immediately to the Board of Adjustment, which shall refer it to the Planning Board for review and recommendations prior to the public hearing.
  - (2)      If the Board of Adjustment shall find, after a public hearing, that in the circumstances of the particular application, the use for which the conditional use permit is sought: a) will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, b) will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood, and c) conforms to the conditions specified for the particular use under Article VIII of this ordinance, it shall issue a conditional use permit. In granting such a permit, the Board of Adjustment shall designate such conditions in connection therewith as will, in its opinion, assure that the use will conform to the requirements of this ordinance.
  - (3)      If at any time after a conditional use permit has been issued for any conditional use, the Board of Adjustment find that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a conditional use permit, the permit shall immediately be terminated and the

operation of such a sue discontinued. If the conditional use permit is terminated for any reason it may be reinstated only after a public hearing is held.

- (4) The Board of Adjustment shall describe, in its rules of procedure, the specific procedure which shall be utilized for the purpose of processing an application for a conditional use permit.

602.02

Variances. To authorize upon appeal in specific cases such variance 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 will, in an individual case, result in practical difficulty or unnecessary hardship, and so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist:

- (1) There are extraordinary and exceptional conditions pertaining to the particular place or 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.
- (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.
- (7) The variance is not a request to permit a use of land, building or structure which is not permitted by right or by conditional use in the district involved.

- (8) A nonconforming use of neighboring land, structures or buildings in the same district, and permitted uses of land, structures or buildings in other districts will not be considered grounds for the issuance of a variance.

The Board of Adjustment shall describe in its rules of procedure the specific procedure which shall be utilized for the purpose of processing an application for a variance. In granting a variance, the Board of Adjustment shall make findings that the requirements of this section have been met. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article XIII of this ordinance.

ARTICLE VII  
ESTABLISHMENT OF ZONING DISTRICTS AND MAP

Section 700. Use Districts.

For the purpose of this ordinance, the Town of Andrews, North Carolina, is hereby divided into the following districts:

- SF Single Family Residential District
- GR General Residential District
- CB Central Business District
- HB Highway Business District
- HC-I Heavy Commercial and Industrial District

Section 701. Establishment of District Boundaries.

The boundaries of the use districts are hereby established as shown on the “Official Zoning Map of the Town of Andrews, North Carolina.”

Section 702. Establishment of Zoning Map.

A zoning map entitled the “Official Zoning Map of the Town of Andrews: clearly setting forth all approved use districts and their respective boundaries is hereby made a part of this ordinance and shall be maintained in the office of the Town Clerk of the Town of Andrews. This map shall be available for inspection by interested persons during normal business hours of the Town Clerk. It shall be the duty of the Zoning Administrator of the Town of Andrews to maintain the said map and post any changes thereto as they may be made.

Section 703. Rules Governing District Boundaries

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following shall apply:

- 703.01 Boundaries indicated as approximately following the center lines of streets, highways, railroad, right-of-way, alleys, streams, rivers or other bodies of water, shall be constructed to follow such lines.
- 703.02 Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.

- 703.03 Boundaries indicated as approximately following town limit lines shall be construed as follow such town limit lines
- 703.04 Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, highways, or railroads, or right-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.
- 703.05 Where a district boundary line divides a lot of single ownership, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such lot more than thirty-five (35) feet beyond the district boundary lines.
- 703.06 Where physical features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by subsection 703.01 through 703.05, the Board of Adjustment shall interpret the district boundaries.

ARTICLE VIII  
USE REQUIREMENTS BY DISTRICT

Section 800. SF Single Family Residential District.

This district is established as a district in which the principal use of land is for single family residences. It is the intention of these regulations to discourage any use which would be detrimental to the residential nature of the district.

(1) The following uses are permitted:

- (a) Single family dwellings, including mobile home.
- (b) Churches or similar places of worship.
- (c) Public and private schools, but not trade schools.
- (d) Farms and related agricultural uses.
- (e) Parks, playgrounds, golf courses, swimming pools, community centers, and other recreational facilities operated on a non-profit basis.
- (f) Non-commercial greenhouses.
- (g) Day nurseries or kindergartens, provided that not less than two hundred (200) square feet of outdoor play area is provided for each child, and provided further that such aggregate play space is surrounded by a sturdy fence at least four (4) feet in height.
- (h) Customary incidental home occupations as defined in Article IV and subject to all conditions stated therein, provided there is no external evidence of such occupation other than one (1) sign, not exceeding one (1) square foot in area, non-illuminated, and mounted flat against the wall of the principal building. Provided further that no home occupation shall be conducted in any accessory building.
- (i) Customary accessory uses or structures, including private garages, swimming pools, and non-commercial workshops or greenhouses, provided that:
  - 1) Such uses or structures shall be located in the rear yard.
  - 2) Such uses or structures shall maintain a minimum setback

of five (5) feet from rear lot lines and shall observe setback requirements from all other lot lines as specified in Article IX.

-3) No accessory use or structure situated on a corner lot shall extend beyond the front yard line required for abutting property on the side street.

-4) No greenhouse heating plant shall be located within twenty-five (25) feet of any lot line.

-5) Such uses or structures shall be located not less than ten (10) feet from the principal building.

(j) Public utility buildings and facilities if such use is essential for the service of the immediate area, provided that:

-1) All buildings shall be located at least thirty-five (35) feet from any lot line.

-2) Fences and/or other appropriate safety devices are installed to protect the public safety and welfare.

-3) No vehicles or equipment are stored, maintained, or repaired on the premises.

-4) All structures are in keeping with the residential character of the neighborhood.

-5) Adequate landscaping, screening, and/or buffering shall be provided to ensure compatibility with the neighborhood.

(k) Temporary use structures, as defined in Article IV, and subject to the provisions of Section 1103 of this ordinance.

(l) Signs, subject to the provisions of Section 1016 of this ordinance.

(2) The following uses shall be permitted by the Board of Adjustment as conditional uses subject to the provisions of Section 602.03 of this ordinance, and subject to a finding by the Board of Adjustment that the additional conditions listed below shall be met:

(No conditional uses specified at this time.)

- (3) Off-street parking, loading and unloading space for the SF district shall be provided as required in Sections 1013 and 1014 of this ordinance.
- (4) Dimensional requirements for the SF district shall be as specified in Article IX.

Section 801. GR General Residential District.

This district is established as a district in which the principal use of land is for residential purposes, and a variety of residential uses exist. It is the intention of these regulations to discourage any use which would be detrimental to the residential nature of the district.

- (1) This following uses are permitted:
  - (a) All uses permitted in the SF Single Family Residential District.
  - (b) Two-family dwellings.
  - (c) Multi-family dwellings.
  - (d) Rooming and boarding houses, and tourist homes.
  - (e) Fraternal organizations, clubs, and lodges, provided:
    - 1) Such uses are located on a lot fronting on a major thoroughfare.
    - 2) All such uses shall be situated at least fifty (50) feet from adjacent lot lines.
    - 3) Such uses, including required off-street parking spaces, shall be separated from abutting properties by a continuous visual buffer strip as defined in Article IV.
  - (f) Public libraries, museums, art galleries, fire stations, police stations, hospitals, and buildings related to these uses, provided none of these uses shall be situated less than thirty (30) feet from any property line in any residential district.
- (2) The following uses shall be permitted by the Board of Adjustment as conditional uses subject to the provisions of Section 602.03 of this ordinance, and subject to a finding by the Board of Adjustment that the additional conditions listed below shall be met:

(a) Mobile home parks, provided that:

- 1) The lot area for a mobile home park shall be at least two (2) acres. All areas to be included in said park shall be clearly shown on the plans required by 13 below.
- 2) The lot upon which the mobile home park is located shall abut a publicly-dedicated, publicly-approved, or publicly-maintained street for a distance of at least eighty (80) feet.
- 3) Each mobile home in a mobile home park shall occupy a designated space having at least four thousand (4,000) square feet, with a width of at least forty (40) feet, exclusive of common driveways.
- 4) Each mobile home space shall abut a driveway within the park. Said driveways shall be graded and surfaced with not less than four (4) inches of crushed stone or other suitable material on a well compacted sub-base to a continuous width of twenty-five (25) feet, exclusive of required parking space.
- 5) One (1) off-street parking space with not less than four (4) inches of crushed stone or other suitable material on a well compacted sub-base shall be provided for each mobile home space. Required parking space shall be included within the four thousand (4,000) square feet required for each mobile home space.
- 6) The maximum density shall be ten (10) mobile home sites per acre.
- 7) Not less than five (5) mobile home sites shall be available at first occupancy.
- 8) A densely planted buffer strip, consisting of evergreen trees or shrubs shall be located along all sides of the mobile home park, but shall not extend beyond the established setback line along any street. Such buffer strip shall be not less than ten (10) feet in width and shall be composed of trees or shrubs of a type which at maturity shall be not less than twelve (12) feet in height. This planting requirement may be modified by the Board of Adjustment where adequate buffering exists in the form of vegetation and/or terrain.

- 9) At least two hundred (200) square feet of recreation space for each mobile home space shall be reserved within each mobile home park as common recreation space for the residents of the park. Such areas shall, along with driveways and walkways, be adequately lighted for safety.
  - 10) No mobile homes or other structures within a mobile home park shall be closer to each other than twenty (20) feet, except that storage or other auxiliary structures for the exclusive use of the mobile home may be closer to that mobile home than twenty (20) feet.
  - 11) No mobile home shall be located closer than thirty (30) feet to the exterior boundary of the park or a bounding street right-of-way. Buildings used for laundry or recreation purposes shall be located no closer than forty (40) feet to the exterior boundary or the right-of-way of a bounding street.
  - 12) Proposed water supply and waste disposal facilities for the mobile home park shall be approved in writing by the county health officer or his representative.
  - 13) Plans clearly indicating the developer's intention to comply with the provisions of this section shall be submitted to and approved by the Board of Adjustment. Such plans must show the area to be used for the proposed mobile home park; the ownership and use of neighboring properties; all proposed entrances, exits, driveways, walkways, and off-street parking areas and service buildings; the location of sanitary conveniences including toilets, laundries, and refuse receptacles; the proposed plan of water supply, sewage disposal and electric lighting.
  - 14) Any expansion of mobile home parks in existence on the effective date of this ordinance shall comply with the provisions of this section.
- (b) Group or cluster housing projects or subdivisions subject to the provisions of Section 1107 of this ordinance.
- (3) Off-street parking, loading and unloading space for the GR district shall be provided as required in Sections 1013 and 1014 of this ordinance.
  - (4) Dimensional requirements for the GR district shall be as specified in Article IX.

Section 802. CB Central Business District.

This district is designed to provide (a) a concentrated central core of retailing and services, and (b) areas accommodating central administrative, business, financial, general and professional offices and related services. The district regulations are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging continuous retail frontage in a concentrated area. The district regulations are designed to accommodate a limited number of single family dwellings as accessory uses above street level in non-residential buildings.

(1) The following uses are permitted:

- (a) Any retail business or service conducted within an enclosed building.
- (b) Any retail business making products sold primarily at retail on the premises, provided such manufacturing is incidental to the retail business.
- (c) Automobile parking lots and garages.
- (d) Banks and other financial institutions, including loan and finance companies.
- (e) Bus and taxicab stations.
- (f) Churches.
- (g) Drug stores.
- (h) Fraternal organizations, public associations, clubs and lodges.
- (i) Grocery stores.
- (j) Hospitals.
- (k) Hotels and motel, provided off-street parking shall be furnished as required for these uses in Section 1013 of this ordinance, notwithstanding any conflicting provisions of this ordinance.
- (l) Jewelry repair shops.
- (m) Libraries, museums and art galleries.
- (n) Medical and dental clinics and laboratories.

- (o) Mortuaries and funeral parlors.
  - (p) Offices: business, professional, public, medical and financial.
  - (q) Opticians.
  - (r) Personal services: barber and beauty shops; shoe and watch repair; laundries, Laundromats, and dry cleaning pick-up establishments (including self-service).
  - (s) Photographic shops and studios.
  - (t) Printing, publishing, and graphic reproduction establishments.
  - (u) Public and semi-public buildings, structures or areas.
  - (v) Public utility offices, building and facilities.
  - (w) Restaurants, indoor.
  - (x) Rooming and boarding houses, and tourist homes, provided off-street parking shall be furnished as required for these uses in Section 1013 of this ordinance, notwithstanding any conflicting provisions of this ordinance.
  - (y) Service stations for motor vehicles.
  - (z) Theatres, indoor.
  - (aa) Trade schools and similar instructional or educational facilities.
  - (bb) Transportation terminal facilities, except truck terminals.
  - (cc) Wholesaling and warehousing activities conducted within an enclosed building.
  - (dd) Customary accessory uses or structures, excluding open storage.
  - (ee) Temporary use structures, as defined in Article IV, and subject to the provisions of Section 1103 of this ordinance.
  - (ff) Signs, subject to the provisions of Section 1016 of this ordinance.
- (2) The following uses shall be permitted by the Board of Adjustment as conditional uses subject to the provisions of Section 602.03 of this ordinance,

and subject to a finding by the Board of Adjustment that the additional conditions listed below shall be met:

(a) Single family dwellings, provided:

- 1) Such a use exists only as an accessory use within a principal building.
- 2) Such a use shall be located only on an upper floor of a multi-floored building, or at the rear of a building when the use is situated on a ground floor or at street level.
- 3) Such a use shall constitute less than fifty percent (50%) of the heated floor space of the building in which it is located.
- 4) Off-street parking shall be provided as required for single family dwellings in Section 1013 of this ordinance, notwithstanding any conflicting provisions of this ordinance.
- 5) Mobile homes shall not be permitted as single family dwellings, notwithstanding any conflicting provisions of this ordinance.
- 6) Not more than one (1) single family dwelling may exist within any principal building.

(3) Off-street loading and unloading space shall be provided as required in Section 1014 of this ordinance.

(4) Where a use created in this district abuts a lot in a residential district, there shall be provided and maintained (by the use created in this district) along the abutting property line a continuous visual buffer strip as defined in Article IV.

### Section 803. HB Highway Business District.

The purpose of this district is to provide for commercial activity along major thoroughfares and at other convenient points in the area. Regulations are designed to preserve the traffic carrying capacity of the streets and thoroughfares and to provide sufficient off-street parking. It is not the intent of this district to encourage extensive strip commercial development, but to provide concentrations of general commercial activities.

(1) The following uses are permitted:

- (a) Any use permitted in the CB district or GR district, except single-family, two-family, or multi-family dwellings. Such dwellings shall be permitted as conditional uses.
- (b) Animal hospitals, veterinary clinics or kennels, but no open kennels on the premises.
- (c) Assembly halls, coliseums, gymnasiums, and similar structures.
- (d) Automotive repair and paint shops.
- (e) Automotive sales and service establishments.
- (f) Automobile washing establishments.
- (g) Bakeries and other establishments manufacturing prepared food and miscellaneous food products.
- (h) Bicycle sales and repair.
- (i) Bottling plants.
- (j) Bowling alleys, miniature golf, golf driving ranges, skating rinks, or other recreational uses conducted for profit.
- (k) Building supply and equipment sales.
- (l) Cold storage and freezer lockers.
- (m) Dairy bars and ice cream manufacturers.
- (n) Electrical repair shops.
- (o) Fabricating shops of small size, such a woodworking shops, cabinet shops and upholstery shops, when conducted within an enclosed building and excluding open storage.
- (p) Farm equipment assembly, sales and repairs.
- (q) Feed and seed stores and farm supply stores.
- (r) Glass and mirror shops, venetian blind and awning shops, tile companies, and similar building specialties outlets.
- (s) Greenhouses or horticulture nurseries.

- (t) Nursing homes, convalescent homes, and group care facilities.
- (u) Ice pick-up stations.
- (v) Laundries and dry cleaning establishments.
- (w) Miscellaneous repair services.
- (x) Mobile home sales.
- (y) Monument sales.
- (z) Physical fitness facilities.
- (aa) Restaurants, including drive-in restaurants.
- (bb) Sheet metal, roofing, plumbing, heating and refrigeration shops, excluding open storage.
- (cc) Sign painting and fabrication shops.
- (dd) Theatres, outdoor. Drive-in theatres shall be permitted provided the lot is at least four (4) acres in size, and the picture screen is not visible from any major highway.
- (ee) Transportation terminal facilities, including truck terminals.
- (ff) Wholesale and warehousing establishments except for the storage of dangerous or offensive items such as uncured hides, explosives, oil, gasoline, etc.
- (gg) Radio and television stations, studios and offices.
- (hh) Tire recapping and retreading establishments.
- (ii) Customary accessory uses or structures, excluding open storage, provided that:
  - 1) Such uses or structures shall be located in the rear yard.
  - 2) Such uses or structures shall maintain a minimum setback of five (5) feet from rear lot lines and shall observe setback requirements from all other lot lines as specified in Article IX.
  - 3) No accessory use or structure situated on a corner lot shall

extend beyond the front yard line required for abutting property on the side street.

- (jj) Signs, subject to the provisions of Section 1016 of this ordinance.
- (2) The following uses shall be permitted by the Board of Adjustment as conditional uses subject to the provisions of Section 602.03 of this ordinance, and subject to a finding by the Board of Adjustment that the additional conditions listed below shall be met:
  - (a) Mobile home parks, subject to the provisions of Section 801(2)(a).
  - (b) Group developments, subject to the provisions of Section 1107.
  - (c) Single-family dwellings.
  - (d) Two-family dwellings.
  - (e) Multi-family dwellings.
    - 1) A site plan of the proposed project shall be submitted to the Board of Adjustment for review.
- (3) Off-street parking, loading and unloading space shall be provided as required in Sections 1013 and 1014 of this ordinance.
- (4) Where a non-residential use created in this district abuts a lot in a residential district, there shall be provided and maintained (by the use created in this district) along the abutting property line a continuous visual buffer strip as defined in Article IV.

Section 804. HC-I Heavy Commercial and Industrial District.

The HC-I district is intended to provide sites for existing and future uses involving manufacturing, storage and warehousing, wholesale trade, and other industrial or heavy commercial uses. These uses are, by their nature, not properly associated with residential or lighter commercial districts. One those uses which meet all applicable local, state and federal environmental standards and which do not create injurious or obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazards or other objectionable conditions which would be detrimental to the public health, safety and general welfare of the community will be allowed in the HC-I district. Certain light commercial uses necessary to support industrial or heavy commercial uses (such as restaurants) shall also be permitted in this district.

- (1) The following uses are permitted:

- (a) Any use permitted in the HB district.
- (b) Auto repair facilities.
- (c) Industrial supply establishments.
- (d) Agricultural supply establishments.
- (e) Commercial parking lots and parking garages.
- (f) Welding and machine shops.
- (g) Textile industries.
- (h) Furniture industries.
- (i) Electronics industries.
- (j) Animal hospitals, veterinary clinics or kennels.
- (k) Electrical appliance manufacturing or repair shops.
- (l) Food processing establishments.
- (m) Ice and cold storage plants and freezer lockers.
- (n) Wholesale establishments storing oil, fuel oil, kerosene, and gasoline.
- (o) Dairies.
- (p) Farms and related agricultural uses.
- (q) Parks, playgrounds, golf courses, swimming pools, and community centers.
- (r) Wholesale and warehousing establishments.
- (s) Contractor's plants and storage yards.
- (t) Machine tool manufacturing.
- (u) Metal fabrication plants.
- (v) Monument works and sales.

- (w) Pharmaceutical manufacturing.
- (x) Radio and television offices and facilities. Communication transmission or reception facilities such as antennae or masts shall be exempt from the height restrictions of this district.
- (y) Industrial equipment sales and repair.
- (z) Any retail service establishment dependent or closely related to industrial or heavy commercial service.
- (aa) Storage yards, including those for building materials or lumber, provided such areas are enclosed and screened from view by a fence, hedge, solid wall, or similar opaque partition at least six (6) feet in height.
- (bb) Any industry which does not create injurious or obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazards or other objectionable conditions which would be detrimental to the public health, safety and general welfare of the community. Such determination shall be made by the Board of Adjustment.
- (cc) Customary accessory uses or structures, including open storage, provided that:
  - i. Such uses or structures shall be located in the rear yard.
  - ii. Such uses or structures shall maintain a minimum setback of fifteen (15) feet from rear lot lines and shall observe setback requirements from all other lot lines as specified in Article IX.
  - iii. No accessory use or structure situated on a corner lot shall extend beyond the front yard line required for abutting property on the side street.

(2) The following uses shall be permitted by the Board of Adjustment as conditional uses subject to the provisions of Section 602.03 of this ordinance, and subject to a finding by the Board of Adjustment that the additional conditions listed below shall be met:

All conditional uses permitted in the HB district under Section 803(2).

(3) Off-street parking, loading and unloading space shall be provided as required in Sections 1013 and 1014 of this ordinance

- (4) Where non-residential use created in this district abuts a lot in a residential district, there shall be provided and maintained (by the use created in this district) along the abutting property line a continuous visual buffer strip as defined in Article IV.

ARTICLE IX  
DIMENSIONAL REQUIREMENTS

DISTRICT	MIN. LOT AREA IN SQ FT. (^1)	LOT AREA PER DWELLING UNIT IN SQ. FT.	MIN. LOT WIDTH at BLDG. LINE IN FEET	MIN. YARD REQUIRED in FEET: FRONT	MIN. YARD REQUIRED in FEET: SIDE (^2)	MIN. YRAD REQUIRED IN FEET: REAR	MAX. HEIGHT IN FEET
SF Single Family Residential	10,000	10,000	75 X 135	35	10 (^3)	30	35
GR General Residential	8,000	8,000 for first unit 4,000 for each additional dwelling unit	15	25	8 (^4)	30	35
CB Central Business	None	N/A	20	None	None (^5)	None (^6)	35
HB Highway Business							
Non-res. Uses	10,000	N/A	80	30	10	15	35
Res. Uses	8,000	8,000 for first unit 4,000 for each additional dwelling unit	75	25	8 (^4)	30	35
HC-I Heavy Commercial and Industrial :							
Non-res. Uses	40,000	N/A	100	30	15	15	35
Res. Uses	8,000	8,000 for first unit 4,000 for each additional dwelling unit	75	25	8 (^4)	30	35

\* New Construction Commercial- 50 feet Height Limit

- <sup>1</sup> The minimum lot area for lots not served by either public water or sewer shall be subject to approval by the Cherokee County Health Department to ensure the proper operation of septic systems and/or wells. In no case; however, shall minimum lot sizes be less than those specified in Article IX.
- <sup>2</sup> Subject to the provisions of Section 1104 of this ordinance.
- <sup>3</sup> Side yard requirements for corner lots shall be increased to twenty (20) feet along the side street.
- <sup>4</sup> Side yard requirements for corner lots shall be increased to sixteen (16) feet along the side street.
- <sup>5</sup> Side yards are not required in the CB district. If such a yard is provided, it must be a minimum of four (4) feet (to allow for cleaning and access). Common wall construction is permitted in the CB district. On all corner lots in this district, a ten (1) foot setback from the side street line is required. Where a lot in the CB district abuts a lot in an established residential district, a side yard of at least ten (10) feet shall be required.
- <sup>6</sup> Rear yards are not required in the CB district except in those cases where the CB district abuts a lot in an established residential district. In such cases, the rear yard requirement shall be a minimum of ten (10) feet.

## ARTICLE X GENERAL PROVISIONS

### Section 1000. Use.

No building or land shall hereafter be used or occupied, and not building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this ordinance for the district in which it is located.

### Section 1001. Height and Density.

No building shall hereafter be erected or altered so as to exceed the height limit or to exceed the density regulations of this ordinance for the district in which it is located.

### Section 1002. Lot Size.

No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per dwelling unit, or other requirements of this ordinance are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

### Section 1003. Required Yards and Other Spaces.

No part of a yard or open space, or off-street parking or loading space required in Sections 1013 and 1014, or required in connection with any building for the purpose of complying with this ordinance, shall be included as a part of a yard, open space, or off-street parking or loading space similarly required for any other building.

### Section 1004. One Principal Building on a Lot.

Every building hereafter erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than one (1) principal building or structure and its customary accessory buildings on the lot, except in the case of mobile home parks and group projects.

Within any principal building, more than one use may exist provided all such uses comply with the regulations applicable to the district in which the principal building is located. The requirements of Section 1013 and 1014 of this ordinance shall be observed strictly with respect to each use which exists within a principal building, such

uses shall be combined for the purpose of determining the status of the use as either a single-family, two-family, or multi-family dwelling pursuant to Section 401.

Section 1005. Necessary Repairs Permitted.

Nothing in this ordinance shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared to be unsafe or unlawful.

Section 1006. Street Access.

No building shall hereafter be erected on a lot which does not abut a publicly-dedicated, publicly approved or publicly-maintained street for a distance of at least forty (40) feet.

Section 1007. Visibility at Intersections.

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

Section 1008. Vacant Lots.

Vacant lots and open spaces located adjacent to major thoroughfares shall be maintained. Vegetation shall be neatly trimmed, and the accumulation of unsightly debris shall be prohibited.

Section 1009. Travel trailers and Recreational Vehicles.

Travel trailers and/or recreational vehicles may be used as a temporary single family dwelling only in those districts that many now or hereafter permit travel trailer parks, and only within such parks. In no case shall a travel trailer or recreational vehicle be used as a single family dwelling on an individual lot or in conjunction with a primary residence on an individual lot.

Section 1010. Sedimentation Control.

Where applicable, all proposed development projects or land disturbing activities shall comply with G.S. 113A-54, and Rules and Regulations for Erosion and Sediment

Control as established by the North Carolina Sedimentation Control Commission, North Carolina Department of Natural Resources and Community Development.

Section 1011. Nonconformances.

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

1011.01     Nonconforming vacant Lots. This category of nonconformance consists of vacant lots for which plans or deeds have been recorded in the office of the Register of Deeds of Cherokee County, which at the time of adoption of this ordinance fail to comply with the minimum area and/or width requirements of the districts in which they are located. Any such nonconforming lot may be used for any of the uses permitted in the district in which it is located provided that:

- (1) Where the lot area is not more than twenty (2) percent below the minimum specified in this ordinance, and other dimensional requirements are otherwise complied with, the Zoning Administrator is authorized to issue a zoning compliance permit.
- (2) Where the lot area is more than twenty (20) percent below the minimum specified in this ordinance or other dimensional requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions.
- (3) Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, 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.

1011.02     Nonconforming Occupied Lots. This category of nonconformance consists of lots, occupied by buildings or structures at the time of the adoption of this ordinance, that fail to comply with the minimum

requirements for area, width, yard and setbacks for the district in which they are located. These lots may continue to be used.

1011.03 Nonconforming Open Uses of Land. This category of nonconformance consists of lots used for storage yards, used car lots, auto wrecking, junkyards, and similar open spaces where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this ordinance, in the district in which it is located. A legally established nonconforming open use of land may be continued except as follows:

- (1) When a nonconforming open use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.
- (2) Nonconforming open uses of land shall be changed only to conforming uses.
- (3) A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.
- (4) When any nonconforming open use of land is discontinued for a period in excess of one hundred eighty (180) days, any future use of the land shall be limited to those uses permitted in the district in which the land is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

1011.04 Nonconforming Uses of Structures. This category of nonconformance consists of buildings or structures used at the time of enactment of this ordinance for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:

- (1) An existing nonconforming use may be changed to another nonconforming use of the same or higher classification, provided that the other conditions in this section are complied with. For the purpose of this ordinance, the rank order of uses from higher to lower shall be: 1) residential, 2) public, 3) commercial, and 4) industrial.

- (2) When a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
- (3) A nonconforming use may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except as follows:
  - a. Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.
  - b. Maintenance and repair necessary to keep a structure containing a nonconforming use in sound conditions are permissible.
  - c. Expansion of a nonconforming use of a building or structure into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use is permissible.
- (4) When any nonconforming use of a building or structure is discontinued for a period in excess of one hundred eighty (180) days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located.

1011.05 Reconstruction of Damaged Buildings or Structures. Any nonconforming use, which has been damaged by fire, wind, flood or other causes, may be repaired and used as before provided:

- (1) Repairs are initiated within twelve (12) months and completed within two (2) years of such damage.
- (2) The total amount of space devoted to a nonconforming use may not be increased.
- (3) Reconstructed buildings may not be more nonconforming with respect to dimensional restrictions.

1011.05 Continuation of Mobile Home Parks. Mobile home parks that become nonconforming uses shall be permitted to continue operation, and existing spaces within the mobile home park may continue to be occupied by mobile homes even after a space has been vacated; however, these mobile home parks shall not be

expanded or increased in size and no additional spaces designed for occupancy by a mobile home shall be added to the site after the adoption of this ordinance. A mobile home park that is discontinued for 180 days shall not be reestablished.

- 1011.06 Continuation of Mobile Homes on Individual Lots. Mobile homes located on individual lots which become nonconforming uses may be continued and may be either a) replaced by another mobile home, provided the replacement unit is not more nonconforming than the original unit; or b) relocated within the boundaries of the same lot, provided that all area and dimensional requirements of this ordinance are observed. If a lot upon which a nonconforming mobile home is located is subsequently abandoned for a period of more than 180 days, the reestablishment of a mobile home on the lot shall not be permitted.

#### Section 1012. Double Frontage Lots.

In the event that a lot abuts a street at both the front and rear of the lot, the owner shall be required to specify the front of the lot when requesting a zoning compliance permit.

#### Section 1013. Off-Street Parking.

Off-street automobile parking or storage space shall be provided on every lot at the time any principal building is enlarged or increased in capacity or at the time one type of use is converted to another, or whenever any of the following uses are hereafter established, except within the CB Central Business District. Such space shall be provided with vehicular access to a street or alley and shall not be provided in a yard required by the provisions of Article IX. When application of the provisions of the section results in a fractional space requirement, the next larger requirement shall prevail. Each lot abutting a major thoroughfare, as determined by the Zoning Administrator, shall be provided with a vehicular access thereto in accordance with all applicable federal, state or local laws and/or regulations, and shall be provided with adequate space for turning so that no vehicle shall be required to back into the thoroughfare. No certificate of occupancy (as provided in Section 504 of this ordinance) shall be issued unless all required off-street parking and loading requirements shall be in place, ready for use, and conform to the requirements of this ordinance. The number of spaces shall be equal in number to at least the minimum requirements for the uses below:

## **Use Classification**

## **Required Parking**

Single-family dwellings

Two (2) spaces for each dwelling unit

Multi-family dwellings

One and one-half (1 ½) spaces for each dwelling unit.

Rooming houses; boarding houses; and hotels

One (1) space for each two (2) guest rooms, plus one (1) additional space for each three (3) employees

Motels; tourist courts

One (1) space for each guest room, plus one (1) additional space for each three (3) employees

Mobile homes

Two (2) spaces for each mobile home

Mobile home parks

Two (2) spaces for each mobile home space

Customary incidental home occupations

One (1) space in addition to other applicable parking requirements

Churches; community centers; Fraternal organizations; public Associations; clubs; lodges; stadiums; Assembly halls; auditoriums; coliseums; gymnasiums; indoor Theaters; and similar places of public assembly

One (1) space for each two (2) seats in the main assembly room

Hospitals; nursing homes; Convalescent homes; and group Care facilities

One (1) space for each (2) beds (exclusive of bassinets), plus one (1) space for each staff or visiting doctor, plus one (1) space for each two (2) employees on shift of greatest employment

Medical and dental offices, Clinics and laboratories

Four (4) spaces for each practitioner at the facility, plus one (1) space for each additional employee

Service stations for motor vehicles

Three (3) spaces for each grease rack or similar facility, plus two (2) spaces for each gas pump

Schools: public or private, elementary, Middle and junior high; public Kindergartens

One (1) space for each classroom and administrative office

Schools: public or private, high

One (1) space for each ten (10) students for whom the school was designed, plus one (1) space for each classroom and administrative office

Trade schools (including business, Vocational and special schools)

One (1) space for each three (3) students

### **Recreational facilities:**

- Tennis, squash, racquetball and Handball courts, or similar Facilities

Two (2) spaces per court

- Swimming pools

One (1) space per 140 square feet of pool area

- Shooting ranges

One (1) space per target area

- Physical fitness facilities

One (1) space per 50 square feet

- Athletic fields and playgrounds

Ten (10) spaces per field or play ground

- Golf courses or country clubs

Two (2) spaces per tee

- Skating rinks and bowling alleys

One (1) space per 200 square feet

- Miniature golf courses

One (1) space per 50 square feet of course area

- Other places of recreational or assembly without fixed seats

One (1) space per 200 square feet

- Day Nurseries and private kindergartens

One (1) space for each staff member plus one (1) space for each (5) students

- Public and semi-public buildings (not otherwise specified)

One (1) space for each 200 square feet of gross floor area

- Banks and other financial institutions

One (1) space for each 150 square feet of gross floor space

- Libraries One (1) space for each four (4) seats provided for patron use
- Museums and art galleries One (1) space for each 200 square feet of gross floor space
- Mortuaries and funeral parlors One (1) space for each four (4) seats in the assembly room or chapel
- Offices: business or professional One (1) space for each 300 square feet of gross floor space
- Restaurants: indoor One (1) space for each three (3) seats or stools, plus one (1) space for each two (2) employees on the shift with the largest employment
- Restaurants: drive-in Parking space equivalent to five (5) times the floor space in the main building
- Animal hospitals and veterinary clinics One (1) space for each 200 square feet of gross floor area
- Kennels One (1) space for each four (4) pens
- Motor vehicles and farm equipment maintenance and repair One (1) space for each two (2) employees on the shift with the largest employment, plus two (2) spaces for each 300 square feet of repair or maintenance space
- Sales establishments; automobiles, trailers, farm equipment, outdoor equipment, machinery, mobile homes, and similar items; commercial nurseries; greenhouses; monument works and sales Four (4) spaces for each salesperson, plus one (1) space for each two (2) employees
- Automobile washing establishments One (1) space for each two (2) employees on the shift with the largest employment. Reserve spaces equal to five (5) times the capacity of the facility at the location of both ingress and egress.

- Retail stores, businesses, shops and services of all kinds, except those otherwise specified                      One (1) space for each 100 square feet of gross floor area
- Manufacturing, industrial and wholesaling establishments, except those otherwise specified                      One (1) space for each two (2) employees on the shift with the largest employment
- Shopping centers                      Three (3) square feet of parking space for each square foot of gross floor space

1013.01      Combined Parking Spaces. The required parking space for any number of separate uses may be combined in one lot, but the required space for one use may not be assigned to another use, except that one-half of the parking spaces 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 or Sundays.

1013.02      Location on Other Property. If the off-street parking space required cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided within four hundred (400) feet of the main entrance to such principal use, provided such land is in the same ownership as the principal use. Said land shall be used for no other purpose so long as no other adequate provisions for parking space meeting the requirements of this ordinance have been made for the principal use. In such case, the applicant for a certificate of zoning compliance for the principal use shall submit with his application an instrument duly executed and acknowledged, which subjects said land to parking use in connection with the principal use or for which it is made available. Upon the payment of the necessary fee and the issuance of a building permit, the Town Clerk shall cause the said instrument to be registered in the Registry of Deeds of Cherokee County.

Section 1014. Off-Street Loading and Unloading Space.

Every lot on which a business, trade or industry use is hereafter established shall provide space as indicated herein for the loading and unloading of vehicles off the street. Such space shall have access to a street or alley. For the purpose of this section, an off-street loading space shall have minimum dimensions of twelve (12) feet by forty (40) feet and an overhead clearance of fourteen (14) feet in height above the alley or street grade.

- (1) Retail Business: One (1) space for each five thousand (5,000) square feet of gross area.
- (2) Wholesale and Industry: One (1) space for each fifty thousand (50,000) square feet of gross floor area.
- (3) Truck terminals: Sufficient space to accommodate the maximum number of trucks to be stored or to be loaded or unloaded at the terminal at any one time.

Section 1015. Land Use within Floodplains.

The use of land within floodplains shall comply with Flood Damage Prevention Ordinance of the Town of Andrews, this zoning ordinance, and all other applicable regulations.

Section 1016. Sign Compliance.

No type of exterior sign may be erected, posted, reposted, placed, replaced, hung, painted, or repainted in any district except in compliance with this ordinance.

1016.01 Signs Not Requiring a Permit. The following types of signs may be allowed in any district with a permit:

- (1) Any sign not exceeding two (2) square feet in area and bearing only property numbers, names of occupants, or business and professional signs.
- (2) Temporary real estate signs, such as "For Sale" or "For Rent" signs, not exceeding four (4) square feet in area and non-illuminated may be placed on the premises.
- (3) Directional or informational signs of a public or quasi-public nature, not exceeding eight (8) square feet in area, such as a community's name, place of worship, meeting place of a civic body, or event or public interest.
- (4) Signs for churches or public buildings to include bulletin boards, lighted or unlighted, not exceeding fifteen (15) square feet in area. Such signs must be placed on the premises and may not be placed closer than fifteen (15) feet to the property line.

- (5) Signs advertising agricultural products for sale, which were produced on the premises, may not exceed twenty (20) square feet in area.
- (6) Legal notices, identification, informational, or directional signs required by governmental bodies.
- (7) Signs directing and guiding traffic to parking areas on private property, but bearing no advertising matter.
- (8) Signs temporarily attached or temporarily painted to a window, door, or wall announcing sales, special features or political campaigns, are permitted provided they do not exceed twenty-five percent (25%) of the area of said window, door or wall. Temporary signs shall be removed, immediately after the termination of such sale, special feature, or political campaign.
- (9) Other outdoor advertising devices including, but not limited to, plaques, banners, pennants, streamers, posters, are permitted for a period of not more than two (2) weeks after the opening of a new business.

1016.02 Signs Requiring a Permit. No sign, except those listed in Section 1016.01 (1) through (9) shall be erected in an SF or GR District, and no sign except those listed in Section 1016.01 (1) through (9) shall be erected in a CB, HB, or HC-I district without a permit obtained from the Zoning Administrator. Each application for a permit shall be accompanied by plans which show the following:

- (1) Indicate the proposed site by identifying the property owner, location, and present use.
- (2) Show location of the sign on the lot in relation to property lines and existing signs and structure.
- (3) Show complete structural specifications.
- (4) Any additional information needed to determine if such sign is to be erected in conformance of this ordinance.

1016.03 Sign Location.

- (1) No sign shall project more than twenty-four (24) inches from the face of a structure and not more than twelve (12) inches beyond any street line, and it shall be at least ten (10) feet above the level of any walkway it may overhang.

- (2) No sign except those erected for governmental purposes shall be permitted on any public right-of-way.

1016.04 Height of Signs.

- (1) Ground signs, including supports, shall not exceed a height of twelve (12) feet in a residential district of twenty-five (25) feet in a business or industrial district, above the surface of the ground where located.
- (2) No sign attached to a structure shall project more than two (2) feet over the top of the exterior wall of such structure at location of the sign.

1016.05 Illuminated and Moving Signs.

- (1) A sign may be illuminated if illumination is confined to or directed to the surface of the sign. No flashing, rotating, or intermittent illumination shall be permitted except signs indicating time and/or temperature by means of white, intermittent lighting.
- (2) No sign or any part thereof shall be permitted to be mechanically rotated or moved except traditional signs of barbershops.
- (3) The light source of signs shall be so designed and shielded that they cannot be seen from beyond the property lines on which said sign is located, except that signs will expose neon tubes shall be permitted in all commercial and industrial districts.

1016.06 Maximum Sign Area.

- (1) Business Identification Signs. A maximum of two (2) square feet of business identification sign for each linear foot of building frontage shall be permitted only in the CB, HB, and HC-I use districts.
- (2) Advertising Signs. Advertising signs shall be limited to one per lot, and shall be no larger than three hundred (300) square feet in area, and shall be permitted only in the CB, HB, and HC-I use districts.

1016.07 Non-Conforming Sign. Any sign existing at the time of the adoption of this zoning ordinance which does not conform with the requirements of this ordinance shall be made to conform with such requirements within five (5) years after the date of adoption.

ARTICLE XI  
EXCEPTIONS AND MODIFICATIONS

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

Section 1100. Front Yard Setback for Dwellings.

The front yard setback requirements of this ordinance for dwellings shall not apply on any lot where the average setback of existing buildings located wholly or in part within one hundred (100) feet on each side of such lot within the same block and zoning district and fronting on the same side of the street is less than the minimum required setback. In such cases, the setback may be less than the required setback, but not less than the average of the setback of the aforementioned existing buildings.

Section 1101. Completion of Buildings Under Construction.

Nothing in this ordinance shall require any change in the plans, construction or designated use of a building which is both under construction at the date of the passage of this ordinance, and in compliance with all applicable development regulations in effect in the Town of Andrews at the time of issuance of the building permit, provided that construction of such building is diligently pursued and the entire building is completed within eighteen (18) months from the date of passage of this ordinance. A building shall be deemed to be under construction upon the effective date of this ordinance if a building permit has been issued.

Section 1102. Height Limitations.

The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, transmission towers, chimneys, smokestacks, conveyors, flag poles, radio towers, masts, aerials and similar structures.

Section 1103. Temporary Uses.

Temporary uses such as real estate sales field offices or shelter for materials and equipment being used in the construction of a permanent structure may be permitted by the Zoning Administrator, provided they do not create health, safety or nuisance hazards. Decisions of the Zoning Administrator regarding temporary uses shall be subject to review by the Zoning Board of Adjustment on appeal.

Section 1104. Side Yard Setback for Dwellings.

Where a side yard abuts a street, said side yard requirements shall be the same as the front yard requirements for abutting property on the side street. In no case; however, shall said side yard requirements be less than those specified in Article IX.

Section 1105. Projections into Required Open Space.

Every part of a required yard shall be open from its lowest point to the sky, unobstructed, except as follows:

- (1) The ordinary projection of sills, belt courses, cornices, buttresses, ornamental features and eaves; provided, however, that none of the above shall project into a minimum side yard more than twenty-four (24) inches.
- (2) Open or enclosed fire escapes, fireproof outside stairways and balconies projecting into a minimum yard not more than three and one-half (3 ½) feet, and the ordinary projections of chimneys and flues may be permitted by the Zoning Administrator where same are so placed as not to obstruct the light and ventilation.

Section 1106. Right-of-Way.

Street and highway right-of-way shall not constitute a part of a lot or any required yard or open space.

Section 1107. Group Developments.

In the case of two (2) or more buildings to be constructed on a plot of ground of at least two (2) acres not subdivided into the customary streets and lots and which will not be so subdivided, the application of the terms of this ordinance may be modified by the Board of Adjustment in a manner that will be in harmony with the character of the neighborhood, provided:

- 1107.01 Such uses are limited to those permitted within the zoning district in which the project is located. In no case shall the Board authorize a use prohibited in the district in which the project is to be located.
- 1107.02 The overall intensity of land use is no higher and the standard of open space is no lower than that permitted in the district in which the project is located.

- 1107.03 The distance of every building from the nearest property line shall meet the front, rear and side yard requirements of the district in which the project is located.
- 1107.04 Minimum lot widths shall be double those required in the district in which the project is located.
- 1107.05 The building heights do not exceed the height limits permitted in the district in which the project is located.
- 1107.06 In those cases where a group development is created which either lies within a residential district or abuts a residential district, there shall be provided and maintained (by the group development) a continuous visual buffer strip, as defined in Article IV, along the side and rear lot lines of the group development.
- 1107.07 A site plan, showing the manner in which the requirements of subsections 1107.01 through 1107.06 will be met, is submitted along with the application for a group development.
- 1107.08 An application for the establishment of a group development shall be submitted for consideration by the Zoning Board of Adjustment.

## ARTICLE XII AMENDMENTS

### Section 1200. Amendments.

This zoning ordinance, including the zoning map, may be amended by the Board of Aldermen in accordance with the provisions of the article.

### Section 1201. Initiation and Referral of Amendments.

Proposed changes or amendments may be initiated by the Board of Aldermen, the Planning Board, the Board of Adjustment, or one or more owners of property within the area proposal to be changed or affected. All proposed amendments shall be referred to the Planning Board for its review and recommendation to the Board of Aldermen.

### Section 1202. Application.

Before any action on a proposed change or amendment, an application for an amendment shall be submitted to the office of the Zoning Administrator at least ten (10) days prior to the Planning Board's meeting at which the application is to be considered. The application shall contain the name(s) and address (es) of the owner(s) of the property in question, the location of the property, and a description and/or statement of the present and proposed zoning regulation or district as shown on the application forms supplied by the town. All applications requesting a change in the zoning map shall include a description of the property in question. The Planning Board and the Board of Aldermen will not consider an application for property for which an amendment was denied within the preceding twelve (12) months by the Board of Commissioners.

### Section 1203. Planning Board Action.

Before taking any action on a proposed amendment to the ordinance, the Board of Aldermen shall consider the Planning Board's recommendations on each proposed amendment. The Planning Board shall have forth-five (45) days after the first consideration of the application within which to submit its recommendations to the Board of Aldermen. Failure of the Planning Board to submit recommendations within the forth-five (45) day period shall constitute a favorable recommendation.

#### Section 1204. Public Hearing.

Before enacting any amendment to this ordinance, the Board of Aldermen shall hold a public hearing. A notice of such public hearing shall be published in a newspaper of general circulation in Cherokee County once a week for two (2) successive calendar weeks. The first publication shall appear not less than ten (10) days nor more than twenty-five (25) days prior to the date fixed for the public hearing. The notice shall include a description of the property or the nature of the change or amendment to the ordinance and/or map.

#### Section 1205. Protests.

In the case of a protest petition against an amendment or revision of the ordinance, signed by the owners of twenty percent (20%) or more of either the area of lots included in such proposed change, or those immediately adjacent thereto either in the rear thereof or either side thereof, extending one hundred (100) feet there from, or of those directly opposite thereto, extending one hundred (100) feet from the street frontage of the opposite lots, such amendment shall not become effective except by a favorable vote of three-fourths (3/4) of all members of the Board of Aldermen.

#### Section 1206. Decisions

The Board of Alderman shall make a decision on the proposed amendment within sixty (60) days after the public hearing.

#### Section 1207. Application Fee

A fee of fifty dollars (\$50.00), to cover costs of administrative expenses, shall be paid by the applicant to the Town of Andrews for each application for an amendment to the zoning ordinance.

ARTICLE XIII  
VIOLATIONS, PENALTIES AND REMEDIES

Section 1300. Violations.

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

Section 1301. Penalties.

Any person, firm or corporation who violates the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not exceeding fifty dollars (\$50.00) and/or imprisoned for a period of time not exceeding thirty (30) days. Each day of violation shall be considered a separate offense.

Section 1302. Remedies.

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

ARTICLE XIV  
LEGAL STATUS PROVISIONS AND EFFECTIVE DATE

Section 1400. Severability.

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

Section 1401. Conflict with Other Laws.

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

Section 1402. Applicability to Governmental Buildings.

The provisions of this ordinance are applicable to the erection, construction and use of buildings by the State of North Carolina and its political subdivisions.

Section 1403. Reenactment and Repeal of Existing Zoning Ordinance.

This ordinance in part carries forward reenactment some of the provisions of the Zoning Ordinance of the Town of Andrews, adopted August 8, 1996, and it is not the intention to repeal but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced. All provisions of the zoning ordinance, which are not reenacted herein, are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any zoning ordinance heretofore in effect, which are now pending in any of the courts of this State or of the United States, shall not be abated or abandoned by

reason of the adoption of this ordinance, but shall be prosecuted to their finality the same as if this ordinance had not been adopted; and any and all violations of the existing ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this ordinance shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

Section 1404. Effective Date.

This ordinance shall be effect and be in force from and after  
\_\_\_\_\_ March 12, 1985.

Section 1405. Adoption.

Duly adopted by the Board of Aldermen of the Town of Andrews, North Carolina, this the 12<sup>th</sup> day of March, 1985.

\_\_\_\_\_  
Ty W. Burnette, Mayor

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Katie P. Parker, Clerk

