

## Town of Greenwood

(i) Definition. Glare is a direct or reflected light source creating a harsh brilliance that causes the observer to squint or shield the eyes from the light.

(ii) Prevention Requirement. Signs must be illuminated using an enclosed lamp design or indirect lighting from a shielded source in a manner that prevents glare from beyond the property line.

(b) Interference with Traffic Safety—A sign must not be illuminated with a pattern or lighting combination that resembles a traffic signal.

(c) Flashing. A sign must not contain or be illuminated by flashing, revolving, or intermittent lights, or lights that change intensity, provided however, that “digital” signs shall be permitted in the DC and HC zoning districts.

(d) Near a Residence. Any sign on a lot or parcel within 150 feet of a residential use must not exceed a sign area of 100 square feet and may be illuminated only during the hours the entity is open for public business, unless the applicant demonstrates that the sign is located so that no adverse impact will affect the residence.

### 11.2.5. Structural Limitations.

(a) Interference with Traffic Safety. A sign must not be shaped like a traffic sign or signal, or use wording similar to traffic signals, or interfere with traffic safety.

(b) Shaped Like Humans or Animals. A sign must conform to a geometric shape. It must not be shaped to resemble any human or animal form.

(c) Wind-Activated. A sign must not be set in motion or powered by wind.

(d) Moving Parts. A sign must not have moving parts.

### 11.3. Permanent Signs.

**11.3.1. Definition.** A permanent sign is a sign intended to be displayed for an indefinite period of time and constructed in a manner and of materials that will withstand long-term exposure to the elements.

#### 11.3.2. Requirements by Zones.

##### (a) Residential Zones

Sign Type	Standard	Regulation
<i>Freestanding Sign</i> -- Not wholly or partially attached to a building	Number Allowed	1 per lot
	Maximum Area	3SF
<i>Supported</i> —Attached to pole, column, frame, or brace as its means for support	Maximum Height	5 feet
	Minimum Height	None
<i>Ground</i> —Erected on the ground; bottom edge is within 12 inches of the ground, support structure is Integral part of sign	Placement	5 feet from property line
	Illumination	Not Permitted
	Permit Needed	No
<i>Wall Sign</i> --Parallel to the wall of the building to which it is attached and not extending more than 12 inches from the	Number Allowed	1 per lot
	Maximum Area	3SF

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	Maximum Height	N/A
	Minimum Height	N/A
	Placement	5 feet above ground level
	Illumination	Not Permitted
	Permit Needed	No
<p><i>Entrance Sign for Subdivisions and Multi-Family Developments</i>                      *Erected at entrance to subdivision or multi-family development                      *Identifies location of the subdivision or a building –                      *Must be either a ground or a wall sign</p>	Number Allowed	2 for each entrance
	Maximum Area	40 square feet per sign
	Maximum Height	26 feet
	Placement	At entrance to a subdivision or building These signs may be placed in the public right-of-way as long as the town or state allow such placement.
	Illumination	See Section 11.2.4
	Permit Needed	Yes
<p><i>Entrance Sign for Public Facilities and Places of Assembly</i> - Examples include places of worship, schools, libraries, museums, hospitals                      * Identifies location of the facility for its users                      * Must be either a ground or a wall sign</p>	Number Allowed	2 at each entrance
	Maximum Area	40 square feet per sign
	Maximum Height	26 feet
	Placement	5 feet from property line at an entrance to the building or driveway These signs may be placed in the public right-of- way as long as the town or state allow such placement.
	Illumination	See Section 11.2.4
	Permit Needed	Yes

### b) Non-Residential Zones

Sign Type	Standard	Regulation
<p><i>Freestanding Sign</i> - Not wholly or partially attached to a building</p> <p><i>Supported</i>—Attached to pole, column, frame, or brace as its means for support</p> <p><i>Ground</i>—Erected on the ground; bottom edge is within 12 inches of the ground, support structure is integral part of sign</p>	Number Allowed	1 at each customer entrance to the building or driveway
	Maximum Area	Generally, 2 square feet for each linear foot of street frontage - Multiple Frontage EITHER - One (1) sign may be erected facing each street. Each sign may have 1-square foot for each 2 linear feet of its respective frontage OR - One (1) sign may be erected at a location that permits it to be seen from along each frontage street. The single sign may have 1 square foot for each linear foot of total frontage - Minimal Frontage For a lot with less than 50 feet of frontage, sign area is based on the length of the lot line closest to the street toward which the sign is oriented
	Maximum Height	Not higher than the tallest building on the same premises or 26 feet, whichever is least
	Minimum Height	None
	Placement	¼ of the setback for the zone
	Illumination	See Section 11.2.4
	Permit Needed	Yes
	<p><i>Wall Sign</i></p> <p>Parallel to the wall of the building to which it is attached</p>	Number Allowed

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	Maximum Area	2 square feet for each linear foot of building frontage. <i>A shop or store with an outside entrance is considered to have its own building frontage, which is the front width of the portion of the building occupied for that use. A dimension must not be counted more than once as a building frontage.</i>
	Maximum Height	26 feet May not extend above roof line or be placed on roof
	Minimum Height	- 10 feet for signs projecting over pedestrian walkway - 18 feet for signs projecting over streets and driveways
	Placement	<i>Flat</i> Not more than 12 inches from wall including its supporting structure <i>Projecting</i> Not more than 42 inches from building, no closer than 8 feet to a curb line
	Illumination	See Section 11.2.4
	Permit Needed	Yes
<b>Entrance Sign</b> *Erected at entrance to a building or development  *Identifies location of the building or development  *Must be either a ground or a wall sign	Number Allowed	1 on each face of the building having building frontage and 1 at each customer entrance to the building and parking area
	Maximum Area	100 square feet per sign
	Maximum Height	Ground Sign      Same as for freestanding signs Wall Sign          Same as for wall signs
	Placement	Ground Sign      Same as for freestanding signs Wall Sign          Same as for wall signs
	Illumination	See Section 11.2.4
	Permit Needed	Yes
<b>Canopy Sign</b> Forms an integral part of a permanent or semi-permanent shelter for sidewalks, driveways, windows, doors, seating area, or other customer-convenience areas, such as awnings or umbrellas	Number Allowed	Not limited
	Maximum Area	2 square feet for each linear foot of building frontage not to exceed 200 square feet for each canopy
	Maximum Height	N/A
	Placement	N/A
	Illumination	See Section 11.2.4
	Permit Needed	Yes

### 11.4 Real Estate, Development and Construction Signs

**11.4.1 Definition.** Real estate, development and construction signs are signs displayed on private property while such (1) property is offered for sale, rental, or lease or being developed or (2) an individual or company is engaged in construction.

#### 11.4.2 General Requirements.

(a) Where Allowed. Real estate, development, and construction signs may be erected in any zone.

(b) Display Period. Real estate, development, and construction signs may be displayed while a property is being offered for sale, while land is being developed and construction is taking place.

(c) Removal. Real estate, development, and construction signs must be removed within 30 days of the sale or rental of a property, the completion of a land-development project, or the termination of an individual's construction activity.

(d) Materials. Real estate, development, and construction signs must be made of materials sufficiently durable for the time that they are displayed.

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### (e) Additional Requirements by Sign Type

Sign Type	Standard	Regulation
<b>Real Estate Sign</b>  Indicates sale, rental or lease of the premises on which it is located	Number Allowed	1 sign for each street frontage
	Maximum Area	10 square feet per side
	Max Number of Sides	2, must be back-to-back
	Maximum Height	N/A
	Minimum Height	N/A
	Placement	N/A
	Illumination	Not Permitted
	Permit Needed	No
<b>Development Sign</b>  Advertises the sale or rental of a structure being built as part of a land development project	Number Allowed	Temp. Dev. Sign: 1 for each street entrance Temp. Con. Sign: 1 for each street frontage
	Maximum Area	128 square feet
	Max Number of Sides	N/A
	Maximum Height	15 feet
<b>Construction Sign</b>  Identifies those engaged in construction	Minimum Height	N/A
	Placement	0-32 Square Feet 5 foot front yard setback 32-128 Square Feet 25-foot front yard setback
	Illumination	Non-illuminated or Indirectly Illuminated
	Permit Needed	No

### 11.5 Temporary Signs.

**11.5.1 Definition.** A temporary sign is a sign displayed on private property for fewer than 30 days, usually made of non-permanent material such as canvass, cardboard, paper, or wood.

### 11.5.2. Requirements by Zone:

Requirement	Residential Zones	Non-Residential Zones
Number Allowed	Not limited	No limit
Maximum Area	Total of 10 square feet on property	50 square foot, each sign Total sign area of 100 square foot
Maximum Height	5 feet	10 feet
Placement	5 feet from property line	5 foot from property line
Illumination	Not Permitted	Not Permitted
Permit Needed	No	No

### 11.6. Exempt Signs

**11.6.1. Definition.** An exempt sign is a sign that is not required to comply with the size, location, and number standards of this Article but must comply with the applicable provisions governing Prohibited Signs.

### 11.6.2 List of Exempt Signs.

(a) Measuring 2 Square feet or Less:

**Residential-Living Sign** A sign on private property, customarily associated with residential living or decoration, including address signs (not to exceed one for each principal

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building or premises) showing only the numerical address designation of the premises to which they are affixed/maintained.

Newspaper and Mailbox, A sign that is part of a mailbox or a newspaper tube and conforms with applicable government regulations.

Warning Signs A sign warning the public about trespass, danger, or safety considerations

### (b) Regardless of Size:

Official Duties of Government or Utilities A sign used by a government agency or utility company erected by, or on the order of, a public officer or utility official in the performance of official duties, such as controlling traffic, identifying streets, warning of danger, providing information.

Signs designating public transportation pickup points.

Required by Law A sign whose display is required by law or regulation.

Flags on Flagpoles A flag displayed on a flagpole.

Commemorative Sign A sign that is cut into the masonry surface or constructed of bronze or other material and made an integral part of the structure, such as a cornerstone, memorial, plaque, or historical marker.

Part of a Dispenser A sign that is an integral part of a dispensing mechanism, such as a beverage machine, newspaper rack, or gasoline pump; provided that the signs are no larger than the servicing device to which they are attached.

Holidays A sign, including lighting, in accordance with applicable electrical requirements, displayed in connection with the observance of any holiday, provided that it is removed within 10 days of the end of the holiday.

Adornments and Decoration. Any adornments or seasonal decoration.

### 11.7 Nonconforming Signs

See Article 5. Nonconforming Uses, Lots, Buildings, and Structures.

### 11.8 Prohibited Signs:

#### 11.8.1 General

(a) Definition. A prohibited sign is one that cannot be erected or maintained.

(b) The Board of Adjustment is not authorized to grant a variance permitting the erection of a sign that this Article prohibits.

#### 11.8.2 List of Prohibited Signs

(a) Obscene Signs. An obscene sign contains obscene statements, words, or depictions that are construed to offend public morals or decency.

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(b) Obstructive Signs. A sign must not be placed in a location that obstructs the view of traffic signs, traffic signals, oncoming traffic, pedestrians, or that interferes, in any way, with placement or function of any traffic-control device.

(c) Confusing Signs. A sign which, by reason of wording, position, shape or color, may be confused with authorized traffic signage, as reasonably determined by the Code Enforcement Official, based upon an examination of the circumstances.

(c) Roof Signs. A roof sign is a sign painted on the roof of a building, supported by poles, uprights, or braces extending from, or attached to, the roof of a building, or projecting above the roof of a building.

(d) Unsafe Sign. An unsafe sign is one that creates a safety hazard due to structural or electrical conditions or inadequate maintenance. A sign that becomes unsafe after erection must be repaired to meet safety requirements or removed within 30 days of notice of the unsafe condition.

(e) Wind-Activated. A wind-activated sign is a banner, pennant, twirling/spinning display, streamer, ribbon, spinner, balloon, string of lights, gas or air-filled figure, or other device that moves in the wind.

(f) Signs in the Public Right-of-Way. Generally, signs may not be placed in public rights-of-way. An exception to this regulation includes signs erected by a governmental agency or utility company in the performance or its official public duties.

(g) Attached to the Property of Others. A sign must not be attached or affixed to a structure or property such as a fence, wall, antennas, other signs, trees, or other vegetation, or any public structure, such as a utility pole, without permission of the owner.

(h) Abandoned or Obsolete Sign. An abandoned or obsolete sign is a legally erected sign, other than a temporary sign, including structural supports and electrical connections, directing attention to a business, commodity, service, or entertainment in a building that has not been used for 6 months or more.

(i) Off-Site Sign (Billboard). An off-site sign is a sign directing attention to a business, commodity, service, or entertainment conducted, sold, or ordered at a location other than the premises on which the sign is located is considered an off-site sign.

(j) Signs producing noise or sounds.

(k) Signs emitting visible smoke, vapor, particles, or odor.

(l) Signs causing radio, television, or other communication interference because of lighting or control mechanisms.

### ARTICLE 12 Site Plan Review

#### Section 12.1. Purpose.

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Site plan review has several purposes. Among them are to assure that the large-scale developments are in accord with the Comprehensive Plan, that such developments comply with the regulations of this ordinance, and to assure that the lay-out, design, and construction are such as to best accommodate not only the project itself, but also abutting and nearby properties as well as the town as a whole.

### Section 12.2 Guidelines.

Guidelines for determining what site plans shall be reviewed by the Planning Commission shall be as follows:

**12.2.1 Automatic determination of review.** In addition to those uses specifically identified for site plan review in other sections of this ordinance, certain types of developments, due to the nature of their impact on the entire community, shall automatically have their site plans reviewed by the Planning Commission, including the following:

- (1) Residential:
  - (a) Townhouses.
  - (b) Garden apartments.
  - (c) Residential Planned Communities
- (2) Commercial: shopping centers.
- (3) Institutional: hospitals.
- (4) Industrial: all industrial developments.
- (5) Any non-residential project exceeding 5,000 square feet of enclosed floor space located on any single parcel of land.

**12.2.2 Discretionary determination of a review.** The Code Enforcement Official shall have reasonable discretion in determining what proposed developments other than those enumerated above shall have their site plans reviewed by the Planning Commission. When making such a decision, the Code Enforcement Official shall consider but not be limited to the following factors:

- (1) If the traffic flow will be greatly altered. Flow includes:
  - (a) Pattern.
  - (b) Volume.
  - (c) Hazards involved.
  - (d) Time involved.
- (2) If parking on a large scale is required.
- (3) If public utilities or works must be expanded to accommodate the development.
- (4) If there is a change in the existing land use pattern.
- (5) If there are incompatible uses within the proposed development or in relation to the abutting districts.
- (6) If there may be difficulty in meeting existing performance standards.

### Section 12.3 Review procedure.

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**12.3.1 Code Enforcement Official.** The proposed site plan shall first be referred to the Code Enforcement Official, together with the appropriate filing fee as set out in the Schedule of Fees adopted by the Town Council. No application for site plan review will be accepted for filing until the application fee is paid in full. If the proposed site plan is one that this ordinance automatically requires a site plan review for by the Planning Commission, such a site plan shall be referred to the Planning Commission. If the proposed site plan is not one enumerated in this ordinance as a development that shall automatically require the Commission's review, the Town Code Enforcement Official, following guidelines listed by this ordinance, shall determine if such a proposed development requires review by the Planning Commission. In case the Code Enforcement Official determines that the proposed development requires a site plan review, he shall then refer copies of the site plan to the Planning Commission.

**12.3.2 Planning Commission.** The site plan review by the Planning Commission shall be limited to those proposed developments enumerated by this ordinance and to those proposed developments that require a site plan review as determined by the Code Enforcement Official. No other site plans shall be considered by the Planning Commission for review.

### **12.3.3 Site Plan Review Requirements; Review by Town Engineer and/or Government Agencies.**

(a) The Town Manager and/or Town Planning Commission may develop a list of items to be reviewed by the Planning Commission in the conduct of a site plan review. Such list shall be approved by resolution of the Town Council and appended to this ordinance. Such list may be revised and amended by resolution of the Town Council from time to time, either at the recommendation of the Town Manager and/or Planning Commission or at the initiative of the Town Council.

(b) Prior to approving any site plan, the Planning Commission shall specifically consider whether or not public services (e.g. water, sanitary sewage, street connections, storm drains, electric distribution service) are available to the site. If not, the Planning Commission shall require the applicant to provide a detailed plan, including a timetable and secured bonding or binding commitments from third-party providers of such facilities for the provision of such public services, as a condition for site plan approval.

(c) The Planning Commission may refer any site plan under consideration to the Town's consulting engineers and/or to any appropriate federal, state, or county agency for review and comment prior to making a decision thereon.

## **ARTICLE 13 Board of Adjustment**

### **Section 13.1 Membership, Term of Office**

**13.1.1 Appointment.** The Board of Adjustment shall consist of not less than 3 nor more than 5 members who shall be residents of the Town and who shall have knowledge of the problems of urban and rural development and who, at the time of appointment and throughout the term of office, shall not be candidates for, nor members of, the legislative body nor employees of the Town. The mayor shall appoint the members of the Board of Adjustment, and all such appointments shall be confirmed by a majority vote of the Town Council.

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**13.1.2 Term of Office; Officers.** All appointments shall be for a period of 3 years, provided that the terms of the original members shall be established in such a manner that the term of at least 1 member shall expire each year and the successor shall be appointed for a term of 3 years. The Board of Adjustment so selected shall elect from among their own number a chairperson and a secretary.

**13.1.3 Removal From Office.** Any member of the Board of Adjustment may be removed from office by the Town Council for cause after a hearing by a majority vote. A vacancy occurring other than by the expiration of term shall be filled for the remainder of the unexpired term in the same manner as an original appointment.

### Section 13.2 Rules.

The Board of Adjustment may make and adopt such standing rules, not inconsistent with the provisions of this ordinance or controlling state law, as it deems necessary or appropriate to carry out its responsibilities hereunder. In the event any such rules are adopted, they shall be reduced to writing and a copy thereof shall be provided to any person upon request and payment of a reasonable fee as set forth in the Schedule of Fees adopted by the Town. In addition to any standing rules, the Board may establish such additional ad hoc rules for the conduct of any hearing as regards reasonable limits on the total time of the hearing, the length of time and number of times any person will be permitted to speak, the prohibition of repetitive testimony or comments, and such other matters as pertain to the reasonable conduct of the hearing.

### Section 13.3. Powers and duties.

The Board of Adjustment shall have the following powers:

- 13.3.1 Appeals.** The Board of Adjustment shall hear and decide appeals from the Code Enforcement Official or Town Manager where it is alleged that there is error in any order, requirement, decision or determination made in the administration of this ordinance.
- 13.3.2 Variances.** The Board of Adjustment shall hear and decide requests for variances from the dimensional requirements of the terms of this ordinance as will not be contrary to the public interest where, due to special conditions or exceptional circumstances, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship or exceptional practical difficulties and so that the spirit of the ordinance shall be observed and substantial justice done. The Board of Adjustment shall not have authority to grant variances from the use regulations of this ordinance.
- 13.3.3 Special Exceptions.** The Board of Adjustment shall have original jurisdiction and powers to grant a permit for a special exception use only under the terms and conditions established by this ordinance, under the following stipulations and guiding principles:
- (1) The use for which application is being made is specifically authorized as a special exception use for the zone in which it is located.
  - (2) The design, arrangement and nature of the particular use is such that the public health, safety and welfare will be protected and reasonable consideration is afforded to the:
    - (a) Character of the neighborhood.
    - (b) Conservation of property values.
    - (c) Health and safety of residents and workers on adjacent properties and in the

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surrounding neighborhood.

- (d) Potential congestion of vehicle traffic or creation of undue hazard.
- (e) Stated principles and objectives of this ordinance and the Comprehensive Plan of the Town of Greenwood.

**13.3.4 Interpretation.** The Board of Adjustment shall have the responsibility for the interpretation of this ordinance.

### Section 13.4 Appeals.

**13.4.1 Who May Appeal; Board's Authority In Appeal.** Appeals to the Board may be taken by any person aggrieved or by any other officer, department, board or commission of the Town of Greenwood affected by a decision of the Code Enforcement Official of the Town of Greenwood in the administration of this ordinance. Such appeal shall be taken within 30 days of the aggrieved decision by filing with the Code Enforcement Official a letter of appeal specifying the reason for appeal. The Code Enforcement Official shall transmit to the Board all the papers constituting the record upon which the action appealed was taken. In exercising its powers under this section 13.4, the Board may, in conformity with this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made in the administration and enforcement of this ordinance. Any order, requirement, decision or determination of the Board which requires or permits a specific act to be undertaken shall, as a condition, prescribe a reasonable time limit within which such act shall be completed, if applicable.

### 13.4.2 Effect of appeal upon proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies, after the notice of appeal is filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board or by the Court of Chancery on application on notice to the Code Enforcement Official for due cause shown.

### 13.5 Hearings

**13.5.1 Hearing Required.** Any appeal from a decision of the Code Enforcement Official, and any application for a variance, a special exception, or a request for an interpretation of the terms of this ordinance, shall be decided by the Board of Adjustment only after a public hearing at which the appellant or applicant shall carry the burden of proof as to why such appeal, special exception, variance, or interpretation should be granted. A majority of the entire Board of Adjustment shall be necessary to constitute a quorum. Hearings of the Board of Adjustment shall be subject to the Delaware Freedom of Information Act, including the provisions thereof that permit a public body to go into executive session to discuss matters which are the subject of pending or potential litigation, including consulting with legal counsel to receive the attorney's legal opinion on an issue before the Board which may be appealed to the Superior Court. The Board shall keep minutes of its meetings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. All hearings held before the Board shall be tape recorded, video-taped, or transcribed by a court reporter in such manner as to allow the Board to produce a verbatim transcript of the hearing in the event of appeal.

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**13.5.2 Time for Hearing.** The Board of Adjustment shall fix a reasonable time for the hearing of the appeal. Absent compelling circumstances or the request of the applicant or appellant, the public hearing shall be scheduled within 30 days of the date the application or appeal was received at the Town Hall. The appeal shall be decided within a reasonable time, not to exceed 60 days from the date of the filing of such appeal. Upon the hearing, any party may appear in person, by agent or by attorney, provided that said agent or attorney produces authorization from his principal for acting in such a capacity.

**13.5.3 Notice of Hearing.** Notice of all Board of Adjustment Hearings shall consist of the date, time, and place of the hearing, the name of the applicant or appellant, the address of the property subject to such hearing (if applicable), the nature of the application or appeal (setting out the specific section numbers of this ordinance regarding which the application or appeal has been filed), and a brief description of the factual circumstances, (such as "Applicant seeks a variance of five feet from the ten-foot side yard setback requirement in order to erect an addition to his house."). Notice shall be:

(a) **posted:** (1) at the Town Hall, (2) on the subject property, (3) in two public places in the town; and (4) at such time as the Town has a website and the capability to make "in-house" postings and changes to such website, on the Town's website;

(b) **published:** in a newspaper of general circulation within the Town; and

(c) **mailed:** to all property owners of record to lands located within 200 feet of the property subject to such hearing. The Town shall mail such notices to the mailing addresses shown on the Town's tax records. The applicant shall provide the Town Office with a written list setting out the names and addresses of persons entitled to mailed notice under this subsection. The responsibility for providing a complete and accurate list shall be on the applicant.

Notice shall be provided at least 15 days prior to the date of the hearing. Where all forms of notice do not occur on the same day, the date of the last to occur (i.e. posting, publication, or mailing) shall control in determining such 15 days.

**13.5.4 Conduct of Hearing** The Chairman (or in his absence, the acting Chairman), may administer oaths and compel the attendance of witnesses as authorized by 22 Del.C. Section 323, as it may from time to time hereafter be amended, or in accordance with any corresponding future provision of law. The burden of proof shall "by a preponderance of the evidence" and shall be upon the applicant or appellant. Any party may appear in person or by agent, and may be represented by legal counsel. Strict rules of evidence shall not apply and "hearsay evidence" shall be permitted. The Board shall be entitled to accept such relevant evidence which reasonable adults would accept as trustworthy in making important decisions in their own personal lives. The Board shall be entitled to give such weight to any evidence accepted as it deems appropriate.

**13.5.7 Decision.** A majority vote of the members of the Board present at any meeting shall be sufficient and necessary to constitute the act and decision of the Board. All decisions of the Board of Adjustment concerning any appeal or application for a variance, special exception, or interpretation of the provisions of this ordinance shall be in writing, setting out the factual findings and legal conclusions of the Board with an articulation of the reasons for its decision. All verbal discussions and statements of the Board or any member of the Board leading up to the Board's oral vote on the application shall be considered to be in the nature of preliminary discussions and statements. The Board's final decision, from which an appeal may be taken, shall be in writing, as accepted and approved by a majority of the Board members who

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participated in the hearing. Such final written decision shall be signed by those members accepting and approving same whereupon a copy thereof shall be promptly filed at the Town Hall and mailed to the applicant or appellant, as well as to any other party to the proceeding, and to any other person who notifies the Board, in writing, of his or her desire to receive a copy thereof.

### **Section 13.6 Appeal From Decision of The Board**

**13.6.1 Persons Entitled to Appeal; Time to Appeal.** Any person or persons jointly or severally aggrieved by any decision of the Board or any taxpayer or any officer, department, board or commission of the Town of Greenwood may, pursuant to 22 Del.C. Section 328, present to the Superior Court of the State of Delaware, a petition duly verified setting forth that such decision is illegal, in whole or in part, and specifying the grounds for the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision. The court may allow a writ of certiorari directed to the Board to review such decision of the Board and shall prescribe the time within which a return must be made and served upon the petitioner's attorney, which shall not be less than 10 days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, upon application and notice to the Board and on due cause shown, grant a restraining order.

#### **13.6.2 Duties in case of writ of certiorari.**

The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies of such portions as may be called for such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

## **Article 14 Administration**

**Section 14.1 Code Enforcement Official.** The Town Council shall appoint a Code Enforcement Official to administer and enforce the provisions of this Ordinance. It shall be the Code Enforcement Official's duty to:

14.1.1. Examine all applications for zoning compliance certificates and certificates of occupancy, and issue zoning compliance certificates and certificates of occupancy only for construction and uses which are in accordance with the requirements of this Ordinance. Where any use or construction requires a variance or special exception from the Board of Adjustment, or Conditional Use approval from the Town Council, no zoning compliance certificate or certificate of occupancy shall be issued until such variance, special exception, or conditional use has been finally approved. Any zoning compliance certificates or certificate of occupancy issued in violation of the provisions of this Ordinance shall be voidable by the Code Enforcement Official, the Board of Adjustment, or by any Court of competent jurisdiction.

14.1.2 Receive all application and review fees as specified in the Town's Schedule of Fees.

14.1.3 Record and file: (a) applications for zoning compliance certificates and certificates of occupancy along with any accompanying plans and documents; (b)

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zoning compliance certificates and certificates of occupancy issued with notation of any special conditions thereon.

14.1.4 Make such on-site inspections of any building, structure, or lot within the Town as necessary to ensure compliance with the terms of this Ordinance.

14.1.5 Inspect nonconforming uses and keep a record of such nonconforming uses.

14.1.6. Prepare a monthly record for the Town Council and Planning Commission summarizing for the period since the last report all zoning compliance certificates and certificates of occupancy issued; and make such other reports as the Town Manager or Town Council shall direct.

14.1.7 Appear before the Board of Adjustment, Planning Commission, or Town Council, as appropriate, in connection with any request for a variance, special exception, administrative appeal, interpretation, site plan approval, subdivision approval or conditional use approval.

14.1.8 Issue notices of violation, stop-work orders, revoke zoning compliance certificates, or certificates of occupancy, and prosecute violations of this ordinance in any court of competent jurisdiction to obtain civil penalties, injunctive relief, and/or criminal penalties and sanctions.

14.1.9 When requested by the Code Enforcement Official, the Planning Commission may provide recommendations to that office on any matter concerning this ordinance. The Code Enforcement Official may also present recommendations and reports to the Commission on zoning issues, when requested by the Commission.

**Section 14.2 Certificates To Be Issued.** Prior to any new construction, structural alteration or change in the use of a building or lot, the following permits or certificates shall be issued for any of its purposes so stated in this ordinance.

14.2.1 **Permitted uses.** A zoning compliance certificate for any permitted use may be issued by the Code Enforcement Official on his/her own authority if the use meets all of the applicable requirements for the district in which the use is to be located. No other review procedures are required.

14.2.2 **Special exception uses.** A zoning compliance certificate for a special exception may be issued by the Code Enforcement Official after a review by and upon the order of the Board of Adjustment and after a public hearing held by the Board for the purpose of deciding upon the request for a special exception. Such zoning compliance certificate shall set out all conditions imposed by the Board of Adjustment in granting the special exception.

14.2.3 **Conditional uses.** A zoning compliance certificate for a conditional use may be issued by the Code Enforcement Official after review by the Planning Commission and upon the order of the Town Council. Such zoning compliance certificate shall set out all conditions imposed by the Town Council in approving the conditional use.

14.2.4 **Zoning compliance certificate after an appeal or a request for variance.** A zoning compliance certificate may be issued by the Code Enforcement Official

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upon the order of the Board of Adjustment and after a public hearing held by the Board for the purpose of deciding upon the appeal or a request for a variance. Such zoning compliance certificate shall set out any conditions imposed by the Board of Adjustment in granting the variance or deciding the appeal.

- 14.2.5 **Certificate of occupancy.** An certificate of occupancy shall be issued by the Code Enforcement Official upon completion and inspection of any building or lot prior to occupation. A certificate of occupancy may only be issued when by the Code Enforcement Official after he/she determines that: (a) the building, structure, and/or use complies with the terms of this ordinance, with all conditions imposed by the Board of Adjustment in granting a variance, special exception, or deciding an appeal, with all conditions imposed by the Town Council in granting a conditional use, and, if applicable, with all requirements of the approved site plan or subdivision plan. All applicable conditions shall be set out in the Certificate.

**Section 14.3 Zoning Compliance Certificates.** A zoning compliance certificate shall be required prior to:

14.3.1 the erection or structural alteration of any building, structure, or portion thereof; provided however, that nothing in this Ordinance shall require a zoning compliance certificate where the actual or reasonably estimated cost of the improvement or structure is less than \$300.00. For purposes hereof, "cost" shall mean "out-of-pocket" cost and shall not include the time value of labor performed by the owner or by others performing the work who are not licensed professionals in the employ of the owner.

14.3.2. the initiation of any new use, or the extension or change of any non-conforming use, of any lot, building, or structure existing as of the effective date of this ordinance.

Application shall be made in writing on forms furnished by the Town if such forms are adopted by the Town.

**Section 14.4 Application for Zoning Compliance Certificates.** All applications for zoning compliance certificates shall be accompanied by:

14.4.1 The appropriate fee as set forth in the Schedule of Fees adopted by the Town Council as the same may from time to time be amended.

14.4.2 For applications made under Section 14.3 involving the erection or structural alteration of any building, structure, or portion thereof, and subject to the provisions of Section 14.6 ("Waiver of Requirements"), plans, in duplicate, drawn to scale, and bearing the signature and seal of a registered land surveyor, which plans shall show:

- (A) the dimensions of the lot;
- (B) the exact size and location of any *existing* buildings or structures, including underground septic tanks, systems, or tile fields on the lot;

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- (C) the exact size and location of any *proposed* buildings, structures, additions, or structural alterations, including any proposed septic systems or septic tile fields;
- (D) the exact location of any existing building or structure on any abutting lot within 20 feet of the side and rear lot lines of the subject property;
- (E) the existing and intended use of each building or structure shown on the drawing;
- (F) the number of dwelling units, apartments, or lodging or boarding rooms which the existing and proposed buildings on the subject property are designed to accommodate;
- (G) the height of all existing and proposed building(s) and structure(s) on the subject lot calculated in accordance with the provisions of this Ordinance and which drawings shall also certify the elevation, of the average finished grade of the lot.
- (H) the percentage of lot coverage after the proposed construction or structural alterations, including all data necessary to verify such calculations (e.g. total lot area, lot area occupied by each building and structure);
- (I) the location of all required off-street parking and/or off-street loading spaces.
- (J) the location and nature of all required landscaping
- (K) the location, size, and nature of all signs
- (L) Any other permits, data, or information reasonably required by the Town Code Enforcement Official in order to ascertain that the proposed use, construction or structural alteration will comply with the terms of all relevant Town ordinances.

**Section 14.5 Waiver of Requirements** Where the Code Enforcement Official reasonably concludes that the proposed construction or structural alteration is of such minor proportions or will otherwise clearly not be impacted by any one or more of the dimensional limitations of this Ordinance (e.g. lot coverage, yard setbacks, height limitation), the Code Enforcement Official may, at the written request of the applicant, waive the requirement of certification by a registered land surveyor or engineer, and/or any of the plan data requirements specified in Section 14.4.2 above; provided however, that the risk of not providing all data, certified by a registered land surveyor or engineer, shall be on the applicant, and should any building or structure subsequently be determined to be in violation of any provision of this Ordinance, it shall be no excuse that the Town issued a zoning compliance certificate on the basis of inadequate or incorrect information from the applicant.

**Section 14.6 Issuance of Zoning Compliance Certificates** Unless further review is required by another Town body (e.g. Planning Commission, Board of Adjustment, Town Council), zoning compliance certificates shall be granted or refused within thirty (30) days after the written application has been filed with the Code Enforcement Official. No zoning compliance certificate

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shall be issued until the Code Enforcement Official has certified that the proposed use, building, structure, or structural alteration complies with all the provisions of the Ordinance. All applications with accompanying plans and documents shall become a public record.

It shall be an implied condition of every zoning compliance certificate issued under this Ordinance, that the Town Code Enforcement Official (and other persons accompanying and assisting the Town Code Enforcement Official) shall have the right, at reasonable times, to enter upon lands and into premises for purpose of inspecting the same for compliance with the terms of this Ordinance, which right shall continue until a certificate of occupancy has been issued. The failure of any property owner to comply with this provision shall be grounds for immediate issuance of a stop work order or the revocation of a zoning compliance certificate or a certificate of occupancy.

**Section 14.7 Expiration of Zoning Compliance Certificate** A zoning compliance certificate for any proposed work shall not be valid after one year from the date of issuance thereof and shall thereafter be considered void unless the work authorized by the permit has been substantially commenced and is proceeding with due diligence.

**Section 14.8 Certificates of Occupancy.** A certificate of occupancy shall be required for any of the following: (a) occupancy and use of any building hereinafter erected or for any building for which a zoning compliance certificate was obtained to perform structural alterations; (b) change in use of an existing building to a use of a different classification; (c) occupancy and use of vacant land, or change in the use of vacant land to a use of a different classification; and (d) any change in use, or extension of, a non-conforming use. This permit shall indicate that the proposed use of such building or land is in conformity with the provisions of this Ordinance. It shall be unlawful to use or permit the use of any building, structure, lot, or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged, wholly or partly, in use or structure, except for ordinary repairs, replacements, or minor alterations involving no change in floor area or use, until a certificate of occupancy is issued by the Code Enforcement Official which shows that the building, structure, lot, or premises, or part thereof, and the proposed use thereof are in conformity with the provisions of this ordinance and in conformity with all conditions lawfully imposed by (as appropriate) the Planning Commission, the Town Council, and/or the Board of Adjustment.

### 14.8.1 Issuance of Certificate of Occupancy.

- (a) Upon completion of the erection or structural alteration of any building or portion thereof authorized by any zoning compliance certificate obtained in compliance with this Ordinance, and prior to occupancy or use, the holder of such permit shall notify the Code Enforcement Official of such completion. Occupancy shall not be authorized until the Code Enforcement Officer has certified that the work has been inspected and approved as being in conformity with the provisions of this and any other applicable Town Ordinances, and has issued a Certificate of Occupancy
- (b) An application for a certificate of occupancy shall be accompanied by an "as-built" drawing, in duplicate, drawn to scale, bearing the signature and seal of a registered land surveyor or engineer which drawings shall contain all of the information required under Section 14.4.2 showing the building or structure as completed; provided however, that the Code Enforcement Official may, in writing, waive the requirement of "as-built" drawings and/or of any of the data required under 14.4.2 under the same conditions as set forth in Section 14.5 ("Waiver of Requirements").

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- (c) Certificates of occupancy shall be granted or refused within fifteen (15) days after the Code Enforcement Official has been notified of the completion of the authorized construction or alteration, or, where no construction or alteration is involved, within five (5) days after receipt of written application therefore.
- (d) Upon written request from the owner, the Code Enforcement Official shall issue a certificate of occupancy for any building or land existing at the time of the enactment of this Ordinance, certifying, after inspection, the extent and kind of use or disposition of the buildings or land, and whether such use or disposition conforms with the provisions of this Ordinance or is a lawful non-conforming use, building, or structure.
- (e) Pending completion of a building or of alterations thereto, a temporary permit may be issued by the Code Enforcement Official for the use of part or all of the building, provided that such temporary occupancy or use would not tend in any way to jeopardize life, health, or property.
- (f) A record of all certificates of occupancy shall be kept on file in an office of the Town and shall be a public record. A record of all certificates of occupancy shall be kept on file in an office of the Town and shall be a public record.

**Section 14.9 Payment of All Required Fees and Outstanding Taxes and Assessments as a Condition of Filing Application or Obtaining Certificates** No zoning compliance certificates or certificates of occupancy shall be issued, nor shall any applications for changes of zoning, conditional uses, variances, special exceptions, appeals or site plan approvals be accepted, unless and until all appropriate fees for same (as set out in the Town's Schedule of Fees), as well as all outstanding and unpaid taxes, assessments, sewer, water or trash charges, and any other fees due the Town, are paid and in good standing.

### Article 15 Enforcement

#### Section 15 Notice of Violation; Remedies; Penalties; Stop-Work Orders

**15.1 Notice of Violation.** If the Code Enforcement Official finds that any provisions of this ordinance are being violated, he/she shall notify, in writing, the person responsible for such violation, indicating the nature of the violation, and order the action necessary to correct it. Such notice shall provide a reasonable time, not exceeding 3 business days, within which the person responsible must commence efforts to correct the violation; and a reasonable time within which such corrective action must be completed. Where the person responsible fails to commence efforts to correct the violation within the time prescribed, fails to diligently continue such efforts to completion, or fails to correct the violation within the time prescribed, the Code Enforcement Official may implement or pursue any enforcement action, remedy, penalty, or other corrective action as provided herein.

**15.2 Revocation of Zoning Compliance Certificates and Stop-Work Orders; Appeals.** Anything in Section 15.1 to the contrary notwithstanding, at any time it appears to the Code Enforcement Official or Town Manager that any construction or use is being undertaken in violation of this Ordinance, either of them may issue a stop work order or revoke the zoning compliance certificate under which the work was being performed or the use conducted; provided however, that with the issuance of any stop work order or revocation of any zoning compliance certificate under this subsection, the Code Enforcement Official or Town Manager

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shall provide the contractor or builder on site with written notice of the alleged zoning ordinance violation which notice shall state specifically the nature of the violation with reference to pertinent sections of the zoning ordinance and specify a place and time (not less than 24 hours and not more than 48 hours from the delivery of such notice unless the owner or contractor and Code Enforcement Official agree upon a different time) where the Code Enforcement Official or Town Manager will sit to hear the builder/contractor and/or owner on the issue of whether or not the construction is in violation of this Ordinance. The Code Enforcement Official or Town Manager shall promptly attempt to provide the owner of record of such lands with actual notice thereof by telephonic communication – and shall immediately send a copy of such written notice to the owner of record by fax, e-mail, commercial courier (e.g. Federal Express), or United States mail at his address as shown on the Town's public records; but failure of the record owner to receive such notice shall not void the hearing so long as the contractor or builder on site received actual notice. At the hearing, the contractor/builder and/or owner may appear with or without counsel to be heard on the issue of whether or not construction or use is in violation of the zoning ordinance. If the person conducting the hearing concludes at the end thereof that construction or use is proceeding in violation of this ordinance, no zoning compliance certificate shall be reissued and no stop work order shall be lifted until the violation has been corrected. The decision of the Town Manager or Code Enforcement Official under this subsection 15.2 may be appealed to the Board of Adjustment under Section 13.4 hereof; **provided however**, anything herein to the contrary notwithstanding, the Code Enforcement Official or the Town Manager may issue a stop work order or revoke a certificate of zoning compliance at any time, without prior notice or opportunity to be heard, where necessary to protect the public health and safety from imminent harm or danger.

**15.3 Penalties for Violation.** Any person who shall violate this ordinance, or do any act or thing prohibited, or refuse or fail to do any act required to be done, or refuse or fail to comply with an order of the Town Code Enforcement Official or an order of the Board of Adjustment shall, upon conviction thereof, be subject for each violation to a fine of not less than \$100 and not more than \$500. Whenever such person shall have been officially notified by the Code Enforcement Official or by service of a summons in a prosecution or in any other official manner that he is committing a violation, each day's continuance of such violation after such notice shall constitute a separate offense, punishable by a like fine or penalty. For purposes of this section, "any person" shall include the owner, general agent or contractor of a building or premises where such violations have been committed or shall exist, and the lessee or tenant of an entire building or entire premises where such violations have been committed or shall exist, and the owner, general agent, architect, builder, contractor or any other person who commits, takes part in, or assists in any such violation or maintains any building or premises in which such violation shall exist.

**15.4 Remedies Not Exclusive.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of this Ordinance, the Code Enforcement Official, the Town Manager, or the Town Council may, in addition to all remedies provided herein, institute any other appropriate action or proceedings to prevent, abate, restrain, enjoin, or correct such violation, in any court of competent jurisdiction.

**15.5 Violations Declared a Nuisance.** Any violation of the provisions of this Ordinance is hereby declared to be a common nuisance.

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### ARTICLE 16 Amendments

#### Section 16.1 Procedure

## **Town of Greenwood**

- 16.1.1 The Town Council may, from time to time, on its own motion or the motion of the Planning Commission or on petition by any owner of property in the Town, amend, supplement, change, modify or repeal the zoning regulations, restrictions and boundaries in a manner in accordance with the procedure provided.
- 16.1.2 All proposals for amending, supplementing, changing, modifying or repealing the zoning regulations, restrictions or boundaries, before being acted upon by the Town Council, except those originating on motion of the Planning Commission, shall be referred to the Planning Commission for consideration and comment. The Planning Commission shall study all proposals, whether originating with the Commission or otherwise, conduct a public hearing, after having given notice required for the agenda of the Commission, and report its findings and recommendations to the Town Council.
- 16.1.3 The Planning Commission is granted the authority to require, as a condition to consideration of any proposal other than one originating with the Town Council, that a written request be submitted accompanied by such maps, charts, sketches and other information as the Commission deems necessary for the proper and effective consideration of such proposal and to refuse to consider any proposal not complying with such requirement.
- 16.1.4 No proposed amendment, change, modification or repeal of any zoning regulation, restriction or boundary shall become effective until after a public hearing shall have been held by the Town Council at which parties in interest and citizens shall have an opportunity to be heard. Notice of such hearing shall be given as provided in Section 16.2 hereafter.
- 16.1.5 In the event of a protest against such changes signed by the owners of 20 percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent thereto (extending 100 feet therefrom) or of those directly opposite thereto (extending 100 feet back from the street frontage of such opposite lots), such amendment shall not become effective except by the favorable vote of 3/4 of all the members of the Town Council.
- 16.1.6 If, after due consideration, a proposal is denied, such proposal shall not be eligible for reconsideration for a period of one year after final action by the Town Council, except upon the favorable vote of 3/4 of the Planning Commission or Town Council.

### **Section 16.2. Hearing; notice required.**

No change or amendment shall become effective until after a public hearing at which parties in interest and citizens shall have had an opportunity to be heard. At least 15 days' notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in the Town of Greenwood. Additionally, notice of such public hearing shall be posted at the Town Hall and posted in two public places in the Town at least seven days prior to the date of the hearing. In all cases in which a proposed amendment would change the Zoning Map, notice of the amendment shall be posted on the subject property and sent by mail to all property owners of record whose property is proposed to be changed by the amendment and to all property owners within 200 feet of the proposed change. All public notices under this section shall state:

- (a) the date, time, and place of the hearing
- (b) a brief description of the nature of the proposed amendment

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(c) if involving an amendment to the zoning map, a description of the lands effected by such amendment, including the street address, the approximate size of the lot(s), and the name(s) of the owners of record thereof.

### Section 16.3 Fee.

A nonrefundable fee as set forth in in the Town's Schedule of Fees shall accompany each application or petition to amend the zoning map or the text of this ordinance, except for those petitions which have been initiated by the Town Council or by the Planning Commission.

## Article 17

### Repealer, Effective Date, Certification

#### Section 17.1 Repealer.

All Ordinances or parts of Ordinances inconsistent the provisions of this ordinance are hereby repealed.

#### Section 17.2 Effective Date.

This Ordinance shall become effective at 12:01 a.m. on January 1st, 2009.

#### Section 17.3 Certification.

This shall certify that this is a true and correct copy of the Zoning Ordinance of the Town of Greenwood as adopted by at least a majority of the entire Town Council of the Town of Greenwood at a duly-noticed meeting held on December 3<sup>rd</sup>, 2008, at which a quorum was present, and following a duly noticed public hearing held on December 3<sup>rd</sup>, 2008.

Attest: *Daniel R. Nelson*  
Town Council Secretary

So certifies: *Willard Russell*  
Mayor