

# UDO-CC17

## Request

- Text amendment prepared in response to the Public Works Committee request/concern related to the Winston Weaver Fire, aimed at achieving greater land use protections for potentially harmful industrial uses.
- The parameters of the proposed text amendment were previously discussed/vetted by the Public Works Committee

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## Background

- The Winston Weaver plant fire in early 2022 led staff to assess the City's current land use regulations for such facilities.
- Staff researched how NC peer cities address fertilizer plants through zoning restrictions and other requirements.
- Peer cities included Charlotte, Durham, Fayetteville, Greensboro, and Raleigh.

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## Peer City Zoning Regulations

- Fertilizer plants only allowed in a community's heaviest Industrial zoning district.
- Classified as some form of chemical or high impact/ hazardous manufacturing.
- Additional Use Restrictions of Note:
  - Special Use Permit Approval
  - Enhanced Setbacks from Residential
  - Perimeter Security Wall/Fence
  - Hazardous Materials Management Plan
  - Water Supply Watershed Restrictions

Peer Community Ordinance Requirements Affecting Fertilizer Manufacturing						
City	Allowed Only in Heavy Industrial District	Special Use Permit Approval	Enhanced Setbacks from Residential (feet)	Security Fencing/Wall Required (minimum height in feet)	Hazardous Materials Management Plan Required	Water Supply Watershed Restrictions
Winston-Salem	Yes	No	No	No	No	Prohibited within 1 mile of source
Charlotte	Yes	No	300	No	No	Not Found
Durham	Yes	Yes	1,500	8	Yes	Spill Containment Plan Approval
Fayetteville	Yes	No	1,000	No	Yes	Spill Containment Plan Approval
Greensboro	Yes	Yes	500	8	No	Prohibited within 1/2 mile of source
Raleigh	Yes	No	No	No	No	Not Found

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## Current UDO Regulations

- Fertilizer plants are classified as chemical manufacturing based on North American Industrial Classification System (NAICS).
- Chemical and battery manufacturing are 2 of 13 uses classified as “Manufacturing C,” only allowed in the most intensive General Industrial (GI) zoning district.
- Any use involving manufacture of hazardous materials prohibited within one (1) mile of Salem Lake by watershed protection regulations.

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## Proposed Use Restrictions/Use-Specific Standards

### Proposed Regulations Would Apply to the Following Subset of Manufacturing C:

- Chemical Manufacturing Uses that may involve Ammonium Nitrate
  - Pesticides, Fertilizer, and Agricultural Chemical MFG, and
  - Explosives and Pyrotechnics MFG
  
- Battery Manufacturing Uses that may involve Lithium
  - Primary Battery MFG
  - Storage Battery MFG

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## Proposed Use-Specific Standards

- Use-Specific Standards shall only apply to new manufacturing uses in the aforementioned chemical and battery manufacturing categories permitted after the effective date of this ordinance amendment
- Permitted only in General Industrial (GI) District through:
  - Approval of a Special Use District Zoning Request with accompanying site plan and public hearings before Planning Board and City Council
- Hazardous Materials Management Plan shall be submitted for approval prior to issuance of a building permit

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## Proposed Use-Specific Standards

- Not allowed in designated public surface water supply watersheds such as Salem Lake
- Minimum Site Size – 25 Acres
- Minimum Setbacks
  - All facility operations (including loading/unloading):
    - minimum perimeter setback of 400 feet
  - All parking areas:
    - minimum perimeter setback of 100 feet



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## Proposed Use-Specific Standards

- Security Fencing or Wall
  - A minimum 6-foot high security fence or wall shall enclose all facilities associated with these uses from exterior property lines
- Landscaping
  - Standard landscaping provisions shall apply
  - All street yard landscaping areas shall be located outside of security fencing or wall

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## Recommendation

A public hearing was held by the Planning Board on October 13, 2022. There were no speakers in support or opposition; following the public hearing, the Planning Board voted to recommend approval of the request by a 6-2 vote.



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## Use-Specific Standards

### Select Chemical and Battery Manufacturing Uses in Manufacturing C:

- No Use Separation From Residential Districts Recommended
  - An established chemical/battery manufacturing use meeting all proposed standards could be rendered nonconforming if a new residential rezoning district is approved at a distance less than the specified use separation
  - If the chemical/battery manufacturing use becomes nonconforming, then future expansion is limited to 25% of the existing facilities, through no action of the established chemical/battery manufacturing use