

PRELIMINARY REPORT

DATE: July 19, 2021

TO: Planning and Zoning Commission Members

FROM: Randy Richards, Building Official

SUBJECT: Recommendation to accept and file Zoning Ordinance Amendments to Section 115-6, Section 115-85 and Chapter 4 Alcoholic Beverages pertaining to alcohol retail sales establishments

BACKGROUND/INFORMATION:

Texas Local Government Code 211.007(b) requires the Planning & Zoning Commission make a preliminary report prior to approving changes to the City's Zoning Ordinance. As such, this document serves as the preliminary report.

The (W.E.D.C.) Watauga Economic Development Corporation has received inquiries from various companies regarding the desire to operate retail liquor stores in Watauga. Additionally, last fall a group of petitioners filed the required affidavit and completed the required notice with the Fort Worth Star Telegram. The City Secretary's Office issued petition pages to the Petitioners, but the petition was never returned. Thus, a second group submitted a petitioner's affidavit, completed the required notice with the Fort Worth Star Telegram this calendar year. Petition pages were issued, and the completed petition pages were filed with the City Secretary's Office within the required 60-day timeframe. The petition is being verified by the City Secretary's Office and will be placed on the August 9, 2021, Council Agenda for action.

Due to the increasing market interest in the City of Watauga for liquor establishments and the City Council expressing an interest in limiting the locations where liquor stores can locate, the need exists to amend the City's zoning ordinance. Currently, the City's Zoning Ordinance does not differentiate between general Retail Sales and alcohol sales, meaning that liquor stores can locate in any commercial zoning district. Some commercially-zoned property is adjacent to or surrounded by other uses desired to be protected. Thus, staff is proposing an amendment to create a category for businesses that devote more than 50% of their retail floor area to the sale of alcohol and alcohol related products.

Staff proposes a zoning ordinance change to create the use category and establish locations in which the use is permitted:

- Permit liquor store establishments in the commercial zoning district with an SUP required.
- Permit liquor store establishments in the general business zoning district with an SUP required.

PRELIMINARY REPORT

During staff review, items considered include:

- Assessing whether local alcohol retail stores should follow and comply with the requirements to be contained in a specific use permit (SUP) in the community. SUPs regulate spacing between alcohol retail stores and proximity to “sensitive land uses” (e.g., public parks, public schools, and churches).
- Preventing alcohol retail stores from being located near youth-related venues (e.g., public schools and public parks) or over-concentrated in certain areas (e.g., low-income neighborhoods)
- Development of SUPs with clear criteria that alcohol retail stores must meet to continue operating in the community and monitor for compliance.
- The need to limit privatization of alcohol sales locations.

CURRENT ACTIVITY:

Proposed redline ordinances and a Table of Use Chart are attached for review along with staff recommendation of the specific zoning district “GB” General Business and “C” Commercial, to place the new business type.

Once the Preliminary Report is filed and the public hearing is conducted (August 18, 2021), a final report will be completed and submitted to the City Council by the P&Z through the City Secretary’s Office for action by the City Council (September 13, 2021).

The Commission should consider the following criteria for the amendment:

1. The consistency of the proposed amendment with the City’s Comprehensive Plan

On Page 6, a guiding principle for land use is “ensure that future development is orderly and efficient, compatible with existing land uses and enhances the overall quality of life.”

Page 23 states, “The retail along US Hwy. 377 that is located in the City limits of Watauga is an asset to the community, because it provides tax base, shopping and dining within close proximity.”

Page 26 states a guiding principle for economic development is to encourage the development of non-residential services to enhance the tax base and meet the needs of Watauga residents. Should the petition reach the ballot and be approved by the citizens of Watauga, the need would be established for such retail.

The proposed amendment will allow alcohol store establishments in the general business and commercial zoning districts, but along retail corridors only, and not within small pockets of the remaining commercial acres surrounded by residential neighborhoods, within 2,000 feet of a public school and 1,500 feet of public park.

PRELIMINARY REPORT

On Page 35, the proposed amendment appears to be supported by the survey results of the community. The results indicate 36.5% of respondents feel local retailers and specialty shops are very important and 54.8% feel they are important.

On Pages 36 and 46, increasing the tax base to support community desires was mentioned as a major opportunity for Watauga.

Page 49 discusses retail leakage, with food and beverage stores scoring high among those categories with high leakage.

2. The consistency of the proposed amendment with the intent and general regulations of the State Zoning laws.

The proposed amendment is consistent with the following purposes of Chapter 211 of the Texas Local Government Code: promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance or significance. In addition, the classification of the use proposed is consistent with the purpose of each impacted zoning district.

3. Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, is more workable than the existing text, or reflects a change of policy.

The proposed amendment adds clarification to the existing text by differentiating alcohol sales establishments from the general retail sales use category. The amendment also reflects a change in policy to limit alcohol sales establishments to locations along the two major business retail corridors within the city boundaries.

4. The extent to which the proposed amendment would be in the public interest and would not serve solely the interest of the applicant.

Establishments that sell alcohol are licensed by the approval of the Texas Alcoholic Beverage Commission.

It is in the public interest to better align the City's zoning use restrictions with Watauga's expectations regarding the appropriate location for alcohol sales establishments.

The change to the code will provide for a sufficient area within the City in which an alcohol establishment can locate.

5. The extent to which the proposed amendment creates non-conformities.

The proposed amendment will not create a nonconformity as the City doesn't currently allow alcohol sales establishments.

6. The implications of the proposed amendment on all similarly zoned property in the City.

PRELIMINARY REPORT

Currently, liquor stores are not included as a permitted use, but the code could be interpreted to allow retail liquor stores in zoning districts that do allow retail sales. The proposed amendment will clearly establish specific zoning districts that such establishments will only be permitted along major retail corridors with the approval of an SUP.

RECOMMENDATION/ACTION DESIRED:

City staff respectfully recommends the P&Z Commission provide input on the proposed amendments, file the preliminary report with the City Secretary and schedule a public hearing for August 18, 2021, at 6:30 p.m. to receive input on the Commission's Preliminary Report on proposed text amendments to the City's Zoning Ordinance.

ATTACHMENTS/ SUPPORTING DOCUMENTATION:

City of Watauga Code of Ordinances, Section 115-6 (Specific Use Permits Uses)

City of Watauga Code of Ordinances, Section 115-85 (Permitted Use Table)

City of Watauga Code of Ordinances, Chapter 4 (Alcoholic Beverages), Article IV

Buffer Zone Exhibit – Liquor Store Ordinance

PRELIMINARY REPORT

Sec. 115-6. Permitted principal accessory and specific-use permit uses – Liquor Store (Packaged)

Hobby shop. An establishment providing retail sales of items commonly associated with hobbies, including display area for hobbies.

Hobby studio, private. An accessory activity area, used by the occupants of the premises purely for personal enjoyment, amusement, recreation, or cultivation of artistic talents.

Home occupation. An occupation conducted in a dwelling unit or accessory building, provided that it is clearly "transparent" to the neighborhood and meets all of the requirements as defined in section 115-85(b), Conditions and special regulations for listed uses.

Hotel, apartment. A multifamily dwelling which furnishes for the use of its tenants services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

Hotel/motel. One or more buildings containing individual living or sleeping units specially designed as temporary quarters for transient guests, including provisions for meals and personal services; "hotel" includes a tourist hotel, a motor hotel, and a motel, but does not include an apartment hotel.

Junkyard/vehicle salvage yard. Any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, selling, trading, or other disposition of wrecked, scrapped, ruined, dismantled, or partially dismantled motor vehicles or motor vehicle parts, or any establishment or place of business maintained, used, or operated for the storing, keeping, buying, selling, trading, or other disposition of junk. The operation of junkyards shall be governed by the general rules and regulations applicable to junkyard and vehicle salvage yard operations within the city.

Kennel. Any lot or premises on which four or more dogs, cats, or other domestic animals, at least four months of age, are housed or accepted for boarding, trimming, grooming, or bathing for which remuneration is received.

Laboratory, medical and/or dental. A facility with materials and scientific and technological equipment designed for scientific experimentation, examination, evaluation, and documentation for medical and other technologies.

Laundry/cleaners, full-service. A retail establishment providing full-service laundry and dry cleaning services to the general public.

Laundry/cleaners, self-service. A retail establishment providing facilities for customers to launder or dry clean wearing apparel or other materials.

Laundry cleaning plant, commercial. A commercial laundry or cleaning plant doing cleaning or laundry for off-premises service outlets and retail establishments.

Library. Buildings and structures open for the general public, for which a fee may or may not be charged for the use of book collections.

Liquor Store (Packaged) An establishment licensed by the State for the retail sale of liquor, malt, and vinous liquors for off-premise consumption.

Lithography or print shop. A large commercial printing shop with multiple presses and capabilities offering duplicating services including blueprinting and photostating.

Lodge, fraternity, sorority and clubs. An association of persons meeting regularly for their mutual benefit or for the promotion of some common purpose, supported jointly through payment of membership dues, all members having the right to vote on policies and business.

Lumber yard. An establishment for the sales, storage and distribution of pre-cut lumber and associated materials used in the building trade.

Machinery sales or repair (heavy). A facility for the storage, repair, outside sales or rental of heavy machinery or equipment.

PRELIMINARY REPORT

Sec. 115-85 – Permitted Use Table – Liquor Store (Packaged)

- b. Annual inspections shall be required for each bed and breakfast facility to ensure ongoing compliance with the requirements of this Section.
 - c. If the actual authorized special exception use ceases for any reason, including storm, fire or other casualty, and such non-use continues for a period of six consecutive months, the special exception use shall automatically expire for non-use. Non-use, for the purpose of bed and breakfast facilities, shall be defined as two consecutive quarterly reports which indicate that no tax has been collected for two consecutive quarters on said bed and breakfast facility, or any other evidence which indicates that the bed and breakfast has not operated as a bed and breakfast for six consecutive months.
- (30) Zero lot line dwelling district shall require a two-car enclosed garage for each individual dwelling.
- (31) Zero lot line dwelling district shall require a minimum floor space of 1,500 square feet per residential unit.
- (32) Where a four-family dwelling zero lot line town home concept has four contiguous tracts/structures, access for purposes of landscape and maintenance to the rear yard of the two interior tracts/structures shall be by virtue of an access easement across the rear yard of each of the two exterior tracts/structures. Conveyance of interests in said zero lot line town home tracts/structures shall include access easements for purposes of landscape and maintenance in the conveyance instrument. The two exterior tracts/structures must provide for access to the rear yard of the tract/structure for landscape and maintenance purposes.
- (33) Zero lot line dwelling districts shall require dedication to the city of park property equivalent to one-tenth of the total square footage of the development.
- (34) May only be assembled on public school property or on city property for local, state, or national government purposes.
- (35) May not be located within 1,000 feet of any other payday loan business or within 200 feet of any property used primarily for a single-family residence, a two-family residence, a town home, or an apartment building. The separation distances shall be measured from or to the outer wall of the payday loan business, and from or to the property line of the property containing the residential use.
- (36) Boarding or lodging houses shall require off-street parking at a rate of one space for each tenant and one space for the manager (on site).
- (37) Boarding or lodging houses shall meet all fire safety regulations including, but not limited to, fire alarm detection systems, fire suppression systems, egress illumination, commercial (Type 1) hood systems, emergency escape and rescue openings and a Knox box system.
- (38) Liquor Stores (Packaged) shall only be permitted upon approval of a local option election to legalize the sale of packaged liquor within the corporate jurisdiction.
- (39) Liquor Stores (Packaged) shall only be permitted along the Denton Highway and Rufe Snow Drive Corridors and shall be limited to no more than one (1) location on each corridor.
- (40) Separation.
- a. Liquor Stores (packaged) shall not be permitted within 2,000 feet of a Public School, and 1,500 feet of a Public Park as measured from the outer wall of the Liquor Store business, and from or to the property line of the Public Park or Public School.
 - b. Liquor Stores (packaged) shall not be permitted within 14,400 feet of another Liquor Store. Distance shall be measured between Liquor Stores from front door to front door and in a straight along the Denton Highway and Rufe Snow Drive Corridors. Distance shall not be measured from the Denton

PRELIMINARY REPORT

Highway to Rufe Snow Drive Corridor.

- (41) Liquor Stores (Packaged) shall require a minimum floor area of 4,000 square feet.
- (42) All Liquor Stores (Packaged) shall require a drive through lane.

Article IV Section 4-60 through 4-61 Liquor Store (Packaged) Ordinance

Secs. 4-51 - 4-59. – Reserved.

ARTICLE IV. – LIQUOR STORES (Packaged)

Sec. 4-60. – Definitions.

1. *Liquor Store (Packaged)*. A Liquor store (Packaged) is a retail shop that predominantly sells prepackaged alcoholic beverages usually intended to be consumed off the store's premises.
2. *Off Premise*. Away from the property where alcoholic beverages are sold.
3. *State permit*. A permit issued by the (TABC) Texas Alcoholic Beverage Commission for the sale of alcohol.

Sec. 4-61. – Permit Required, Permit Fee, and Permit Renewal Fees.

- (a) *Permit required*. It shall be unlawful for any person to manufacture, distill, brew, import, transport, store for purposes of sale, distribute or sell any alcoholic liquor beverages within the City unless such person has obtained a City permit from the office of the City Secretary.
- (b) *Initial permit fee*. After approval by all necessary City departments, the permit application shall be deemed approved, and the City Secretary shall issue a City permit upon payment by the applicant of the initial permit fee. The City initial permit fee shall be equal to one-half (½) of the state fee required by the Texas Alcoholic Beverage Commission of every person that may be issued any state permit or license for the manufacture, distilling, brewing, importing, transporting, storing, distributing or sale of any alcoholic beverage, unless a different fee is allowed or required by state law. No City permit may be issued unless the initial permit fee is received. Please refer to the [Texas Alcoholic Beverage Commission Guide for Tax Assessor-Collectors](#) for a list of State Fees Paid to TABC. For a full listing of the fees or information about which liquor code applies to a type of business, visit [The TABC website](#).
- (c) *Renewal of permits*. All permits shall be renewed annually unless otherwise provided by state law. All permits shall terminate at midnight on the day before the anniversary date of their issuance and no permit shall be issued covering a term longer than one (1) year unless otherwise provided by state law.
- (d) *Annual permit renewal fee*. The City shall require payment of an annual permit renewal fee by all establishments selling alcoholic beverages within the City. The permit renewal fee shall be equal to one-half (½) of the state fee required by the Texas Alcoholic Beverage Commission of every person that may be issued any state permit or license for the manufacture, distilling, brewing, importing, transporting, storing, distributing or sale of any alcoholic beverage, unless a different fee is allowed or required by state law. Please refer to the [Texas Alcoholic Beverage Commission Guide for Tax](#)

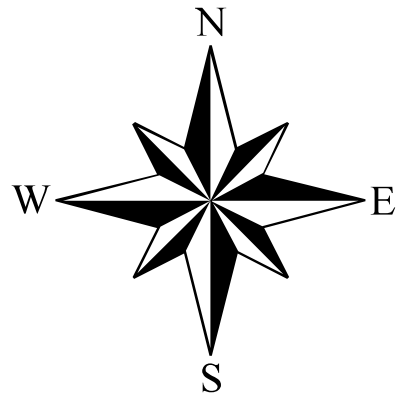
PRELIMINARY REPORT

Assessor-Collectors for a list of State Fees Paid to TABC. For a full listing of the fees or information about which liquor code applies to a type of business, visit The TABC website.

- (e) *Cancellation of permit.* The City Secretary may cancel a permit if a permittee fails to pay the permit renewal fee. The City Secretary shall send notice of such cancellation to the address on file with the permit application.
- (f) *Permit application.* Permit applications shall be kept on file in the City Secretary's office. The City Secretary shall issue a receipt for the initial permit fee and keep a record of the same in the City Secretary's office.
- (g) *Penalty.* A permittee who sells an alcoholic beverage without first having paid the initial permit fee or permit renewal fee under this section commits a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00), except as otherwise provided by law or ordinance.

Legend

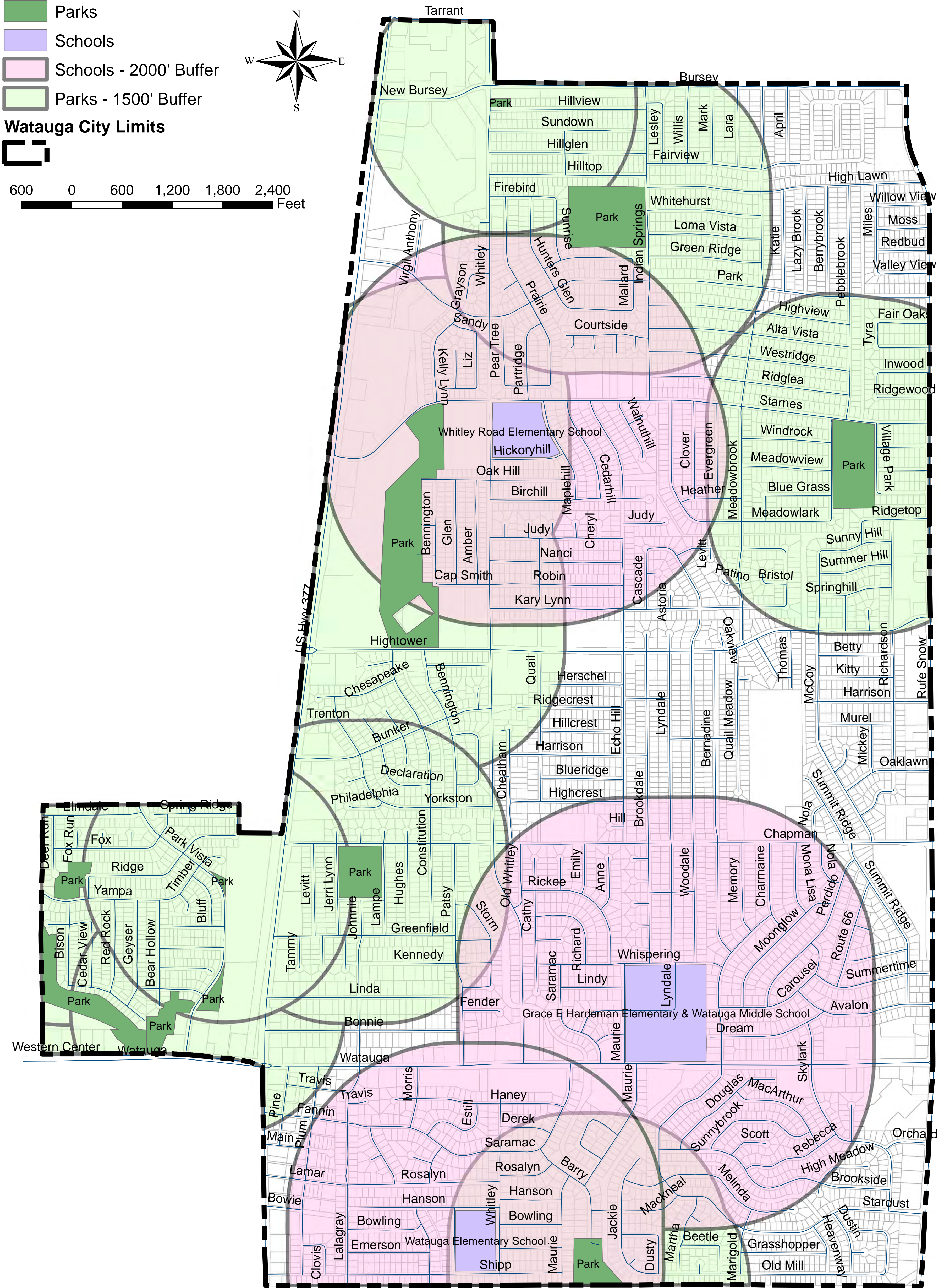
- Parks
- Schools
- Schools - 2000' Buffer
- Parks - 1500' Buffer



Watauga City Limits



600 0 600 1,200 1,800 2,400 Feet



Liquor Store Ordinance Exhibit



BURGESS & NIPLE
Engineers ■ Planners