

## **ARTICLE XV. GENERAL LEGAL PROVISIONS; DEFINITIONS**

### **Section 15.1 Interpretation, Purpose, Conflict**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction or imposes higher standards than those required by other ordinances, rules, regulations, or by easements, covenants, or agreements the provisions of this Ordinance shall govern so that, in all cases, the most restrictive limitation or requirement, or the requirement causing the highest standard of improvement, shall govern.

### **Section 15.2 Repeal and Reenactment of Existing Zoning Ordinance**

The rewriting of this Ordinance in part carries forth by reenactment some of the provisions of the existing Zoning Ordinance of the Town of Forest City and it is not intended to repeal but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have been accrued are preserved and may be enforced. All provisions of the Zoning Ordinance, which are not reenacted herein, are hereby repealed. All suits of law or in equity and/or all prosecutions resulting from the violation of the Zoning Ordinance 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 been instituted, may be 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 have been instituted or prosecuted.

### **Section 15.3 Effects Upon Outstanding Building Permits, Zoning Compliance Permits and Conditional Use Permits**

- A. Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Building Inspector prior to the time of passage of this Ordinance or any amendment thereto; provided, however, that where construction is not begun under such outstanding permit within a period of one hundred eight (180) days subsequent to the passage of this Ordinance or any amendment thereto, or where it has not been prosecuted to completion within eighteen (18) months subsequent to passage of this Ordinance or any amendment thereto, any further construction or use shall be in conformity with the provisions of this Ordinance or any such amendment.
- B. Nothing herein contained shall require any change in the plans, construction, size or designated use of any Conditional Use Permit which has been granted prior to the adoption of this Ordinance and which Conditional Use is no longer carried forth on this Ordinance provided that a Building Permit has been obtained and construction begun within one hundred eighty (180) days of the date of the approval of such Permit and provided that such

Building Permit is prosecuted to completion as provided for above. Such valid Conditional Uses including those already existing for non-continued uses may be constructed, continued and reconstructed the same as any permitted use subject to such use limitations and other conditions as provided for in the original issuance of the Conditional Use Permit. Any such Conditional Use that is changed to any permitted use for any period of time shall not be permitted to resume the Conditional Use.

#### **Section 15.4 Definitions**

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein when not inconsistent with the context; words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory. The words “used for” shall include the meaning “designed for.”

##### **A. General Definitions**

**Accessory Use or Accessory Building (Non-Residential):** A subordinate non-residential use or building customarily incidental to and located on the same lot with the main use or building.

**Accessory Use or Accessory Building (Residential):** A noncommercial use or building customarily incidental and subordinate to but located on the same lot with the main residential use or building such as a private garage or carport, family garden, personal storage building, or workshop, all of which are totally for personal use.

**Apartment:** A room or suite of rooms in a multi-unit residential building, generally rented by the occupant, which provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation in each separate unit.

**Bed and Breakfast:** A dwelling in which lodging available for rent to the public, with or without meals, is provided for overnight guests for a fee.

**Building:** See “Structure.”

**Building Height:** The vertical distance from the mean elevation of the finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roof.

**Building, Main:** The principal structure in which the primary use of the property is undertaken.

**Building, Occupancy:** See “Use.”

**Building Setback Line:** See “Setback.”

**Common Open Space:** The open space land held in common ownership by property or unit owners in a development, normally provided for in the declaration or restrictive covenants and normally in common use.

**Condominium:** Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions.

**Congregate Care Facility:** A facility providing shelter and services for ambulatory individuals at least fifty-five (55) years of age who by reason of age, functional impairment, or infirmity may require meals, housekeeping and personal care assistance. Congregate care facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable.

**Day Care Center:** A facility providing care for six (6) or more non-handicapped children, more than four (4) hours per day, for payment of a fee, but without transfer or assignment of custody.

**Dwelling, Single-Family (Conventional or Modular):** A detached building constructed on-site or in industrialized modules in compliance with the North Carolina State Building Code and designed for or occupied exclusively by one family.

**Dwelling, Single-Family Attached:** A single-family dwelling that except for corner units is connected on each side by means of a common dividing structural or load bearing party wall of at least ten (10) linear feet to another single-family dwelling, each on its own individual lot.

**Dwelling, Single-Family Detached:** A single-family dwelling, which is completely surrounded by permanent open space.

**Dwelling, Two-Family:** A detached residential building arranged or designed to be occupied by two (2) families living independent of each other.

**Dwelling, Multi-Family:** A detached building constructed on-site in compliance with the North Carolina State Building Code and designed for three (3) or more dwelling units.

**Dwelling Unit:** An enclosure of one or more rooms providing complete independent living facilities for one family, including permanent facilities for living, sleeping, eating, cooking and sanitation within the separate enclosure.

**Family:** Any number of persons related by blood, adoption or marriage or no more than four (4) persons not related by blood, adoption or marriage, living together as a single housekeeping unit sharing the same domestic facilities. It does not include congregated residential care facilities; family care and group care facilities; foster homes for children; homes for the aged and infirmed; family-care homes for the aged and infirmed; day care facilities; day care centers; and family day care homes; shelter homes for children and/or families including foster shelter homes and group shelter homes; adult day care centers; day nurseries; preschool centers; hospitals; nursing homes; sanitariums; and dormitories, fraternal organizations, or other organized social or institutional residential situations.

**Family Day Care Home:** A building used as a residence for a family, which is also used to provide day care services on a temporary basis without transfer of custody for five (5) or fewer children, for a fee.

**Family Care Home:** A home with support and supervisory personnel, which provides room and board, personal care and habilitation services in a family environment for not more than six (6) resident handicapped persons.

**Family Members, Direct:** Direct lineal descendents (children, grandchildren, and great grandchildren) and direct lineal ascendents (father, mother, grandfather and grandmother); and brothers, sisters, nieces and nephews.

**Frontage:** The property abutting on one side of a street measured along the street right-of-way line.

**Gross Floor Area:** The total area of any buildings in the projects, including the basements, mezzanines and upper floors, exclusive of stairways and elevator shafts. It excludes separate service facilities outside the store such as boiler rooms and maintenance shops.

**Group Care Facility:** A facility licensed by the State of North Carolina, (by whatever name it is called, other than “Family Care Home” as defined by this Ordinance), with support and supervisory personnel that provides room and board, personal care, or habilitation services in a family environment.

**Handicapped Person:** A person with a temporary or permanent physical, emotional or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but does not include mentally ill persons who are dangerous to others as defined in Section 122-58.2(1) b of the General Statutes of North Carolina, or any amendment thereto.

**Home Occupation, Customary:** An occupation-conducted incidental to the use of property as a dwelling unit, which does not adversely impact or change the residential character of the neighborhood.

**Hotel or Motel:** A building which provides sleeping accommodations in six (6) or more rooms, commonly available for pay on a daily basis to transient or permanent guests.

**Junk Yard:** A lot or group of contiguous lots where more than six hundred (600) square feet of area is used for the dismantling or the storage of wrecked or used automobiles or the storage, sale, or dumping of dismantled or wrecked cars or their parts, or for storage of appliances, machinery and other salvage goods or discarded items.

**Kennel:** An establishment wherein any person engages in business or practice, for fee, of boarding, breeding, grooming, letting for hire, or training of more than three (3) domesticated animals at any one (1) time; or an establishment wherein any person engages in the business or

practice, for a fee, of selling more than one (1) litter of domesticated animals at any one (1) time or the selling of any three (3) individual domesticated animals (not defined as litter herein) at any one (1) time. Domesticated animals, for the purpose of this ordinance, shall be defined as dogs, cats and other generally acceptable household pets. Litter, for the purpose of this Ordinance, shall be defined as the progeny resulting from the breeding of two (2) domesticated animals. The following shall not constitute the operation of a kennel as defined above and in no way shall this provision regulate the following:

1. The ownership of domesticated animals as household pets.
2. The ownership of domesticated animals for hunting or tracking purposes;
3. The ownership of domesticated animals for the purpose of exhibiting at shows, obedience or field trials; and
4. The ownership of domesticated animals for the purpose of protecting or guarding of residences or commercial establishments.

**Landowner:** Any owner of a legal or equitable interest in real property, including the heirs, devise, successors, assigns and personal representative of such owner. The owner may allow a person holding a valid option to purchase, to act as his agent or representative for purposes of submitting proposed site specific development plan in the manner allowed by this Ordinance.

**Lot:** A parcel of land, the boundaries of which are established by some legal instrument such as a deed or a recorded plat (but not tax maps) and which is recognized as a separate tract for purposes of transfer of title or lease of greater than three (3) years.

**Lot, Corner:** A lot adjacent to or abutting on two (2) streets at their intersection.

**Lot, Front:** On a corner lot, the front is the frontage with the least dimension at the street. Where the dimensions are equal the front shall be designated by the owner.

**Lot, Interior:** Any lot other than a corner lot.

**Lot Lines:** The line forming the perimeter or boundary of the lot.

**Lot, Through:** An interior lot having frontage on two (2) streets. Also called a double frontage lot.

**Lot Width:** The distance from side lot line to side lot line measured at the required minimum front yard setback parallel to the front property line. For lots with a radial side line(s), lot width may be measured at a front yard setback greater than the minimum required front yard setback. In such case the point where the minimum lot width is measured shall become the front yard setback for that lot.

**Lot of Record:** A lot which is a part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds, or a lot which is described by metes and bounds, the description of which has been so recorded, prior to the effective date of this Ordinance.

**Manufacturing:** The processing of raw products and materials into items for sale.

**Mobile Home:** A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (iii) exceeds forty (40) feet in length and eight (8) feet in width.

**Mobile Home, Class “A”:** A multi-sectional mobile home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.

**Mobile Home, Class “B”:** A mobile home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.

**Mobile Home, Class “C”:** A mobile home, which does not meet the Class A, or Class B definitions.

**Modular Home; Building:** Any building or structure which was pre-manufactured, all or in part, at some point other than the building site for assembly or installation later at the building site and which complies with the State of North Carolina Building Code. Further defined, such building may be assembled from pre-manufactured rooms, wall panels, frame units, or other factory manufactured parts, which may be fabricated of wood, concrete, metal or other materials and anchored on a permanent foundation or foundation material at the building site. This definition does not include mobile homes as defined in this Ordinance.

**Net Residential Area (Net Land):** That portion of a development or project site designated for residential lots and related common open space areas excluding dedicated public right-of-ways.

**Nonconforming Use:** Any use which legally existed on the effective date of this Ordinance, and which does not conform with each regulation of the zoning district in which it is located, including any nonconforming use legally recognized under a prior zoning ordinance.

**Open Space:** Any land area not occupied by buildings, structures, storage areas, open or enclosed balconies, patios, porches or decks, excluding, however, any land encroaching or located within a right-of-way or easement. Open area in any required setback or land used for sidewalks, landscaping and grassing shall be considered open space.

**Overlay District:** A zoning district which overlays and combines with one of the principal zoning districts established by this Ordinance. In such case the property involved is subject to the requirements of both districts.

**Parking Lot:** An area or tract or partial tract of land used for the storage or parking of vehicles.

**Planned Unit Development:** A tract(s) of land under single corporation, firm, partnership or association ownership, or otherwise under unified ownership or control, planned and developed as an integral unit in a single development scheme or a well defined series of development operations in accordance with an approved site plan and which proposes more than one principal building and/or nine (9) or more multi-family dwelling units.

**Property:** Means all property subject to zoning regulations and restrictions and zoning boundaries within the zoning jurisdiction of the Town.

**Public Sewage Disposal System:** An approved water supply system serving ten (10) or more connections, including municipal and sanitary district sewerage systems as well as “package” plants constructed in a location and to specifications approved by the County Sanitarian in consultation with the with the NC Division of Health Services.

**Public Water Supply System:** An approved water supply system serving ten (10) or more connections, including municipal and sanitary district water systems as well as water systems designed to serve particular subdivisions at full development and constructed to specifications approved by the County Sanitarian in consultation with the NC Division of Health Services.

**Recreation or Travel Trailer:** A vehicular, portable, structure built on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a travel trailer by the manufacturer of the unit. Includes motor homes, recreational vehicles, etc.

**Residential Care Facility:** A building or facility used primarily to provide residential, social and personal care for children, the aged or others who suffer some limit on the ability for self-care, but where medical care is not a major service. It includes such uses as adult day care facilities, home for the aged and other like uses, which are not otherwise specifically defined.

**Screen:** A device such as a fence or planting area used to visually separate property.

**Service Station:** A lot or building where gasoline, oil, grease and automobile accessories are supplied and dispense to the motor vehicle trade, or where battery, tire and other similar repair services are rendered.

**Setback:** The horizontal distance from the property line or street right-of-way line to the nearest part of the applicable building, structure, sign, or use, measured perpendicularly to the line.

**Shopping Center; Mall:** Any predominately retail development whether a single business or several businesses and whether located in one or more related buildings, with planned and shared parking, that contains 15,000 square feet or more of gross floor area.

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

**Stacking Space:** A space to store an automobile off-street while waiting in line for a drive-through service such as an automatic teller service, drive through restaurant, etc.

**Street, Private:** A public right-of-way for vehicular travel which has been constructed and then dedicated to and accepted by a municipality or the North Carolina Department of Transportation for public use or which has been otherwise obtained by such agencies for such use or which is proposed to be constructed and then dedicated to and accepted by such agencies as a public right-of-way for vehicular traffic for public use.

**Structure:** Anything constructed or erected, which requires location on the ground or attached to something having location on the ground.

**Structural Alterations:** Any change, except for the repair or replacement, in the supporting members of a building such as load bearing walls, columns, beams or girders.

**Swine Farm:** A tract of land devoted to raising animals of the porcine species served by or requiring animal waste systems having a design capacity of 600,000 pounds steady live weight or greater.

**Townhouse:** A single-family dwelling unit constructed in a series or group of attached units with property lines separating each such unit.

**Transmission Tower:** A structure, either freestanding, supported by guywires, or attached to a building and accessory equipment related to broadcast services, private radio services, including AM, FM, two-way radio, television and cable antenna television transmission, microwave transmission and facilities such as satellite dish receiving centers. This definition does not include electrical transmission distribution poles, towers, and line, personal satellite dishes, or structures not more than 35' in height.

**Travel Trailer Parking Area:** A parcel of land in which two (2) or more spaces are designed, occupied or intended for occupancy by trailers for transient dwelling purposes.

**Use:** The primary purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.

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

**Wireless Telecommunication Tower:** A tower supporting licensed or unlicensed wireless telecommunication facilities including cellular, digital cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), commercial

or private paging services, or similar services marketed or provided to the general public. This definition does not include services by noncommercial entities in the Amateur Radio Service, Public Safety Radio Service, or licenses assigned to non-profit organizations, such as the Red Cross, Civil Air Patrol, Military Affiliated Radio Service (MARS) that are licenses by the Federal Communications Commission.

**Yard:** An open space located on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees, shrubbery or as otherwise provided herein. A yard is the area created by the setback.

**Yard, Front:** A yard extending across the full width of the lot and extending from the closest front wall of the building to the property line or established edge of a right-of-way, whichever is closer.

**Yard, Rear:** A yard extending across the full width of the lot and extending from the closest rear wall of the main building to the rear of the property.

**Yard, Side:** A yard which extends from the closest side wall of a building to the nearest side property line or the established edge of the street right-of-way, whichever is closer, if the lot is a corner lot.

**Zoning Administrator:** An employee or agent of the Town who is assigned primary responsibility for the administration and enforcement of the Zoning Ordinance.

**Zoning Compliance Certificate:** A permit issued by the Town conferring the right to undertake and complete the development and use of property.

**Zoning Compliance Certificate with Vested Rights:** A permit authorized by the Board of Adjustment concerning the right to undertake and complete the development of and use of property under the terms and conditions of an approved site-specific development plan.

## **B. Definitions Relating to Adult Oriented Businesses**

**Adult Oriented Business:** An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center (including adult massage parlor and adult health club), sexually orientated device business or any combination of the foregoing or any similar business. As used in this Ordinance the following definitions shall apply:

**Adult Arcade (also know as “Peep Show”):** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe “specific sexual activities” or “specified anatomical areas.”

**Adult Bookstore or Adult Video Store:** A commercial establishment, which as one of its principal business purposes offers for sale or rental any form of consideration any one of more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representation that depicts or describes “specific sexual activities” or “specified anatomical area”; or instruments, devices or paraphernalia that are designed for use in connection with “specified sexual activities.”

**Adult Cabaret:** A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits or displays as one of the principal business purposes:

1. Persons who appear nude or semi-nude; or
2. Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
3. Films, motion pictures, videocassettes, slides, or other photographic reproductions, which depict or describe “specific sexual activities” or “specified anatomical areas.”

**Adult Motel:** A hotel, motel or similar commercial establishment that:

1. Offers accommodations to the public for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe “specified sexual activities” or “specified anatomical areas” as one of its principal purposes; or
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours;
3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

**Adult Motion Picture Theater:** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe “specified sexual activities” or “specified anatomical areas.”

**Adult Theater:** A theater, concert hall, auditorium, or similar commercial establishment which regularly features exhibits or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict “specified anatomical areas” or “specified sexual activities.”

**Escort:** A person who, for any tips or any other form of consideration, agrees or offers to act as date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**Nude Model Studio:** Any place where a person who appears nude or semi-nude, or who displays “specified anatomical areas”, is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money in any form of

consideration. Nude Model Studio shall not include a proprietary school licensed by the State of North Carolina or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operated educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
2. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
3. Where no more than one nude or semi-nude model is on the premises at any one time.

**Nude or A State of Nudity**

1. The appearance of a human anus, male genitals or female genitals; or
2. A state of dress, which fails to opaquely cover a human anus, male genitals or female genitals.

**Semi-Nude:** A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breasts, as well as portions of the body covered by supporting straps or devices.

**Sexual Encounter Center:** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling (including sexually oriented massaging) between persons of the opposite sex, or similar activities between male and female persons and/or between persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

**Sexually Oriented Devices:** Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

**Specified Anatomical Areas:** Human genitals in a state of sexual arousal.

**Specified Sexual Activities:** Is and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, sodomy; or
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in 1. through 3. above.

**C. Definitions Related to Signs**

**Awning:** A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.

**Canopy:** A permanent structure other than an awning made of cloth, metal or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure.

**Changeable Copy:** Copy that is or can be changed manually in the field or through mechanical or electronic means, e.g. readerboards with changeable letters.

**Erect:** To assemble, build, construct, raise, install, attach, hang, place, suspend, affix, post, create, paint, draw, apply or in any other way bring into being or establish.

**Facing or Surface:** The surface of a sign upon, against, or through which the message is displayed or illuminated on the sign.

**Frontage, Lot:** The length of that part of a lot that fronts on a public street.

**Interstate Highway System:** That portion of the national system of interstate and defense highways located within the State as officially designated or as may hereafter be so designated by the Board of Transportation or other appropriate authorities and are also so designated by interstate numbers.

**Logo:** A business trademark or symbol.

**Lot:** A parcel of land, the boundaries of which are established by some legal instrument such as a deed or a recorded plat and which is recognized as a separate tract for purposes of transfer of title.

**Marquee:** A permanent roof-like structure other than a roof attached to, supported by, and projecting from a building, providing protection from natural elements over the ground, sidewalk or walkway.

**Parapet:** The portion of a building wall or false front that extends above the roof.

**Person:** Any natural person, firm, partnership, corporation, company, organization, association, trust or individual or any other group or combination of individuals operating as a unit and including any trustee, receiver, assignee or other similar representative thereof.

**Premises:** A lot or parcel of real property where a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity or use exists or is conducted, manufactured, sold, offered, maintained or takes place.

**Setback:** The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of a sign or its supporting member.

**Sign:** Any object, placard, device, display or structure, or part thereof, made of any material, except live vegetation, including any surface, fabric or other background material which is designed, constructed and/or used for the purpose of relaying information from a fixed or mobile position to visually inform, advertise, identify, display, promote, direct or attract the attention of general or privileged persons to an object, person, institution, organization, corporation, business, profession, commodity, product, service, event or location by any means including, but not limited to, words, letters, phrases, sentences, emblems, trademarks, trade names, insignias, numerals, figures, devices, designs, symbols, pictures, logos, fixtures, colors, illumination, or projected images or any other attention directing device, displayed by means of paint, bills, posters, panels, or other devices erected on an open framework, or attached or otherwise applied to stakes, poles, trees, buildings or other structures or supports. The term sign shall include the terms advertisement, announcement, insignia, billboard, bill, billet, badge, display, brand, emblem, flyer, label, message board, poster, shingle, symbol, title and trademark. The term sign shall not include the terms television, telegraph, radio, signal or transmission. If the message is removed from a structure that was originally designed and used as a sign, this structure shall still be considered a sign.

**Sign, Advertising:** See Sign, Billboard

**Sign, Awning:** A sign placed directly on the surface of an awning. For purposes of this Ordinance an awning sign for measuring purposes will be considered a wall sign.

**Sign, Billboard:** A permanent, usually free-standing, off-premise sign that is affixed to the ground or to a building, owned by a person, corporation or other entity that engages in the business of selling or leasing the advertising space on that sign and which advertises an establishment, service, commodity, goods or entertainment sold or offered on premises other than that on which such sign is located. Such signs commonly referred to as “outdoor advertising signs” are generally designed so that the copy or posters on the sign can be changed frequently.

**Sign, Campaign or Election:** A sign that advertises a candidate or issue to be voted upon on a definite election day.

**Sign, Canopy:** A sign attached to or painted onto or forms a part of a canopy. For the purposes of this Ordinance a canopy sign for measuring purposes will be considered a wall sign.

**Sign, Changeable Copy:** A sign message center or readerboard that is designed so that its informational content or copy can be changed or altered by manual, electrical, electro-mechanical or electronic means. A changeable copy sign shall be counted as a sign face.

**Sign Clearance:** The smallest vertical distance between the grade of the adjacent street, and the lowest point of any sign, including framework and embellishment, extending over that grade.

**Sign, Conforming:** A sign, which is in compliance with all the provisions of this Ordinance.

**Sign, Construction:** A sign placed at a construction site giving the name or names of building owners or developers, architects, engineers, and/or lending institutions and principal contractors, subcontractors and material suppliers participating in construction on the site where the sign is placed, together with other appropriate information included thereon.

**Sign, Copy:** Alphabetic, pictorial, numerical and/or graphic display of permanent or removable words, letters, numbers, figures, characters, symbols, logos or insignia that are used on a sign display surface area for advertising and/or informational purposes.

**Sign Copy Area:** Area measured by the smallest circle, square or rectangle which will encompass all elements of informational or representational matter including all cut outs or extensions together with any materials or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. The term sign copy area shall also include the terms display area, surface area and the word area as it relates to signage. The term sign copy area shall not be construed to include architectural trim, frames and structural supports that do not bear any sign copy. In computing area, only one (1) side of a double-faced sign shall be considered. The maximum angle of a double-faced sign shall be 45 degrees, except for signs located at corners in which case the maximum angle may be 90 degrees. This refers to the distance between sign faces on a single structure.

**Sign, Discontinued:** Any conforming or legal nonconforming sign, other than a billboard sign, which no longer identifies or advertises a bona fide business, service, product or activity, and/or for which no legal owner can be found which has been discontinued for a period of 120 days or more regardless of reason or intent, or a temporary sign for which the permit has expired. This is not intended to apply to seasonal type businesses, which annually operate “in season.” However, failure to operate any such seasonal business for a minimum of 190 consecutive days in a calendar year will deem these signs to have been discontinued.

**Sign, Double-Faced:** A sign designed to be seen from two (2) opposite directions shall be considered as one (1) sign, provided that the two (2) sign faces shall be supported on the same pole(s) or other structure, are at the same elevation and form an angle of forty-five (45) degrees or less on an interior lot or ninety (90) degrees or less on a corner lot.

**Sign Face:** The part of a sign that is or can be used to identify, advertise or communicate information, or is used for visual representation, which attracts the attention of the public for any purpose. Sign face includes any background material, panel, trim, color or internal illumination used that differentiates that sign from the building, structure, backdrop, surface or object upon which or against which it is placed. The sign structure shall not be included as a portion of the sign face provided that no identifying/advertising message, symbol or any of the aforementioned sign face criteria are displayed on or designed as part of the sign structure, whether structurally necessary or not.

**Sign, Flashing:** Any sign, which contains an intermittent, or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation or an externally mounted intermittent light source. Automatic changing signs such as public service time,

temperature and date signs or electronically controlled message centers are classified as changeable copy signs, not flashing signs.

**Sign, Freestanding:** A sign which is permanently affixed to and supported by structures or supports such as poles, masts or frames which are placed upon or anchored in the ground and which structures or supports are independent from any building or other structure. For the purposes of this Ordinance a freestanding sign shall be only those signs meeting the definition given above and which are located on the same premises for which its message is carried. Pole, ground and billboard signs are examples of freestanding signs.

**Signs, Government:** Any temporary or permanent sign, symbol or device erected and maintained for any Federal, State, County or Municipal governmental purposes including, but not limited to, legal notices, identification and informational signs, and traffic warning, directional or regulatory signs.

**Sign, Ground:** A freestanding sign with a base which either appears to rest on the ground or which has a support(s) which places the base and portion of the sign copy area thereof less than ten (10) feet from the ground. A monument sign is a ground sign.

**Sign, Height:** The vertical distance measured from the highest point of the sign including decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.

**Sign, Identification:** Means either or both of the following:

1. A sign used to display only the name, address, crest or trademark of the business, individual, family, organization or enterprise occupying the premises; the profession of the occupant; the name of the building on which the sign is displayed.
2. A permanent sign announcing the name of a subdivision, tourist home, group housing project, church, school, college, park or other public or quasi-public structure, facility or development and the name of the owners or developer but bearing information pertaining only to the premises on which such sign is located and carrying no advertising message.

**Sign, Illegal:** A sign, which does not meet the requirements of this Ordinance and which has not received legal non-conforming status.

**Sign, Incidental:** A small sign, emblem or decal informing the public of goods, facilities or services available on the premises, e.g., a credit card sign or a sign indicating hours of business.

**Sign, Illuminated:** A sign illuminated in any manner by an artificial light source.

**Sign, Internally or Directly Illuminated:** A sign where the source of the illumination is inside the sign and light emanates through the message of the sign through transparent or translucent materials rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that are filled with neon or some other gas that glows when an electric current passes through it and are intended to

form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered internally or directly illuminated signs.

**Sign, Indirectly or Externally Illuminated:** A sign designed to have illumination from a detached light source, shielded so that no direct rays from the light source are visible elsewhere than on the lot where said illumination occurs. The term, Sign, Indirectly or Externally Illuminated includes backlit.

**Sign, Informational or Instructional:** An on-premises sign designed to guide vehicular and/or pedestrian traffic and give other instruction or direction to the public but not including any advertising message. The name or logo of the business or use about which the sign is giving direction may also be included on the sign, provided such name or logo does not comprise more than ten percent (10%) of the copy area. Such signs include, but are not limited to, the following: the identification of rest rooms, public telephones, walkways, entrance and exit drives, parking, handicapped access, freight entrances and traffic direction.

**Sign, Maintenance:** For the purposes of this Ordinance, the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.

**Sign, Marquee:** A sign affixed, superimposed, or painted on a marquee identifying the name of an establishment, type of product sold, manufactured or assembled, and/or service or entertainment offered on the premises where such a sign is displayed. For purposes of this Ordinance a marquee sign for measuring purposes will be considered a wall sign.

**Sign, Memorial:** A sign designating names of buildings and/or date of erection and other items such as architect, contractor, or others involved in the building's creation, cut into or attached to a building surface.

**Sign, Motion:** A sign or device designed to attract attention, all or any part of which uses movement or apparent movement by fluttering, revolving, rotating, spinning, swinging, animation or moving in some other manner and is set in motion by movement of water or the atmosphere or by mechanical, electrical or any other means.

**Signs, Movable:** A sign, which is movable by two or fewer individuals without aid of a motor vehicle or other mechanical equipment. The term movable sign includes the terms A-frame sign, T-shaped sign and tent sign.

**Sign, Noncommercial:** Any sign, display or device that does not direct attention to a business operated for profit, or to a commodity, product or service for sale which displays a substantive message, statement or expression that is protected by the First Amendment to the US Constitution.

**Sign, Nonconforming:** Any sign which was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of this Ordinance, and any

amendments to, and which fails to conform to all applicable standards and restrictions of this Ordinance. An illegal sign is not a nonconforming sign.

**Sign, Object or Product:** A sign used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to, drive-through window menu boards, and signs on automatic teller machines, gas pumps, vending machines or newspaper boxes.

**Sign, Off-Premise:** A sign or structure, pictorial or otherwise, regardless of size or shape that draws attention to or communicates information about a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity that exists or is conducted, manufactured, sold, offered, maintained or provided at a location other than on the premises where the sign is located. Several types of off-premise signs may exist or otherwise be subject to the requirements of this Ordinance. Billboards are examples of off-premise signs. This definition does not include governmental, traffic, directional, or regulatory signs or notices of the Federal, State, County or Town government or their public agencies.

**Sign, On-Premise:** A sign or structure, pictorial or otherwise, regardless of size or shape that draws attention to or communicates information about a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity that exists or is conducted, manufactured, sold, offered, maintained or provided on the premises or at the same location (site or tract) as that where the sign is located. Several types of on-premise signs may exist or otherwise be subject to the requirements of this Ordinance regarding said signs. Ground signs and directional signs are examples of on-premise signs.

**Sign, Pole:** A freestanding sign with the base and all of the sign copy area at least ten (10) feet above the ground and which is supported from the ground by one or more poles or similar support structures of narrow width (maximum of ten percent (10%) of the width of the sign face) and not attached to any building (not a ground sign).

**Sign, Political:** A temporary sign used in connection with a local, state, or national election or referendum.

**Sign, Portable:** A sign designed or intended to be readily relocated from one location to another whether on the same premises or a different premises, is not permanently attached to the ground, building or other permanent structure and is differentiated from a Movable Sign in that it may be equipped for transportation by motor vehicle or other mechanical means. The term Portable Sign shall include signs on wheels, trailers, truck beds, or other devices, which are capable of or intended to be moved from one location to another. Signs defined as temporary signs are not included in this definition.

**Sign, Projecting:** A sign, which projects from and is supported by a building or other structure only when said projection is greater than twelve (12) inches. The term Projecting Sign does not include terms wall, awning, canopy or marquee sign, which are otherwise defined herein.

**Sign, Public Interest:** A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as warning and no trespassing signs.

**Sign, Real Estate:** A temporary sign that is used to offer for sale, lease, rent or development the premises upon which such sign is placed.

**Sign, Roof:** A sign erected or maintained in whole or in part on, upon or over the roof or parapet of a building or structure and which is wholly or partially dependent upon the roof of the building or structure for support.

**Sign Structure:** Any structure, which supports, has supported or is capable of supporting a sign, including any decorative cover for said sign structure.

**Sign, Snipe:** A temporary sign or poster affixed to a fence, pole, post, hydrant, bridge, another sign, public bench, street light or any tree, rock or other natural object.

**Sign, Temporary:** Any sign, designed in structure, materials and/or copy message, which is temporary in nature to be used in connection with a circumstance, situation or event that is designed, intended or expected to take place or to be completed within a reasonably short or definite period after the after the erection of such sign, whether attached to a structure, fence or freestanding, and whether or not it contains a frame. The term Temporary Sign includes the terms Banner, Valance, Flyer and Announcement. Temporary Sign materials consist of cloth, vinyl, canvas, light fabric, cardboard, paper, wall board or other light material. This definition shall not include a permanent sign display area with changeable copy, or to movable or portable signs.

**Sign, Vehicle:** A sign on a parked vehicle visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purposes of this Ordinance, vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other business purposes.

**Sign, Wall:** A sign which is placed on and/or attached to and supported throughout its entire length by the facade or exterior side of a building (or fence) wall by means of adhesive, paint, manufacturing process, structural and/or mechanical attachment, which said sign is not more than twelve (12) inches from the facade or exterior wall line and when its exposed face is parallel or approximately parallel to the plane of the building or structure on which the sign is affixed. Such sign may not extend above the roofline.

**Sign, Window:** A sign that is placed on and/or attached to the interior side of a window or door glass of a building by means of adhesive, paint and/or manufacturing process intended for viewing from the exterior of such building; or a sign within a building, placed no more than twelve (12) inches behind the window which is visible through the window.

**Special Event:** A planned, temporary activity.

**Structural (Architectural) Trim:** The molding, battens, capping, nailing strips, latticing and platforms, which are attached to a sign structure.

**Use:** The purpose of which a building, lot, sign or structure is intended, designed occupied or maintained.

**Section 15.5 Validity**

If any Section, Subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Commissioners hereby declares that it would have passed this Ordinance and each Section, Subsection, clause and phrase thereof, irrespective of the fact that any one or more Sections, Subsections, sentences, clauses or phrases be declared invalid.

**Section 15.6 Effective Date**

This Ordinance shall become effective upon its adoption by the Board of Commissioners of the Town of Forest City, North Carolina.

**ADOPTED** the 5<sup>th</sup> day of June, 2000 and as amended through the 19<sup>th</sup> day of May, 2008 by the Board of Commissioners of the Town of Forest City, North Carolina.

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Town Clerk

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Mayor