

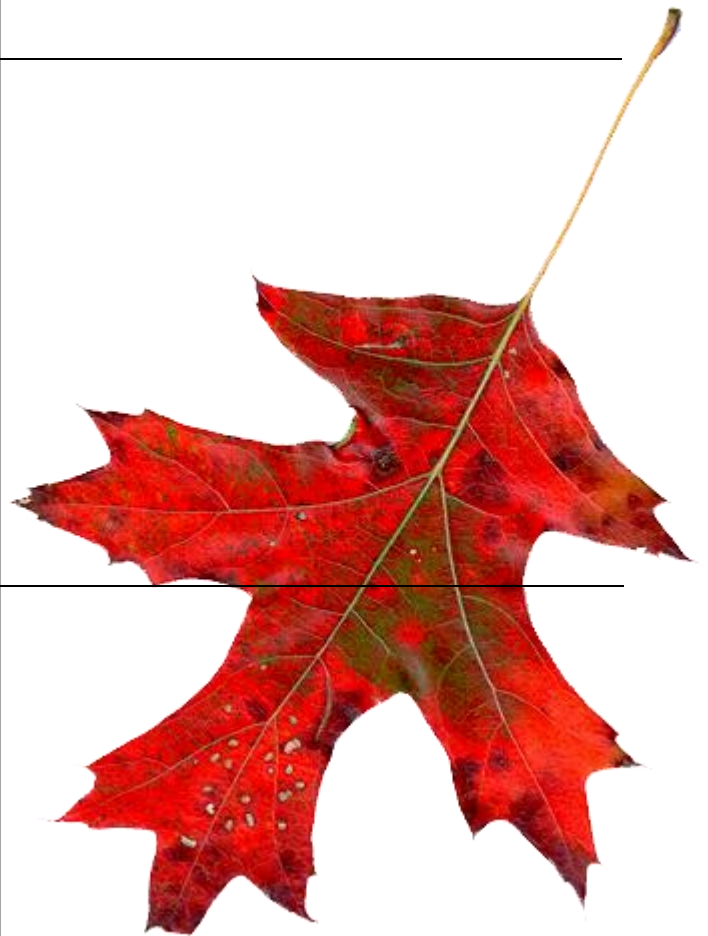
TOWN OF RED OAK

LAND DEVELOPMENT AND USAGE ORDINANCE

Chapter

- 1. FLOOD DAMAGE PREVENTION**
- 2. SOLAR FARMS**
- 3. ZONING**
- 4. RESERVED**
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CHAPTER 1: FLOOD DAMAGE PREVENTION

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GENERAL PROVISIONS

§ 1.001 STATUTORY AUTHORIZATION.

(A) *Municipal.* The legislature of the state has, in G.S. Ch. 143, Art. 21, part 6; G.S. Ch. 160D, , Art. 7, 9, and 11; and G.S. Ch. 160A, Art. 8, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

§ 1.002 FINDINGS OF FACT.

(A) The flood hazard areas of the town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed or otherwise unprotected from flood damages.

(Ord. passed 5-18-1998, Art. 1, § B)

§ 1.003 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety and property due to water and erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters;

(D) Control filling, grading, dredging and other development which may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands. (Ord. passed 5-18-1998, Art. 1, § C)

§ 1.004 OBJECTIVES.

The objectives of this chapter are:

- (A) To protect human life and health;
 - (B) To minimize expenditure of public money for costly flood control projects;
 - (C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (D) To minimize prolonged business interruptions;
 - (E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
 - (F) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
 - (G) To ensure that potential home buyers are notified that property is in a flood area.
- (Ord. passed 5-18-1998, Art. 1, § D)

§ 1.005 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURES. Structures which are located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban **ACCESSORY STRUCTURES**. Pole barns, hay sheds and the like qualify as **ACCESSORY STRUCTURES** on farms and may or may not be located on the same parcel as the farm dwelling or shop building.

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure. **ADDITIONS TO EXISTING BUILDINGS** shall comply with the requirements for new construction, unless the addition, renovation or reconstruction to any building, that was constructed prior to the initial Flood Insurance Study for that area, and the addition, renovation or reconstruction does not equal 50% of the present market value of the structure. Where a fire wall is provided between the addition and the existing building, the **ADDITION(S)** shall be considered a separate building and must comply with the standards for a new construction.

APPEAL. A request for a review of the Administrator's interpretation of any provision of this chapter.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater chance of being flooded in any given year.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT. For floodplain management purposes, any area of the building having its floor subgrade (below ground level) on all sides.

BUILDING. Any structure built for support, shelter or enclosure for any occupancy or storage.

DEVELOPMENT. For floodplain management purposes, any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING. For floodplain management purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, sheer walls, posts, piers, pilings or columns.

EXISTING CONSTRUCTION. For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the Flood Insurance Rate Map (FIRM) or before 1-1-1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before 6-1-1998, the effective date of this chapter.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete slabs).

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as "Zone A".

FLOOD INSURANCE RATE MAP (FIRM). An official map of the community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The engineering study performed by the Federal Emergency Management Agency to identify flood hazard areas, flood insurance risk zones and other flood data in a

community. The study includes Flood Boundary and Floodway Maps (FBFMs), Flood Hazard Boundary Maps (FHBMs) and/or Flood Insurance Rate Map (FIRMs).

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOOR. The top surface of an enclosed area in a building (including basement) (i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction). The term does not include the floor of a garage used solely for parking vehicles.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

HIGHEST ADJACENT GRADE. The highest natural elevation of ground surface, prior to construction, next to the proposed walls of the structure.

HISTORIC STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places; and

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified:

(a) By an approved state program as determined by the Secretary of Interior; or

(b) Directly by the Secretary of Interior in states without approved programs.

LOWEST FLOOR. For floodplain management and flood insurance purposes, the **LOWEST FLOOR** of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that, such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in one or more sections which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term **MANUFACTURED HOME** does not include a “recreational vehicle”.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. For purposes of the NIP, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a FIRM are referenced.

NEW CONSTRUCTION. For floodplain management purposes, structures for which the “start of construction” commenced on or after the effective date of this chapter and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or pouring of concrete slabs) is completed on or after 6-1-1998.

NON-CONFORMING BUILDING OR USE. Any legally existing building or use which fails to comply with provisions of this chapter.

QUASI-JUDICIAL DECISION. – A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

REMEDY A VIOLATION. To bring the structure or other development into compliance with state or local floodplain management regulations or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected

development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations or reducing federal financial exposure with regard to the structure or other development.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued; provided, the actual **START** of construction, repair, reconstruction, rehabilitation, addition or improvement was within 180 days of the permit date. The actual **START** means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as pouring of slabs or footings, installation of piles, construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction: does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. For floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank or other human-made facility or infrastructure that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of **SUBSTANTIAL IMPROVEMENT**.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The non-coastal regular phase term does not, however, include either:

- (1) Any project of improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure; provided that, the alteration will not preclude the structure’s continued designation as a historic structure.

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

VARIANCE. A grant of relief to a person from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in §§ 1.030 through 1.033 of this chapter is presumed to be in **VIOLATION** until such time as that documentation is provided. (Ord. passed 5-18-1998, Art. 2)

§ 1.006 LAND TO WHICH CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the town. (Ord. passed 5-18-1998, Art. 3, § A)

§ 1.007 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARDS.

(A) The areas of special flood hazard are those identified by the Federal Emergency Management Agency (FEMA) in its Flood Hazard Boundary Map or Flood Insurance Study and Flood Insurance Rate Map(s), for the town, which with accompanying supporting data, and any revision thereto, including Letters to Map Amendment or Revision, are adopted by reference and declared to be part of this chapter. The areas of special flood hazard also include those defined through special engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes detailed flood information generated as a requirement of § 1.030(B)(10) of this chapter.

(B) In addition, upon annexation to the town or inclusion in the extra-territorial jurisdiction, the areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Hazard Boundary Map or Flood Insurance Study and Flood Insurance Rate Map(s) for Unincorporated Nash County, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be part of this chapter. (Ord. passed 5-18-1998, Art. 3, § B)

§ 1.008 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities. (Ord. passed 5-18-1998, Art. 3, § C)

§ 1.009 COMPLIANCE.

No structure or land shall hereinafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations. (Ord. passed 5-18-1998, Art. 3, § D)

§ 1.010 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. passed 5-18-1998, Art. 3, § E)

§ 1.011 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit, nor repeal, any other powers granted under state statutes.
(Ord. passed 5-18-1998, Art. 3, § F)

§ 1.012 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. passed 5-18-1998, Art. 3, § G)

§ 1.013 EFFECT ON RIGHTS AND LIABILITIES UNDER EXISTING ORDINANCE.

This chapter in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted 6-1-1998, as amended, and it is not the intention to repeal, but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the town enacted on 6-3-1998, as amended, which are not re-enacted herein are repealed. (Ord. passed 5-18-1998, Art. 6, § A)

§ 1.014 EFFECT ON OUTSTANDING BUILDING PERMITS.

Nothing herein contained shall require any change in plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Chief Building Inspector or his or her authorized agents before the time of passage of this chapter; provided, however, that, when construction is not begun under such outstanding permit within a period of six months, the permit will expire pursuant to G.S. 160D-1111. Building permits also expire if work is discontinued for a period of 12 months after work has commenced, and no work authorized by an expired building permit shall be performed until a new building permit has been obtained.

§ 1.015 EFFECTIVE DATE.

This chapter became effective 6-3-1998. (Ord. passed 5-18-1998, Art. 6, § C)

*ADMINISTRATION***§ 1.030 ADMINISTRATOR; DUTIES AND RESPONSIBILITIES.**

(A) The Town Clerk or Zoning Administrator, hereinafter referred to as the “Administrator”, is hereby appointed to administer and implement the provisions of this chapter. (Ord. passed 5-18-1998, Art. 4, § A)

(B) Duties of the Administrator shall include, but not be limited to:

(1) Review all development permits to assure that the requirements of this chapter have been satisfied;

(2) Advise the permittee that additional federal or state permits may be required and, if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit;

(3) Notify adjacent communities and the state’s Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency;

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;

(5) Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of §§ 1.045 through 1.048 of this chapter are met;

(6) Obtain actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 1.031(B)(7) of this chapter;

(7) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with § 1.031(B)(7) of this chapter;

(8) When flood-proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with § 1.031(B)(2) of this chapter;

(9) Where interpretation is needed as to exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this subchapter;

(10) When base flood elevation data or floodway data has not been provided in accordance with § 1.007 of this chapter, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, including data developed pursuant to § 1.048(D) of this chapter, in order to administer the provisions of this chapter;

(11) When the exact location of boundaries of the area's special flood hazards conflict with the current, natural topography information at the site, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the Administrator in the permit file;

(12) Make on-site inspections of projects in accordance with § 1.032 of this chapter;

(13) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with § 1.032 of this chapter; and

(14) Maintain all records pertaining to the administration of this chapter and make these records available for public inspection.

(Ord. passed 5-18-1998, Art. 4, § C)

§ 1.031 DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.

(A) Application for a development permit shall be made to the Administrator on forms furnished by the Administrator prior to any development activities. The development permit shall include, but not limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions and elevations of the areas in question; existing or proposed structures; and the location of fill materials, storage areas and drainage facilities.

(B) Specifically, the following information is required:

(1) A plot plan that shows the 100-year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either §§ 1.030(B)(10), 1.047 or 1.048 of this chapter. The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same;

(2) The plot plan required by division (B)(1) above must show the floodway as identified by the Federal Emergency Management Agency or pursuant to either §§ 1.030(B)(10) or 1.047 of this chapter, or the setback required for streams without designated floodways as required by § 1.047(B) of this chapter;

(3) Where base flood elevation data is provided as set forth in §§ 1.007 or 1.030(B)(10) of this chapter, the application for a development permit within the flood hazard area shall show:

(a) The elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures; and

(b) If the non-residential structure will be flood-proofed in accordance with § 1.046(B) of this chapter, the elevation (in relation to mean sea level) to which the structure will be flood-proofed.

(4) Where the base flood elevation data is not provided, the application for a development permit must show construction of the lowest floor at least two feet above the highest adjacent grade;

(5) Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include: a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and map showing the location of the proposed watercourse alteration and relocation;

(6) When a structure is flood-proofed, the applicant shall provide a flood-proofing certificate (FEMA Form 81-65) from a registered professional engineer or architect that the non-residential floodproofed structure meets the flood-proofing criteria in § 1.046(B) of this chapter; and

(7) An elevation certificate (FEMA Form 81-31) or a flood-proofing certificate (FEMA 81-65) is required after the lowest floor is completed. Within 21 calendar days of establishment of the lowest floor elevation, or flood-proofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Administrator a certification of the elevation of the lowest floor, or flood-proofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by the same. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(Ord. passed 5-18-1998, Art. 4, § B)

§ 1.032 GENERAL PROCEDURES.

(A) *Inspections of work in progress.* As the work pursuant to a permit progresses, the Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. Inspections shall be completed only in accordance with G.S. 160D-403(e).

(B) *Development approvals.* – To the extent consistent with the scope of regulatory authority granted by this Chapter, no person shall commence or proceed with development without first securing any required development approval from the local government with jurisdiction over the site of the development. A development approval shall be in writing and may contain a provision that the development shall comply with all applicable State and local laws. A local government may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

(C) *Stop-work orders.* Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this chapter, the Administrator may order the work to be stopped immediately. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Violation of a stop-work order issued in accordance with these flood damage prevention standards constitutes a misdemeanor.

(D) *Revocation of permits.* The Administrator may revoke and require the return of the development permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for the refusal or failure to comply with the requirements of state or local laws; or for the false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked. The process for permit revocation shall be identical to the one used for permit issuance. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405.

(E) *Periodic inspections.* The Administrator and each member of his or her Inspections Department shall have a right upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the Department at any reasonable hour for the purposes of inspection or other enforcement action. Inspections shall be completed only in accordance with G.S. 160D-403(e).

(F) *Violations to be corrected.* When the Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation in writing. The owner or occupant shall immediately remedy each of the violations of law in the property he or she owns.

(G) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt action, the Administrator shall give him or her written notice by certified or registered mail to his or her last known address or by personal service:

(A) The building or property is in violation of this chapter;

(B) A hearing will be held before the Administrator at a designated place and time, not later than ten days after the date of notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(C) Following the hearing, the Administrator may issue such order to alter, vacate or demolish the building or to remove fill as appears appropriate.

(H) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Administrator shall find that the building or development is in violation of this chapter, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, as the Administrator may prescribe; provided that, when the Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(I) *Appeal.* Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the Administrator and the Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order.

(J) *Failure to comply with the order.* If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he or she shall be guilty of a misdemeanor and shall be punished in the discretion of the court. (Ord. passed 5-18-1998, Art. 4, § D)

(K) *Development Agreement.* Before entering into a development agreement, a local government shall conduct a legislative hearing on the proposed agreement. The notice provisions of G.S. 160D-602 applicable to zoning map amendments shall be followed for this hearing. The notice for the public hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained. Before entering into a development agreement, a local government shall conduct a legislative hearing on the proposed agreement. The notice provisions of G.S. 160D-602 applicable to zoning map amendments shall be followed for this hearing. The notice for the public hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

§ 1.033 VARIANCE PROCEDURES.

(A) The Board of Adjustment, as established by the town subject to the approval of the Council of the town, hereinafter referred to as the "Appeal Board," shall hear and decide requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the court, as provided in G.S. Ch. 7A and G.S. 160D-1402.

(C) Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(D) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion, damage or their proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan as floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

(E) A written report addressing each of the above factors shall be submitted with the application of a variance.

(F) Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(G) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(H) Variances may not be issued when the variance will make the structure in violation of other federal, state or local laws, regulations or ordinances.

(I) Variances shall only be issued upon a determination that the variance is in the minimum necessary, considering the flood hazard, to afford relief.

(J) Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship;
and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(B) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevations. Such notification shall be maintained with a record of all variance actions.

(C) The Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
(Ord. passed 5-18-1998, Art. 4, § E)

FLOOD HAZARD REDUCTION**§ 1.045 GENERAL STANDARDS.**

In all areas of special flood hazard, the following provisions are required.

(A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(C) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(D) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(E) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(H) Any alteration, repair, reconstruction or improvements to a structure, which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter.

(I) Non-conforming buildings or uses may not be enlarged, repaired or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this chapter; provided, however, nothing in this chapter shall prevent the repair, reconstruction or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway or stream setback; provided that, the bulk of the building or structure below base flood elevation in the floodway or stream setback is not increased; and, provided that, such repair, reconstruction or replacement meets all the other requirements of this chapter. (Ord. passed 5-18-1998, Art. 5, § A)

§ 1.046 SPECIFIC STANDARDS.

In all areas of special flood hazard where base flood elevation data has been provided, as set forth in §§ 1.007 or 1.030(B)(10) of this chapter, the following provisions are required.

(A) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated to no lower than two feet above the base floor elevation.

(B) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial or non-residential structure shall have the lowest floor, including basement, elevated to no lower than two feet above the level of the base flood elevation. Structures located in A Zones may be flood-proofed to the flood protection level in lieu of elevation; provided that, all of the structure below the required elevation are water-tight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this division (B) are satisfied. Such certification shall be provided to the official as set forth in § 1.031(B)(7) of this chapter.

(C) *Manufactured homes.*

(1) Manufactured homes that are placed or substantially improved on sites outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than two feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(2) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provision of division (C)(1) above must be elevated on reinforced piers or other structural elements so that the lowest floor of the manufactured home is no lower than two feet above the base floor elevation and be securely anchored to an adequately anchored foundation to resist flotation, collapse and lateral movement.

(3) Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse or lateral movement in accordance with the state’s *Regulations for Manufactured/Mobile Homes*, 2004 edition, and any revision thereto adopted by the Commissioner of Insurance, pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at this site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood-prone areas. This plan shall be filed with and approved by the Administrator and the local Emergency Management Coordinator.

(D) *Recreational vehicles.* A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices and has no permanently attached additions. Recreation vehicles placed on sites shall either:

- (1) Be on site for fewer than 160 consecutive days and be fully licensed and ready for highway use; or
- (2) Meet the requirements of §§ 1.031 and 1.045 and division (C) above.

(E) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to preclude finished living space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters.

(1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

- (a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- (b) The bottom of all required openings shall be no higher than one foot above grade; and Openings may be equipped with screens, louvers, valves or other coverings or devices; provided, they permit the automatic flow of flood waters in both directions.

(2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.

(F) *Temporary structures.* Prior to the issuance of a development permit for a temporary structure, the following requirements must be met.

(1) All applicants must submit to the Administrator prior to the issuance of the development permit a plan for the removal of such structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:

- (a) A specified time period for which the temporary use will be permitted;
- (b) The name, address and phone number of the individual responsible for the removal of the temporary structure;

(c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(d) A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and

(e) Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.

(2) The above information shall be submitted in writing to the Administrator for review and written approval.

(G) *Accessory structure.* When accessory structures (sheds, detached garages and the like) with a value of \$3,000 or less are to be placed in the floodplain, the following criteria shall be met.

(1) Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas).

(2) Accessory structures shall be designed to have low flood damage potential.

(3) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.

(4) Accessory structures shall be firmly anchored in accordance with § 1.045(A) of this chapter.

(5) Service facilities such as electrical and heating equipment shall be installed in accordance with § 1.045(D) of this chapter.

(6) Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with § 1.045(E) of this chapter.

(H) *Floodways.* Located within areas of special flood hazard established in § 1.007 of this chapter are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas.

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the Administrator.

(2) If division (H)(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this subchapter.

(3) No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision; provided, the anchoring and the elevation standards of division (C) above and the encroachment standards of division (H)(1) above are met. (Ord. passed 5-18-1998, Art. 5, § B) Penalty, see § 1.999

§ 1.047 STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAYS.

(A) Located within the areas of special flood hazard established in § 1.007 of this chapter are small streams where no base flood data has been provided or where no floodways have been identified.

(B) The following provisions apply within such areas.

(1) No encroachments, including fill, new construction, substantial improvements or new development, shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If division (B)(1) above is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of this subchapter and shall be elevated or flood-proofed in accordance with elevations established in accordance with § 1.030(B)(10) of this chapter. When base flood elevation data is not available from a federal, state or other source, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade. (Two feet is the minimum requirement.)

(Ord. passed 5-18-1998, Art. 5, § C)

§ 1.048 SUBDIVISION PROPOSALS AND MAJOR DEVELOPMENTS.

(A) Proposals for subdivisions and major developments shall be consistent with the need to minimize flood damage.

(B) Proposals for subdivisions and major developments shall have public utilities and facilities such as sewer, gas and water systems located and constructed to minimize flood damage.

(C) Proposals for subdivisions and major developments shall have adequate drainage provided to reduce exposure to flood hazards.

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or five acres.
(Ord. passed 5-18-1998, Art. 5, § D)

§ 1.999 PENALTY.

(A) Violation of the provisions of this chapter, or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense.

(B) Nothing herein contained shall prevent the town from taking such other lawful action as necessary to prevent or remedy any violation. (Ord. passed 5-18-1998, Art. 3, § H)

CHAPTER 2: SOLAR FARMS

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- 2.003 Maximum height
- 2.004 Setbacks
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- 2.006 Site plan and special use permit required
- 2.007 Visual safety
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§ 2.001 DEFINITION.

A **SOLAR FARM** is a facility used to convert solar energy into electrical power for interconnection with the power grid for primarily off-site energy consumption. (Ord. passed 1- -2015)

§ 2.002 ESTABLISHMENT.

Establishment of a solar farm shall require approval of a special use permit in accordance with §§ 3.50 through 3.351, and shall be subject to the standards in this section.

(A) Solar farms may only be permitted as a special use in the following zoning districts:

- (1) AG;
- (2) RM; and
- (3) RL.

(Ord. passed 1- -2015)

§ 2.003 MAXIMUM HEIGHT.

Structures shall not exceed 25 feet in height, as measured from grade at the base of the structure to its highest point.

(Ord. passed 1- -2015)

§ 2.004 SETBACKS.

Solar farm facilities and structures shall conform to the principal building setback requirements of the zoning district in which they are located. (Ord. passed 1- -2015)

§ 2.005 SECURITY FENCING.

Solar farm facilities shall be enclosed by a chain-link security fence, a minimum of six feet in height and topped by barbed wire. (Ord. passed 1- -2015)

§ 2.006 SITE PLAN AND SPECIAL USE PERMIT REQUIRED.

Solar farms shall be developed in accordance with a site plan submitted concurrently with an application for a special use permit. The site plan shall be reviewed and approved in accordance with §§ 3.330 through 3.333 and shall include:

(A) The location of the solar facility (including the arrangement of any existing or proposed buildings, structures or panels);

(B) The distance from any proposed solar farm facility, structure or use area to the surrounding property lines;

(C) Any existing or proposed signs, fencing, lighting, parking areas, driveways, landscaping, vegetative screening or required buffers;

(D) Horizontal and vertical (elevation) scale drawings with dimensions of proposed solar collector structures; and

(E) Noted limitations on bulk-upon area as required for compliance with storm water, watershed and/or riparian buffer regulations. (Ord. passed 1- -2015)

§ 2.007 VISUAL SAFETY.

Solar farm facilities shall not create a visual safety hazard for passing motorists as determined by the state's Department of Transportation. (Ord. passed 1- -2015)

§ 2.008 ABANDONMENT.

Solar farm facilities shall be removed, at the owner's expense, within 180 days of a determination by the Town Clerk or Zoning Administrator that the facility is no longer being maintained in an operable state of good repair for its intended use. (Ord. passed 1- -2015)

§ 2.009 REMOVAL AND PERFORMANCE SECURITY.

The applicant and the owner of record of any solar farm facility shall, at its cost and expense, be required to file with the town a bond or other form of security acceptable to the town in an amount sufficient for the removal of the solar farm structures and assure the faithful performance of the terms and other conditions of any special use permit or any applicable permit or authorization issued pursuant to this chapter. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit to assure faithful performance under this chapter and in the event of abandonment until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit. Security bonds shall remain in place as long as the solar farm exists. (Ord. passed 1- -2015)

§ 2.010 INDEMNIFICATION.

(A) Proof of insurance being in place shall be presented to the Board of Adjustment before a permit can be granted. Indemnification shall remain in place as long as the solar farm exists.

(B) Any application for solar farm facilities shall contain a provision with respect to indemnification. Such provision shall require the applicant at all times to defend, indemnify, protect, save, hold harmless, and exempt the town, its officers, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims. With respect to the penalties, damages, or charges referenced herein, reasonable attorneys' fees, consultants' fees and expert witness fees are included in costs which are recoverable by the town. (Ord. passed 1- -2015)

CHAPTER 3: ZONING

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- 3.561 Sale and disposition of unclaimed motor vehicle
- 3.562 Conditions on removal of vehicle from private property
- 3.563 Protection against liability
- 3.564 Unlawful removal of an impounded vehicle
- 3.565 Exceptions
- 3.566 Penalty

1. GENERAL PROVISIONS

§ 3.001 AUTHORITY AND ENACTMENT.

This is an ordinance establishing comprehensive zoning regulations for the town, a municipal corporation of the state, and providing for the administration, enforcement and amendment thereof, in accordance with the provisions of G.S. Ch. 160D, and for the repeal of all ordinances in conflict herewith. (Ord. passed 4-19-2018, § 10-1)

§ 3.002 JURISDICTION.

The provisions of this chapter shall apply within the corporate limits of the town. (Ord. passed 4-19-2018, § 10-2)

§ 3.003 PURPOSE.

The purpose of this chapter shall be to accomplish a coordinated, balanced and harmonious development of the land within the corporate limits of the town, in a manner which will best promote the health, safety, morals, convenience, order, prosperity and general welfare of the people, as well as to provide for efficiency and economy in the process of development; to make adequate provisions for traffic; to secure safety from fire, panic and other hazards; to provide for light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to promote desirable living conditions and the sustained stability of neighborhoods; and to protect property against blight and depreciation.

(Ord. passed 4-19-2018, § 10-3)

§ 3.004 TITLE.

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

(Ord. passed 4-19-2018, § 10-4)

§ 3.005 AMENDMENT EFFECTIVE DATE.

The revisions of this chapter, including the zoning map, became effective on May 8, 2023. (Ord. passed 4-19-2018, § 10-5)

§ 3.006 RELATIONSHIP TO EXISTING ZONING ORDINANCE.

To the extent that the provisions of this chapter are the same in substance as the previously adopted provisions that they replace in the town's Zoning, Ordinance, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, non-conforming status under this chapter merely by the repeal of the Zoning Ordinance.

(Ord. passed 4-19-2018, § 10-6)

§ 3.007 RELATIONSHIP TO LAND DEVELOPMENT PLAN.

(A) It is the intention of the Town Council that this chapter implement the planning policies adopted by the Council for the town as reflected in the Land Development Plan and other planning documents.

(B) While the Town Council reaffirms its commitment that this chapter and any amendment to it be in conformity with adopted planning policies, and Town Council hereby expresses its intent that neither this chapter, nor any amendment to it, may be challenged on the basis of any alleged nonconformity with any planning document.

(C) When acting on any proposed zoning amendment, the town shall carefully consider the adopted plans and policies, and in accordance with state law, including the Planning Board when such zoning requests are heard and the Town Council, when such requests are acted upon, shall note in written statements from each board, whether such amendment is consistent with these plans. (Ord. passed 4-19-2018, § 10-7)

§ 3.008 NO USE OF LAND OR BUILDING EXCEPT IN CONFORMITY WITH CHAPTER PROVISIONS.

(A) Subject to §§ 3.425 through 3.431 of this chapter, no person may use, occupy or sell any land or buildings or authorize or permit the use or sale of land or buildings under his or her control, except in accordance with all the applicable provisions of this chapter.

(B) For purpose of this section, the "use" or "occupation" of building or land relates to anything and everything that is done to, on or in the building or land.

(C) No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved or structurally altered, except in conformity with the use and dimensional regulations of this chapter, or amendments thereto, for the district in which it is located.

(D) In all districts, every main building hereafter erected or altered shall be located on a separate lot, as defined in this chapter, and in no case shall there be more than one main building and permitted accessory buildings on the lot; provided that, this requirement shall not apply to multi-family developments, planned unit developments (PUDs) or certain special uses, nor to a bona fide rural farm use.

(Ord. passed 4-19-2018, § 10-8)

§ 3.009 FEES.

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be as set forth in the town budget or as established by resolution of the Town Council and available from the Town Clerk or Zoning Administrator. Fees established in accordance with this section shall be paid upon submission of a signed application or notice of appeal. (Ord. passed 4-19-2018, § 10-9)

§ 3.010 SEVERABILITY.

It is hereby declared to be the intention of the Town Council that the sections, divisions, sentences, clauses and phrases of this chapter are severable and, if any such section, division, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court or competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, divisions, sentences, clauses or phrases of this chapter since the same would have been enacted without the incorporation into this chapter of such unconstitutional or invalid section, division, sentence, clause or phrase.

(Ord. passed 4-19-2018, § 10-10)

2. INTERPRETATIONS AND DEFINITIONS

§ 3.025 INTERPRETATION OF CHAPTER.

(A) *Minimum requirements.* In the interpretation and application this chapter, all provisions shall be considered to be minimum requirements and deemed neither to limit, nor repeal, another power granted under state statutes.

(B) *Greater restrictions govern.* These regulations shall be the minimum requirements for administration, enforcement, procedures, restrictions, standards, uses, variances and all other areas addressed by this chapter. If any federal or state law or any other existing ordinance or regulation allows lesser regulation, this chapter shall govern so that, in all cases, the more restrictive limitation or requirement shall govern. Whenever regulations imposed by this chapter are less restrictive than regulations imposed by any governmental authority through regulation, rule or restriction, the regulations imposed by that authority shall govern. Regardless of any other provision of this chapter, no land shall be developed or used, and no structure shall be erected or maintained, in violation of any state or federal regulation.

(C) *Rounding of numbers.* All calculations that result in a part or fraction of a whole number shall be rounded up to the next highest whole number; except that, in calculating density, all calculations that result in a part or fraction of a whole number shall be rounded down to the next lowest whole number.

(D) *Figures and tables.* The figures and tables provided in this chapter are designed to provide a visual explanation to selected sections of this chapter. If any illustration appears to be in conflict with the text of the chapter, the text shall govern. (Ord. passed 4-19-2018, § 20-1)

§ 3.026 WORD INTERPRETATION.

Words not defined in this chapter shall be given their ordinary and common meaning. (Ord. passed 4-19-2018, § 20-2.1)

§ 3.027 RULES OF CONSTRUCTION.

For purposes of this chapter, the following rules of construction shall apply.

(A) *Tense.* Words used in the present tense include the future tense.

(B) *Singular and plural.* Words used in the singular number include the plural number, and the plural number includes the singular number, unless the context of the usage clearly indicates otherwise.

(C) *Mandatory meaning.* The words “shall”, “will” and “must” are mandatory in nature implying an obligation or duty to comply with the provision.

(D) *Gender.* Words used in the male gender include the female gender.

(E) *References.* Any reference to a division or section shall mean a division or section of this chapter, unless otherwise specified.

(F) *Person.* Includes a firm, joint venture, association, organization, partnership, corporation, trust and company, as well as an individual.

(G) *Lot.* Includes the word “plot” or “parcel”.

(H) *Building.* Includes the word “structure”.

(Ord. passed 4-19-2018, § 20-2.2)

§ 3.028 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. A detached subordinate building, the use of which is incidental to that of the principal building and located on the same lot.

ADDRESS. The official house, building or structure number assigned by the county for a specific lot, building or portion thereof.

ADOPTED POLICY GUIDANCE. The combined future land-use policy guidance provided by the adopted land use plan, area plans prepared for specific parts of the Town, and system plans related to the Town’s infrastructure systems.

ADULT DAY CARE. A program operated in a structure other than a single-family dwelling that provides group care and supervision on a less than 24-hour basis, and in a place other than their usual place of residence, to adults 18 years or older who may be physically or mentally disabled, and which is certified or approved to operate by the State of North Carolina.

ADULT USE. A business which offers its customers or patrons any device, activity, or demonstration depicting specified sexual activities, or which is intended to appeal to sexual interests, titillation, or arousal of the customer or patron. An adult use shall include an adult establishment as defined in Section 14-202.10(2) of the North Carolina General Statutes,

AGRICULTURAL PRODUCTS PACKAGING AND PROCESSING. A commercial establishment engaged in the preparation, processing, and packaging of agricultural products.

AGRICULTURAL STORAGE AND DISTRIBUTION. Commercial establishments devoted to the assembly, storage, and shipment of produce and agricultural products. Such uses do not include farms or places of production.

AIRCRAFT. Any machine supported for flight in the air by buoyancy or by the dynamic action of air on its surfaces, including, but not limited to, powered airplanes, gliders, helicopters and dirigibles.

AIRPORT OR AIRSTRIP. Any area of land designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing, fueling, and maintenance of aircraft.

ALLEY. A roadway which affords only a secondary means of access to abutting property.

ANIMAL BOARDING. A commercial establishment providing socialization, training, or housing, in the absence of the owner, for pets owned by the general public for which a fee is charged.

ANIMAL GROOMING. Any place or establishment, public or private, where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value and/or health and for which a fee is charged.

ANIMAL HUSBANDRY (OTHER THAN SWINE). The commercial and non-commercial propagation, rearing, exercising, feeding, milking, housing, controlling, handling, or general care of living animals and livestock. Examples include, but are not limited to, the raising and production of cattle (beef and dairy), mules, ducks, horses, goats, poultry, sheep, fish, and similar livestock or domesticated animals, and equestrian facilities. Concentrated animal feeding operations (CAFOs) are industrial uses. Breeding and rearing of animals typically thought of as household pets (e.g., dogs, cats, small rodents, etc.) is not animal husbandry.

ASPHALT OR CONCRETE PLANT. An industrial establishment engaged in the production of asphalt, macadam, blacktop, concrete, or mortar for use in the construction and repair of buildings, roadways, and vehicular use areas. The use involves the stockpiling of sand, binder and filler, as well as a heater to mix the ingredients, and trucks to deliver products to the site of installation.

ATHLETIC FIELD OR COURT. An outdoor facility used for organized or unorganized sports or recreation.

AUDITORIUM, COLISEUM, OR CONVENTION CENTER. A building or structure designed or intended for use for spectator sports, entertainment events, expositions, conferences, seminars, product displays, recreation activities, and other public gatherings, all occurring inside a structure typically limited to a capacity of 500 or fewer seats, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption.

BANK OR CREDIT UNION. An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities but shall

not include bail bond brokers. Financial services may also provide automated teller machines (ATM) services, located within a fully enclosed space or building, or along an exterior building wall intended to serve walk-up customers only. Financial services may include drive-through facilities.

BAR, COCKTAIL LOUNGE, PRIVATE CLUB. An establishment having as its principal or predominant use the serving of beer, wine, or liquor for consumption on the premises, and which sets a minimum age requirement for entrance, consistent with state law. The primary source of revenue for such use is derived from alcohol sales, and the secondary source from the serving of food. Such uses may also provide on-site entertainment in the form of live performances, dancing, billiards, or other entertainment activities.

BED AND BREAKFAST. A private residence, generally a single-family residence, engaged in renting one or more dwelling rooms on a daily basis to tourists, vacationers, and businesspeople, where provision of meals is limited to breakfast for guests only. A bed and breakfast with more than six rooms available for rent is considered a hotel or motel.

BOARDING HOUSE. A residential dwelling that offers five or fewer sleeping rooms for rent by lodgers staying one or more nights. The dwelling contains a single common kitchen and may include other common areas for dining, laundry, and congregating. Boarding houses are not intended as group homes or halfway houses.

BONA FIDE FARM. Any tract or tracts of land used for farm purposes as defined in Section 160D-930 of the North Carolina General Statutes, including the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in Section 106-581.1 of the North Carolina General Statutes. In addition, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under Section 106-743.2 of the North Carolina General Statutes is a bona fide farm purpose. Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

1. A farm sales tax exemption certificate issued by the Department of Revenue;
2. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to Section 105-277.3 of the North Carolina General Statutes;
3. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; and
4. A forest management plan.

BUFFER. An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The **BUFFER** is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams and rivers. The widths of **BUFFER AREAS** are to be established pursuant to the requirements of the county or state regulations.

BUFFER YARD. A strip of land which is established to separate one type of land use from another type of land use and which contains natural or planted vegetation, berms, walks or fences in accordance with the provisions of §§ 3.155 through 3.163 of this chapter.

BUILDING Any structure that encloses a space used for sheltering any occupancy. Each portion of a **BUILDING** separated from other portions by a fire wall shall be considered a separate **BUILDING**.

BUILDING, COMMERCIAL. Any building used for business purposes.

BUILDING, DETACHED. A building having no party or common wall with another building, except an accessory building.

BUILDING HEIGHT. The vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. **HEIGHT OF A BUILDING** in stories does not include basements, except as specifically provided for in this chapter.

BUILDING LINE. The line, established by this chapter, beyond which the building shall not extend, except as specifically provided by this chapter.

BUILDING, MAIN. A building in which the principal use of the lot on which the building is situated is conducted.

BUILDING, SITE. Any lot or portion thereto, of a parcel of land upon which a building or buildings may be erected in conformance with the provisions contained herein.

BUILT-UPON AREA. Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g., roads, parking lots, paths), recreation facilities (e.g., tennis courts) and the like. (Note: wooden slatted decks and the water area of a swimming pool are considered pervious.)

BULKY ITEM SALES. A retail establishment engaged in the retail sale of large or bulky items that are not commonly constructed or maintained indoors, such as truck camper tops, bed liners, prefabricated outdoor buildings, manufactured homes, modular homes, play equipment, portable storage containers, or hot tubs. Such uses may include on-site assembly or fabrication of such items for sale.

BUSINESS INCUBATOR. A commercial establishment that provides support and encouragement to new business startups and ventures in the form of affordable floor area to rent, shared office space, shared marketing resources, and may also provide management training services and access to financing. Business incubators contain a wide array of use types, including retail, office, personal service, and light manufacturing uses.

CAMPGROUND. A commercial establishment containing two or more campsites or cabins available for overnight camping use whether by rental fee or short-term lease. Campgrounds may include recreational facilities, a store for sale of food or camping supplies while on the premises, and facilities for the assembly of campers and guests. Campground does not include a summer camp, migrant labor camp, manufactured or mobile home park, or recreational vehicle park.

CEMETERY. A parcel of land used for internment of the dead in the ground or in mausoleums.

CHILD DAY CARE. A commercial or non-profit use licensed by the State where, at any one time, three or more unrelated children under the age of 13 receive child care from an unrelated person in a building other than a private residence on a regular basis of at least one occurrence per week for more than four hours per occurrence. Such uses may also involve the provision of educational services in preparation for elementary school. This definition does not include incidental child care, cooperative arrangements among parents, or drop-in or short-term child care provided while parents work part-time or participate in other activities on the premises (e.g., churches, shopping malls, hotels, health spas).

COFFEE SHOP OR BAKERY. A commercial establishment engaged in production of baked goods for on-or off-site consumption as well as retail sale of coffee, tea, and related beverages for on-site and off-site consumption. Coffee shops may also offer a limited range of food available for on-site or off-site consumption as well as merchandise associated with home consumption of coffee or tea. A coffee shop may also include, as an accessory use, equipment and facilities to prepare coffee beans for consumption. Uses engaged solely in coffee bean processing for off-site consumption are manufacturing uses. Uses that derive the majority of their income from sales of food are restaurant uses.

COMMUNITY CENTER. A public building to be used as a place of meeting, recreation, or social activity and not operated for profit.

COMMUNITY RECREATION (PRIVATE). A non-commercial establishment engaged in the provision of recreational opportunities, features, or facilities to the owners or residents of a specific development or subdivision and their guests. Such uses are not available for use by the general public. A community recreation facility may or may not include a habitable structure.

CONDOMINIUM. Portions of real estate which are designated for separate ownership, and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a ***CONDOMINIUM*** unless the undivided interests in the common elements are vested in the unit owners.

CONGREGATE CARE FACILITY. A facility providing shelter and services for ambulatory individuals who by reason of the 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.

CONSTRUCTION, TRADES. One who accomplished work or provides facilities under contract with another and specifically engages in a specialized trade such as plumbing, heating, wiring, sheet metal and roofing work and the like.

CONTINUING CARE RETIREMENT COMMUNITY. A retirement community configured as a single unified campus that includes independent living dwellings, assisted living facilities, and skilled nursing facilities that are owned and operated by a private company that provides a continuum of care to residents of the community. It may include on-site dining, medical care, and recreation and social facilities in addition to guest lodging and employee housing.

CONTRACTOR SERVICES YARD. Offices for building, heating, plumbing, or electrical contractors, and related storage facilities.

CONVENIENCE STORE. A retail store that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase only a relatively few items (in contrast to a “supermarket”). It is designed to attract and depends upon a large volume of “stop and go” traffic.

CORNER LOT. A lot abutting two or more roads at their intersection.

COUNTY. Nash County, North Carolina.

DAY. Calendar days unless otherwise specified. A **DURATION OF DAYS** shall include the first and last days on which an activity is conducted, and all days in between, unless otherwise specified by state law.

DAY CARE CENTER. A child day care facility, as defined in G.S. § 110-86(3), as well as a center providing day care on a regular basis for more than two hours per day for more than five adults. See § 3.096 of this chapter for specific provisions related to **DAY CARE CENTERS**.

DEVELOPER. A person engaging in development.

DEVELOPMENT. Any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in G.S. 160D-802.
- d. The initiation or substantial change in the use of land or the intensity of use of land.

DEVELOPMENT, DENSITY OF. The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new roads, rights-of-way, drives, parking, structures, recreation areas, dedicated areas and required setbacks, shall be used for density calculations.

DRIPLINE. A vertical line extending the outermost portion of a tree’s canopy to the ground.

DRIVE-IN (EATING OR DRINKING FACILITY). An establishment that provides employee curb service or accommodations through special equipment or facilities for the ordering of food or beverage from a vehicle.

DUPLEX. See **TWO-FAMILY DWELLING**.

DWELLING, MULTIPLE. A building designed as a residence and used for more than two families living independently of each other.

DWELLING, SINGLE-FAMILY. A detached building designed for or occupied exclusively by one family.

DWELLING, TWO-FAMILY. A detached building either designed for or occupied by two families living independently of each other.

DWELLING, UNIT. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. . Units in dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents or lodging solely on a seasonal vacation purpose are not **DWELLING UNITS**.

EASEMENT. A grant of one or more of the property rights, by the property owner, to, or for use by, the public, a corporation or other entities.

EMERGENCY SHELTER. A facility providing, without charge, temporary sleeping accommodations, with or without meals, for individuals and/or families displaced from their residences as a result of sudden natural or human-made catastrophe including, but not limited to, earthquake, fire, flood, tornado, hurricane or the release of hazardous or toxic substance(s) into the environment. Such a natural or human-made catastrophe must be designated by the responsible local, state or federal official or an emergency agency such as the American Red Cross or the state's Department of Emergency Management.

EQUESTRIAN FACILITY. A commercial establishment engaged in the provision of boarding, training, and basic health care for horses and mules. Such uses may provide educational instruction. Accessory uses include showing areas, pastures, exercise facilities, and may also include facilities for conducting horse shows and hunts.

EVENT VENUE, INDOORS OR OUTDOORS. A commercial establishment and associated grounds engaged in the hosting and production of pre-planned events like weddings, corporate parties, or reunions. Typical accessory uses include kitchens or meal preparation space, limited overnight accommodations, photography studios, facilities to accommodate live or recorded music, on- and off-site parking, and outdoor recreation facilities.

EXISTING DEVELOPMENT. Those projects that are built or those projects that, at a minimum, have established a vested right under state zoning law as of the effective date of this chapter based on at least one of the following criteria:

(1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;

(2) Having an outstanding valid development permit as authorized by G.S. § 160D-108(d);
or

(3) Having an approved site specific vesting or phased development plan, as authorized by G.S. § 160D-108.1.

EXISTING LOT (LOT OF RECORD). See **LOT OF RECORD**.

EXTRACTIVE INDUSTRY. A use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operations, mining, hydraulic fracturing, and similar activities. Specifically excluded from this use is grading and removal of dirt associated with an approved site plan or subdivision or excavations associated with, and for the improvement of, a bona fide agricultural use.

FABRICATION. The processing and/or assemblage of various components into a complete or partially completed commodity. **FABRICATION** relates to stamping, cutting or otherwise shaping the processed materials into useful objects. The refining aspects of manufacturing and other initial processing of basic raw materials such as metal ore, lumber and rubber and the like are included.

FAMILY. One or more persons occupying a dwelling unit and living as a single household.

FAMILY CARE HOME. A home meeting the state's Residential Building Code with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for six or less resident handicapped persons, pursuant to G.S. § 168-21.

FARM EQUIPMENT SALES AND SERVICE. Commercial establishments engaged in the sales, repair, rental, and storage of tools, equipment, supplies, and machinery in support of farms, farming, agriculture, or horticulture. Uses also include sales of products grown on a farm, provision of farm-related experiences (e.g., immersion farming or pick-your-own establishments), wineries, and agritourism.

FARM SUPPLY SALES. Commercial establishments engaged in the sale, whether at retail or wholesale, of seeds, feed, tools, equipment, or services related to the operation of agricultural uses. Farm supply sales uses are not engaged in the sale of produce or agricultural products for end-user or non-farm consumption.

FENCE. A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material, used as a boundary or means of protection or confinement, but not including a hedge or other vegetation.

FLEA MARKET. A market held in an open area or structure where individual sellers offer goods for sale to the public. Such sellers may set up temporary stalls or tables for the sale of their products. Such sales may involve new and/or used items and may include the sale of fruits, vegetables, and other edible items. A farmer's market, where food items predominate, is different than a flea market. This also differs from a garage sale or yard sale that is conducted on a residentially developed lot by members of a household, or civic groups selling primarily donated items.

FLOOD HAZARD AREA. Also known as **AREA OF SPECIAL FLOOD HAZARD**. The land in the floodplain within the community subject to a 1% or greater chance of flooding in any given year.

FRATERNAL CLUB OR LODGE. A building and related facilities owned and operated by a corporation, association, or group of individuals established for fraternal, social, educational,

recreational, or cultural enrichment of its members and primarily not for profit, and whose members meet certain prescribed qualifications for membership and pay dues.

FREIGHT TERMINAL. A use where trucks, trailers, and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed.

FRONTAGE. All property abutting on one side of a street measured along the street line.

FUEL OIL/BOTTLED GAS DISTRIBUTOR. An establishment that stores and distributes fuel oil or bottled gases such as propane, oxygen, or liquid petroleum in bulk quantities for wholesale sale or distribution to retail outlets or end consumers at the point of use. A use engaged in sale of automobile fuel is a retail use.

FUNERAL-RELATED SERVICES. A commercial establishment engaged in the provision of services related to funeral services for humans or pets. Such uses may provide embalming, cremation, and memorial services. Chapels and storage areas are accessory uses. Uses for the internment of human or animal remains are park and open space uses.

GARAGE, PRIVATE. A building or space used as an accessory to a part of the main building permitted in any residential district that provides storage space for motor vehicles and in which no business, occupation of service for profit is in any way conducted.

GASOLINE SALES. A commercial establishment engaged in the retail sale of gasoline for use by consumers in private vehicles. Gasoline sales uses may also offer minor vehicle repairs and similar services as well as the accessory sale of food or beverages for off-site consumption. Gasoline sales uses are not engaged in the sale of oil products unrelated to the operation of private vehicles.

GOLF COURSE (PUBLIC OR PRIVATE). A tract of land laid out with at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse (with or without eating facilities), shelters, a driving range, putting green, maintenance facilities, an irrigation system, and outdoor storage of materials and equipment.

GOVERNMENT OPERATIONS. A facility housing government shops, maintenance and repair centers, equipment, and outdoor storage yards.

GRADE, FINISHED. The final elevation of the ground surface after development.

GRADE, NATURAL. The elevation of the ground surface in its natural state before human-made alterations.

GROCERY STORE. An establishment engaged in retail and/or wholesale sale of food, foodstuffs, sundries, or other common household items to members of the public.

GROSS FLOOR AREA. The sum of the gross horizontal areas of one or several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

GROUP HOME. A residential facility (such as an orphanage, shelter, crisis center) with support and supervisory personnel that provides temporary room and board, housekeeping, personal care, or rehabilitation services for more than six persons needing emergency or post-incarceration services (but not including those with mental illness who are dangerous to themselves or others).

GROUP DEVELOPMENT. A development in which, in lieu of division of tract of land into separate lots of record for separate principal buildings, a tract of land is divided into two or more principal building sites for the purpose of building development (whether immediate or future), and occupancy by separate families, firms, businesses or other enterprises.

HABITABLE FLOOR. Any floor useable for living purposes which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not a **HABITABLE FLOOR**.

HALFWAY HOUSE. A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in G.S. § 122C-20.5), or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

HAZARDOUS WASTE TREATMENT FACILITY. A facility which is established and operated for the recovery, recycling, treatment, storage during collection and prior to treatment, short-term storage after treatment, collection, processing, volume reduction, source separation or transportation used exclusively in connection with the facility, of hazardous waste; and which facility includes several of the following equipment's and processes: incinerators, rotary kilns, drum handling, washing and crushing facilities, raw waste tank storage, reduction, neutralization, detoxification, wastewater treatment facilities, including settling systems, aerobic digesters, anaerobic digesters, clarifiers, neutralization facilities, solidifying facilities, evaporators, reactions to facilities "reuse" or recycling, analytical capabilities and other similar appropriate technologies, activities and processes as may now exist or be developed in the future.

HEAVY EQUIPMENT SALES, RENTAL, AND REPAIR. Premises on which new or used heavy equipment (tractors, loaders, excavators, backhoes, cranes, lifts, rollers and similar devices) are displayed for sale, lease, or rental. On-site repair and service to heavy equipment is also provided.

HOME OCCUPATION. Any use conducted entirely within a dwelling or an accessory building and carried on by the occupants thereof, which use is incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Specific regulations concerning **HOME OCCUPATIONS** are delineated in § 3.104 of this chapter.

HORSE SHOW. A temporary equestrian activity which is not conducted in conjunction with a riding academy.

HOSPITAL. An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, that is licensed by State law to provide facilities and services in surgery, obstetrics, or general medical practice. Such institutions may include in-patient medical or surgical care for the sick or injured and related facilities such as laboratories, out-

patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

HOTEL AND MOTEL. A building or group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis. Hotels or motels may include an associated eating establishment, conference facilities, and on-site recreational amenities. Hotels or motels regularly offering extended duration stay facilities to patrons are extended stay facilities. Hotel, motel, resorts, lodges, and similar overnight lodging uses are to be considered synonymous uses.

INDOOR RECREATION, COMMERCIAL. A commercial establishment located entirely indoors that provides recreational, amusement, and entertainment opportunities for patrons, including activities such as billiards, bingo, bowling, video games, escape rooms, fortune tellers, skating rinks, laser tag, trampolines, and climbing walls.

INDOOR RECREATION, PUBLIC. An institutional or public use that provides generalized or specialized recreational services or opportunities to members of the general public for a free or for a fee. Recreation services could include swimming, court-based sports, fitness activities, or other forms of community-based recreation.

INDUSTRIAL DISCHARGE. The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

- (1) Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
- (2) Wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;
- (3) Storm water will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or
- (4) Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

INSTRUCTIONAL SERVICES. A commercial establishment that offers instruction in arts, sports, crafts, skilled trades, or recreational activities to members of the general public for a fee.

INTERIOR SETBACK. A setback from any property line not alongside a road.

JUNK. Perused or unusable metallic parts and other non-metallic manufactured products that are worn, deteriorated or obsolete making them unusable in their existing condition, but are subject to be dismantled and salvaged.

JUNK/SALVAGE YARD. A commercial or industrial use of land or area that involves the storage, keeping or accumulation of material, including scrap metals, waste paper, rags or other scrap materials,

or used building materials, for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

JUNKED MOTOR VEHICLE. A motor vehicle that does not display a current license plate and is one or more of the following:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) More than five years old and appears to be worth less than \$100; provided that, any motor vehicle used on a regular basis for business or personal use shall not be caused to be removed or disposed.

KENNEL. A facility operated exclusively for profit and for the expressed purposes of providing shelter for animals.

LAND APPLICATION OF WASTES. The dispersal of manure, wastewater, and similar waste products to the surface of vacant land via aerial, injection, or surface flow devices. Land utilized for application of wastes does not include habitable structures but may include agricultural production.

LANDFILL, LCID. Landfill establishments engaged in the long-term dumping and storage of land clearing debris such as yard waste and untreated or unpainted wood products underground. Such operations may include the manufacture and stockpile of mulch for re-sale or off-site use.

LANDFILL, SANITARY. A commercial or public institution that accepts for long-term storage and burial a wide variety of household and non-dangerous waste products, including household garbage, non-chemical waste products, and construction debris. Such uses may also include waste transfer and recycling centers where waste materials are processed for recycling or transport. Facilities that convert off-gases and other landfill-related products to energy are permitted as accessory uses.

LANDFILL, DISCHARGING. A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

LIBRARY. A public facility for the use, but not sale, of literary, historical, scientific, musical, artistic, or other reference materials.

LIGHT EQUIPMENT SALES, REPAIR, AND RENTAL. A commercial established engaged in the retail sale, rental, or service of hand tools, small electrical or gasoline-powered tools, or similar devices typically used by home or business owners for non-professional purposes. Such uses may also provide for the rental of furniture, household goods, or appliances on a non-continuous short-term basis.

LOCAL ROAD. A road whose primary function is to provide access to abutting properties.

LOT. A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership, or for development or both. The word **LOT** includes **PLOT**, **PARCEL** or **TRACT**.

LOT AREA. The total area circumscribed by boundaries of a lot; except that, when the legal instrument creating a lot shows the boundary of the lot extending into a public road or private right-of-way, then the lot boundary for purposes of computing the **LOT AREA** shall be the road right-of-way line or, if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the road.

LOT COVERAGE. The portion of a lot covered by building(s) and/or structure(s).

LOT DEPTH. The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

LOT LINE. Any boundary of a parcel of land.

LOT LINE, FRONT.

(1) The boundary line of a lot running along a road right-of-way.

(2) If a lot has two property lines which are also road right-of-way lines abutting different roads, then the shorter of those two lines shall constitute the **FRONT LOT LINE**; if both lines are equal, the **FRONT LOT LINE** shall be determined by the property owner if the front property line has not been designated on a final plat. (Minimum building lines are construed to designate the **FRONT LOT LINE**.)

LOT LINE, SIDE. A boundary line which is not defined as a front or rear lot line.

LOT OF RECORD. A lot, plot, parcel or tract recorded in the office of the Register of Deeds in conformance with the ordinance(s) in effect at the time of recordation.

LOT WIDTH. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight-line parallel to the front lot line at the minimum required building setback line.

MAJOR THOROUGHFARE ROAD. Major thoroughfares consist of interstate, another freeway, expressway or parkway links and major roads that provide for the expeditious movement of high volumes of traffic within and through urban areas.

MAKERSPACE. A collaborative workspace that includes shared tools, workspaces, technology, and knowledge in order to assist participants working alone or with collaborators to create and produce ideas, products, and services. Makerspaces can be formed for the purpose of instruction, creation of material for sale, or a combination of the two.

MANUFACTURED HOME. A dwelling unit, designed for use as a permanent residence, that is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed for installation or assembly and installation on the building site.

MANUFACTURED HOME, CLASS A. A dwelling unit that:

- (1) Is not constructed in accordance with the requirements of the state's Uniform Residential Building Code, as amended;
- (2) Is composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site;
- (3) Meets or exceeds the construction standards of the U.S. Department of Housing and Urban Development; and
- (4) Conforms to the following appearance criteria:
 - (a) The manufactured home has a minimum width, as assembled on the site, of 20 feet;
 - (b) The pitch of the manufactured home's roof has a minimum nominal vertical rise of three inches for each 12 inches of horizontal run and the roof is finished with asphalt or fiberglass shingles;
 - (c) A continuous, permanent curtain wall, unpierced, except for required ventilation and access, is installed under the manufactured home. Such curtain walls are not be required to be comprised of masonry in cases when the manufactured home is located on land leased to the homeowner; and
 - (d) The tongue, axles, transporting lights and removable towing apparatus are removed after placement on the lot and before occupancy.

MANUFACTURED HOME, CLASS B. A manufactured home constructed after 7-1-1996 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, but that does not satisfy all of the criteria necessary to qualify as a Class A manufactured home, but meets the following standards:

- (1) Skirting or a curtain wall, unpierced, except for required ventilation and access, is installed under the manufactured home and may consist of brick, masonry, vinyl or similar materials designed and manufactured for permanent outdoor installation. Such curtain walls are not be required to be comprised of masonry in cases when the manufactured home is located on land leased to the homeowner; and
- (2) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the state's Department of Insurance and attached firmly to the primary structure and anchored securely to the ground.

MANUFACTURED HOME, CLASS C. Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home. Manufactured homes that do not meet the definitional criteria of Class A, B or C manufactured homes are classified as recreational vehicles.

MANUFACTURED HOME PARK. A residential use in which more than three Class A, B or Class C manufactured homes are located on a single lot or tract. See § 3.109(B) of this chapter for specific provisions related to manufactured home parks.

MANUFACTURED HOME SPACE. A designated area of land within a manufactured home park designed for the accommodation of a single manufactured dwelling home in accordance with the requirements of this chapter.

MANUFACTURING. Uses that involve indoor processing or assembly of finished or partially finished goods and do not require large stockpiles of raw material. Processing and storage activities take place solely within enclosed buildings, which helps limit (but does not completely prevent) the creation of noise, vibration, dust, glare, heat, odor, and smoke. Examples include, but are not limited to: production or repair of small machines or electronic parts and equipment; woodworking and cabinet building; publishing and lithography; computer design and development; research, development, testing facilities and laboratories; apparel production; sign making; assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item.

MARINE-RELATED USES. Premises on which new or used boats and other marine vessels are displayed for sale, lease, or rental. On-site repair and service to boats is also provided.

MARQUEE. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

METAL FABRICATION. A commercial establishment engaged in the alteration or modification of metal goods, building supplies, tools, or other products comprised primarily of metal. Such uses may include welding, folding, shaping, assembly, coating, or other activity associated with raw forms of metal, but metal fabrication uses are not involved in the creation of metal products from raw materials.

MICROBREWERY OR MICRODISTILLERY. An establishment engaged in the production and packaging of malt beverages, wine or spirits for distribution, retail, or wholesale both on and off-premises. A microbrewery is a facility that produces less than 15,000 barrels of beer per year and sells the majority of the beer it produces for off-site resale and consumption. A microwinery produces less than 100,000 gallons of wine per year. A micro-distillery produces less than 15,000 gallons of alcoholic spirits per year. Accessory uses may include a taproom, seating areas, ancillary sales of related merchandise, event space, and warehouse space for stored product.

MINOR THOROUGHFARE ROAD. Minor thoroughfares collect traffic from collector, subcollector and local roads and carry it to the major thoroughfare system. **MINOR THOROUGHFARES** may be used to supplement the major thoroughfare system by facilitating movement of moderate volumes of traffic within and through urban areas and may also serve abutting property.

MODULAR HOME. A dwelling unit constructed in accordance with the standards set forth in the state's Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a **MODULAR HOME** may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that, the **MODULAR HOME** meets the state's Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

MULTI-FAMILY DWELLING. A structure containing three or more dwelling units that are not located on individual lots. Units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings. Multi-family dwellings include what are commonly called apartments, or condominium units, but not single-family attached dwellings.

MUSEUM. A building serving as a repository for a collection of natural, scientific, historical, or literary curiosities or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the limited retail sale of goods, services, or products such as prepared food to the public.

NIGHTCLUB OR DANCE HALL. Any establishment, whether public or a private club, serving a predominantly adult clientele, and whose primary business is the sale of alcoholic beverages, including beer and wine, for consumption on the premises in conjunction with dancing or live performances, and which sets a minimum age requirement for entrance. An establishment is not a nightclub if the establishment: (1) has a Class A restaurant license from the State of North Carolina; (2) maintains a full-service restaurant on its premises at all times when it is open to the public for business; or (3) provides facilities for seating not less than 40 persons simultaneously at tables for the service of meals. The establishment is also not a nightclub if the establishment allows entrance at all times to any person regardless of age.

NON-CONFORMING. A lot, structure, sign or use of land, which is now prohibited under the terms of this chapter, but was lawful at the date of this chapter's enactment, or any amendment or revision thereto.

NON-CONFORMING LOT(S). A lot of record that does not conform to the dimensional requirements of the zoning district in which it is located. The non-conformity may result from adoption of this chapter or any subsequent amendment.

NON-CONFORMING PROJECT. Any structure, development or undertaking that is incomplete at the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

NON-CONFORMING SITUATION. A situation that occurs when, on the effective date of this chapter, any existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a **NON-CONFORMING SITUATION** may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in

conformity with this chapter, because signs do not meet the requirements of this chapter or because land or buildings are used for purposes made unlawful by this chapter.

NON-CONFORMING STRUCTURE(S). A structure that does not conform to the requirements of this chapter. The non-conformity may result from adoption of this chapter or any subsequent amendment.

NON-CONFORMING USE. A use which once was a permitted use on a parcel of land or within a structure, but which is not now a permitted use. The non-conformity may result from the adoption of this chapter or any subsequent amendment.

NON-CONFORMITY, DIMENSIONAL. A non-conforming situation that occurs when the height, size or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

NURSING REHABILITATION CENTER. An institution that is licensed or approved to provide health care under skilled medical supervision for 24 hours a day.

OFFICE, HIGH INTENSITY. A use, typically involving two or more persons who are engaged in the provision of business, medical, professional, or other related services to customers or clients who come to the office to receive care or services. Such uses may include a shared kitchen, lobby area, meeting rooms, and document production areas.

OUTDOOR RECREATION, COMMERCIAL. A commercial establishment located entirely primarily outdoors that provides recreational, amusement, and entertainment opportunities for patrons, including activities such as: water parks, miniature golf, go cart racing, obstacle or ropes courses, zip lines, paintball, mechanical rides, and similar attractions. Outdoor commercial recreation uses may include buildings or structures that also provide indoor recreational activities.

OUTDOOR RECREATION, PUBLIC. An institutional or public establishment located outdoors and engaged in the provision of land and facilities for the purposes of recreation and leisure for the members of the general public. Such uses may include accessory structures offering concessions, providing storage, restroom facilities, or other related purposes.

OUTDOOR RELIGIOUS EVENT. An activity of a religious organization that is conducted outdoors as a freestanding use and is not an accessory use to a principal use such a church or other place of worship. An example of an ***OUTDOOR RELIGIOUS EVENT*** would be a tent revival.

OUTPATIENT FACILITY. A small-scale facility where patients are admitted for examination and treatment by one or more physicians, dentists, or psychologists on a short-term basis. Patients may or may not receive care or lodging overnight, but the facility is not intended for long-term overnight care. Such facilities may include sleeping rooms for care workers and members of patient's families.

OWNER. A holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

PARK OR PLAYGROUND. Land used for recreation, exercise, sports, education, rehabilitation, or similar activities, or a land area intended to enhance the enjoyment of natural features or natural beauty, specifically excluding commercially operated amusement parks.

PARKING-RELATED USE. A use of land devoted to the temporary off-street parking of vehicles, including vehicular ingress and egress, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas.

PEDESTRIAN WAY. A right-of-way or easement dedicated to public use to facilitate pedestrian access to adjacent roads and properties.

PERMIT-ISSUING AUTHORITY/BOARD. The person or board authorized by this chapter to issue a permit in accordance with the requirements of this chapter. The term applies to the Town Clerk or Zoning Administrator when issuing a zoning permit, the Board of Adjustment when issuing a variance and the Town Council.

PLANNED UNIT DEVELOPMENT (PUD). An area of land under unified ownership or control to be developed and improved as a single entity under a unified development plan in accordance with and subject to the requirements of this chapter.

PLANNING BOARD. A body appointed by the Town Council to develop and recommend long range development plans and policies and to advise the Town Council in matters pertaining to current physical development and zoning for the town's planning jurisdiction.

PRINCIPAL BUILDING. A building in which is conducted the principal use of the zone lot on which it is located or, in a group development, of the building site on which it is located. Any dwelling is considered a **PRINCIPAL BUILDING** unless it is a farm tenant dwelling; or a residence for a pastor; or a caretaker dwelling accessory to a non-residential use (limited to one such residence per lot). (See §§ 3.055 through 3.060 of this chapter.)

PRINCIPAL DWELLING. Any principal building or structure which is used and designed for human habitation, including living, sleeping, cooking and eating activities, excluding dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents.

PRINCIPAL STRUCTURE. A structure(s) in which is conducted the principal use(s) of the lot on which it is located.

PRIVATE DRIVE. A vehicular travel way not dedicated or offered for dedication as a public road, providing access to parking lot(s) for two or more principal buildings in a group housing or group nonresidential development.

PRIVATE ROAD. A vehicular travel way not dedicated or offered for dedication as a public road, but resembling a cul-de-sac or a local road by carrying traffic from a series of driveways to the public road system. **PRIVATE ROADS** must comply with the requirements of the town's subdivision regulations.

PRIVATE SEWER. A system which provides for collection and/or treatment of wastewater from a development, or property, and which is not maintained with public funds.

PRIVATE WATER. A system which provides for the supply and/or distribution of potable water for use by a development, project or owner, and which is not operated or maintained by a government organization or utility district.

PROCESSING. Any operation changing the nature of material or material's chemical composition or physical properties. Does not include operation described as "fabrication".

PUBLIC ROAD.

(1) A dedicated public right-of-way for vehicular traffic which:

(a) Has been accepted by NCDOT for maintenance; or

(b) Is not yet accepted, but in which the roadway design and construction have been approved under public standards for vehicular traffic.

(2) Alleys are specifically excluded.

PUBLIC SEWER. A system which provides for the collection and treatment of sanitary sewage from more than one property and is owned and operated by a government organization or sanitary district.

PUBLIC WATER. A system which provides distribution of potable water for more than one property and is owned and operated by a government organization or utility district.

REAR SETBACK. A setback from an interior property line lying on the opposite side of the lot from the front road setback.

RECREATIONAL VEHICLE. A vehicle which is built on a single chassis, designed to be self-propelled or permanently towable by a light duty vehicle and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

RECREATIONAL VEHICLE PARK. A commercial establishment offering individual spaces or "sites" for short term rental to owners or operators of recreational vehicles. Such uses typically have shared or common restroom, showering, and laundry facilities, and may also include recreational features and incidental sale of food, travel supplies, and recreational vehicle equipment. Rental of an individual site for a period of more than three continuous months or uses that allow vehicles to be modified in ways that result in permanent, non-mobile structures are considered mobile home parks.

RECREATIONAL VEHICLE SPACE. A plot of land within a recreational vehicle park designed for the accommodation of one recreational vehicle in accordance with the requirements set forth in this chapter.

RECYCLING CENTER. A facility engaged solely in the storage, processing, resale, or reuse of recyclable and recovered materials.

RELIGIOUS INSTITUTION. Any facility such as a church, temple, monastery, synagogues, or mosque used for worship by a non-profit organization and their customary related uses for education (pre-schools, religious education, etc.), recreation (gymnasiums, activity rooms, ball fields, etc.), housing (rectory, parsonage, elderly or disabled housing, etc.) and accessory uses such as cemeteries, mausoleums, offices, soup kitchens, and bookstores.

REPAIR SHOP. An establishment primarily engaged in the provision of repair services for electronics, bicycles, clocks, watches, shoes, guns, canvas products, appliances, and office equipment; including tailor; locksmith; and upholsterer. Repair establishments do not include outdoor storage of goods, materials, or equipment. Repair of cars, trucks, or similar heavy equipment is a vehicle-related establishment.

RESIDENTIAL TREATMENT FACILITY. Inpatient facility which provides care for persons with drug and/or alcohol dependency problems and which may include outpatient follow-up care to the facility's patients.

RESIDUALS. Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the Environmental Management Commission.

RESTAURANTS. An establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises. Seating for patrons consuming products on site are located either indoors or outdoors, and the use does not provide drive-through service. Such uses may include a bar or cocktail lounge as an accessory use.

RETAIL. The sale of a commodity to the ultimate consumer and not customarily subject to sale again.

RETAIL, HIGH INTENSITY. Commercial establishments engaged in the retail sale of goods and services at high volumes or in large buildings with significant amounts of traffic to and from the use during operating hours. High intensity retail includes home improvement stores, department stores, single tenant uses in buildings of 40,000 square feet in size or more or that generate 500 or more daily vehicle trips.

RETAINING WALL. A structure, either masonry, metal or treated wood, designed to prevent the lateral displacement of soil, rock, fill or other similar material.

REVERSE FRONTAGE LOT. A through lot which is not accessible from one of the parallel or nonintersecting roads upon which it fronts.

RIDING ACADEMY. A commercial facility or school which is open to the general public and offers such activities as riding lessons, horse training and boarding of horses. For purposes of this chapter, **RIDING ACADEMY** does not include the keeping of horses for personal use.

ROAD RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a travel way for vehicles and also available, with the consent of the appropriate governmental agency, for installation and maintenance of sidewalks, traffic-control devices, traffic signs, road name signs, historical marker signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines and communication lines.

ROAD SETBACK. Any setback from a street, road or lane.

ROOF LINE. The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

ROOMING UNIT. A room designed, occupied or intended for occupancy as separate living quarters with sleeping, but not necessarily cooking and sanitary facilities provided therein.

RURAL FAMILY OCCUPATION. A non-residential use allowed by special use permit as an accessory use to a residential use in certain designated residential zoning districts. **RURAL FAMILY OCCUPATIONS** must comply with the requirements of § 3.100(D) of this chapter.

SALVAGE OPERATION. The reclamation, dismantling or storage of pre-used commodities, junk and similar material for the purposes of resale, processing, distribution or disposition.

SALVAGE AND JUNKYARD. An establishment where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, and the like, are brought, sold, exchanged, baled, packed, disassembled, stored, or handled, including used lumber and building material yards, housewrecking yards, heavy equipment wrecking yards, and yards or places where salvaged house wrecking or structural steel materials are stored, handled, and sold. This definition includes automobile wrecking or automobile wrecking yards and establishments for the sale, purchase, or storage of second-hand cars, clothing, salvaged machinery, furniture, radios, stoves, refrigerators, or similar household goods and appliances, all of which shall be usable, nor shall it apply to the processing of used, discarded, or salvaged materials incident to manufacturing activity on the same site where such processing occurs.

SCHOOL, ELEMENTARY OR MIDDLE. A public or private school offering general or alternative instruction at the elementary and middle school levels that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, auditoriums, libraries, cafeterias, after school care, athletic facilities, and other facilities that further the educational mission of the institution.

SCHOOL, HIGH. public or private school offering general, technical, or alternative instruction at the high school levels that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SEATING CAPACITY. The actual seating capacity of an area based upon the number of seats, or one seat per 18 inches of bench or pew length. For other areas where seats are not fixed, the **SEATING CAPACITY** shall be determined as indicated by the state's Building Code.

SERVICE STATION. A building or lot where gasoline, oil, grease and automotive accessories are supplied and dispensed to a motor vehicle trade.

SETBACK. The distance between the minimum building line and the street right-of-way line and where no street right-of-way is involved, the property line shall be used in establishing the **SETBACK**.

SHOPPING CENTER. A group of commercial establishments planned, developed and managed as a unit with a unified design of buildings and with coordinated parking and service areas.

SIDE SETBACK. Any interior property line setback other than a rear setback.

SIGN AREA. The sign shall be computed by the smallest square, triangle, rectangle, circle or combination thereof which will encompass the entire sign including lattice work, wall work, frame or supports incidental to its decoration. In computing the **AREA**, only one side of a double face sign structure shall be considered.

SIGN, BUSINESS IDENTIFICATION. Any sign which advertises an establishment, service, commodity or activity conducted upon the premises where such sign is located.

SIGN, OUTDOOR ADVERTISING. Any sign which advertises an establishment, service, commodity, goods or entertainment sold or offered on premises other than that on which such sign is located.

SIGN PERMIT. A zoning permit issued by the Town Clerk or Zoning Administrator that authorizes the location of a sign.

SIGN, PORTABLE. Any sign not exceeding 80 square feet in billboard area and constructed as a part of or attached to a trailer.

SINGLE-FAMILY ATTACHED DWELLING. A dwelling unit that is physically attached to one or more other dwelling units, each on its own lot. Individual lots may or may not be surrounded by a larger tract that incorporates shared parking, recreation features, or access. The larger tract may or may not be owned in common by the landowners of individual lots.

SINGLE-FAMILY DETACHED DWELLING. See **DWELLING, SINGLE-FAMILY**.

SPECIAL PROMOTION. An advertising activity or circumstance of a business which is not part of its daily activities or normal routine, and in which the display or sale of merchandise, wares or other tangible items is the sole purpose for the promotion. **SPECIAL PROMOTIONS** include grand openings or closeout sales, but do not include reoccurring sales advertisements or other similar publicity.

SPECIAL USE PERMIT. A permit issued by the Board of Adjustment that authorizes the recipient to make use of property in accordance with the requirements of this chapter or as well as any additional requirements imposed by the Board of Adjustment.

STABILIZING VEGETATION. Any vegetation that protects the soil against erosion.

STORAGE. The disposition of commodities or items for the purposes of future use or safekeeping.

STORAGE, INDOOR AND OUTDOOR. A commercial establishment that offers storage facilities, whether indoors or outdoors, for short or long-term rent.

STREET. See **PUBLIC ROAD.**

STRUCTURE. Anything constructed, erected or placed.

SWIMMING POOL. A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 30 inches designed, used and maintained for swimming and bathing.

SWIMMING POOL BARRIER. A fence, wall, building wall or a combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool as described below.

(1) *Walls, fences, structures as barriers.* The top of the wall/fence shall be at least 48 inches above grade measured on the side of the wall/fence which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the wall/fence shall be four inches.

(2) *Chain-link fence.* Where a chain-link fence is provided as the barrier, the perpendicular distance between parallel sides of the link shall not exceed two and one-quarter inches.

(3) *Picket/ornamental fence.* Where a picket/ornamental fence is provided as the barrier, the horizontal open-air spacing between pickets shall be a maximum of four inches between all vertical pickets and support posts.

(4) *Access gates.* Access gates shall be required and be self-closing, self-latching locking device.

(5) *Pool wall.* An aboveground/on ground pool wall, itself, may be the barrier if the pool structure is on grade and the wall is at least 48 inches in height. Where an aboveground/on ground pool structure is used as a barrier or where the barrier is mounted on the pool structure, the ladder or steps shall be surrounded by a barrier, which meets the above requirements.

SWINE FARM. Any tract or contiguous tracts of land which is devoted to raising animals of the porcine species and which is served by an animal waste management system having a design capacity of 600,000 pounds' steady state live weight (SSLW) or greater, regardless of the actual number of swine on the farm.

TELECOMMUNICATIONS FACILITIES. Antennas, antenna-supporting structures, and associated equipment used to send and receive telecommunications signals.

TEMPORARY BUILDING. Any building of an impermanent nature or one which is designed for use for a limited time, including any tent or canopy.

TEMPORARY EMERGENCY, CONSTRUCTION OR REPAIR RESIDENCE.

(1) A residence (which may be a manufactured home) that is:

- (a) Located on the same lot as a residence made uninhabitable by fire, flood or other natural disaster and occupied by the persons displaced by such disaster;
- (b) Located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed; or
- (c) Located on a non-residential construction site and occupied by persons having construction or security responsibilities over such construction site. (See § 3.132 of this chapter for specific standards related to such residences.)

(2) RVs and travel trailers may be used in case of a temporary emergency only.

TEMPORARY EVENT. An activity sponsored by a governmental, charitable, civic, educational, religious, business or trade organization which is infrequent in occurrence and limited in duration. Examples include arts and crafts shows, athletic events, community festivals, carnivals, fairs, circuses, concerts, conventions, exhibitions, trade shows, horseshows, outdoor religious events and other similar activities.

TEMPORARY HARDSHIP MANUFACTURED HOME. A temporary hardship manufactured home on the same lot as a principal dwelling. Such temporary residence is intended for short-term occupancy by a person or persons receiving care and/or supervision by a related person or persons occupying the principal dwelling. (See § 3.131 of this chapter for specific standards related to **TEMPORARY HARDSHIP MANUFACTURED HOMES.**)

TEMPORARY SHELTER. A facility which provides temporary lodging during times of life threatening weather conditions for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements:

- (1) The facility shall be contained within the building of and operated by a government agency or non-profit organization;
- (2) A minimum floor space of 50 square feet shall be provided for each individual sheltered; and
- (3) The facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours of operation.

TEMPORARY STRUCTURE. Any structure of an impermanent nature or one which is designed for use for a limited time, including any tent or canopy.

TENANT. Any person who alone, or jointly, or severally with others occupies a building under a lease or holds a legal tenancy.

THEATRE, OUTDOORS. An outdoor use consisting of a screen and projector along with facilities to accommodate private vehicles or outdoor seating for the viewing of films. Such uses may also include concessions and restroom facilities for patrons.

THOROUGHFARE PLAN. A plan adopted by either the county, NCDOT or a designated area transportation organization and accepted by the town as the plan for the development of existing and proposed major roads that will adequately serve the future travel needs of an area in an efficient and cost effective manner.

TOURIST HOME. A private residence in which accommodations are provided for lodging and may include meals for overnight guests for a fee.

TOWER CO-LOCATION. An arrangement whereby more than one user occupies a single tower or structure.

TOWER, COMMUNICATIONS. A structure greater than 60 feet in height whose primary purpose is to support communications equipment. This definition includes tower/antenna/building combinations and the height measurement applies to those combinations. This definition shall not include wire-supporting electric power transmission and telephone poles.

TOWER, LATTICE. A guyed or self-supporting multi-sided, open, steel frame structure used to support communications equipment.

TOWER, MONOPOLE. A structure composed of a single spire used to support communications equipment.

TOWNHOUSE DWELLING. A building consisting of single-family residences attached to one another in which each unit is located on an individually-owned parcel, generally within a development containing drives, walks and open space in common area.

TOWNHOUSE LOT. A parcel of land intended as a unit for transfer of ownership, and lying underneath, or underneath and around, a townhouse, patio home or unit in a non-residential group development.

TOXIC SUBSTANCE. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

TRACT. All continuous land and bodies of water in one ownership, or contiguous land and bodies of water in diverse ownership, being developed as a unit, although not necessarily all at one time.

TRANSFER STATION. The waste-related services use category includes use types that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. This use category also includes use types that receive wastes from others.

TRAVEL TRAILER. See **RECREATIONAL VEHICLE.**

UNDERSTORY TREE. A species of tree which normally grows to a mature height of 15 to 35 feet in height.

UPPER-STORY RESIDENTIAL DWELLING. Multi-family residential dwelling units located on the second or higher floors of a building with some form of non-residential use on the first or ground floor. Dwelling units may be configured as apartments or condominiums.

URGENT CARE. A walk-in clinic or medical facility focused on the delivery of ambulatory care for injuries or illnesses requiring immediate care, but not serious enough to require a hospital emergency department.

USE. The purpose or activity for which land or structures is designed, arranged or intended, or for which land or structures are occupied or maintained.

USE(S), ACCESSORY. A structure or use that:

- (1) Is clearly incidental to and customarily found in connection with a principal building or principal use;
- (2) Is subordinate to and serves a principal building or principal use;
- (3) Is subordinate in area, extent or purpose to the principal building or principal use served;
- (4) Contributes to the comfort, convenience, or necessity of occupants, business or industry, in the principal building or principal use served; and
- (5) Is located on the same lot as the principal building or principal use served.

USE, MIXED. Occupancy of building or land by more than one use.

USE(S), PRINCIPAL. The primary purpose or function that a lot or structure serves or is proposed to serve.

UTILITY EASEMENT. An easement which grants to other utility providers the right to install and thereafter maintain any and all utilities including, but not limited to, water lines, sewer lines, septic tank drain fields, storm sewer lines, electrical power lines, telephone lines, natural gas lines and community antenna television systems.

UTILITY, MAJOR. Infrastructure services providing regional or community-wide service that normally entail the construction of new buildings or structures such as water towers, waste treatment plants, potable water treatment plants, natural gas citygates, and solid waste facilities.

VARIANCE. Official permission to depart from the requirements of this chapter. All **VARIANCE** requests are heard and decided by the Board of Adjustment (§§ 3.360 through 3.367 of this chapter).

VEHICLE PAINTING/BODYWORK. Repair of automobiles, vehicles, or trailers, including bodywork, framework, welding, and major painting service.

VEHICLE REPAIR AND SERVICING (WITHOUT PAINTING/BODYWORK). General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, not including bodywork, framework, welding, and major painting service.

VEHICLE SALES OR RENTALS. Premises on which new or used passenger automobiles, trailers, recreational vehicles, or light trucks in operating condition are displayed for sale, lease, or rental.

VEHICLE TOWING AND STORAGE LOT. An establishment operated for the purpose of temporary storage on-site of operable or inoperable vehicles. If an establishment , stacks vehicles or portions of stored vehicles are dismantled or removed for sale, it shall be considered a salvage and junkyard.

VETERINARY SERVICE, LARGE AND SMALL ANIMAL. A facility for the care and treatment of animals, including household pets and larger domesticated animals. Such facilities may be entirely indoors or may have both indoor and outdoor components.

WAREHOUSE DISTRIBUTION OR STORAGE. A building or compartment in a building used and appropriated by the occupant for the deposit and safekeeping or selling of his or her own goods at wholesale, and/or for the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade to be again removed or reshipped.

WATERSHED. The entire land area contributing surface drainage to a specific point (e.g., the water supply intake).

WET DETENTION POND. A pond that has a permanent pool and which also collects storm water runoff, filters the water and releases it slowly over a period of days.

WHOLESALE SALES, INDOOR AND OUTDOOR. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers. Wholesale establishment does not include contractor's materials or office or retail sales uses.

WIND ENERGY CONVERSION. A power generating use that converts kinetic energy from the wind into mechanical energy through the use of a wind turbine. The mechanical energy can then be used to power on-site equipment or an electrical generator to create electricity for on-site or off-site use. Such uses may include batteries for the storage of electrical energy.

YARD. Any open space on the same lot with a building and unoccupied from the ground upward, except by trees, shrubbery or fences.

YARD, FRONT. A yard across the full width of the lot, extending from the front line of the building to the front lot line.

YARD, REAR. A yard located behind the rear line of the main building, if extended, to the perimeter of the lot.

YARD, SIDE. A yard between the building and side lot line, extending from the front building line to the rear building line.

ZERO SIDE SETBACK. An alternate form of dimensional requirements that allows a dwelling unit to have one side setback of zero distance from a side property line. This definition does not apply to townhouses.

ZONING ADMINISTRATOR. The person(s) authorized by § 3.210 of this chapter who is responsible for administering and enforcing this chapter.

ZONING CERTIFICATE. A certificate issued by the Town Clerk or Zoning Administrator, or his or her authorized agents, that permits the applicant to use or occupy a tract of land or a building; or to erect, install or alter a structure, building or sign situated in the jurisdiction of the town fully meets the requirements of this chapter.

ZONING DISTRICT. An area defined by this chapter and delineated on the official zoning map, in which the requirements for the use of land and in which building, and development standards are prescribed.

ZONING PERMIT. A permit issued by the Town Clerk or Zoning Administrator that authorizes the recipient to make use of property in accordance with the requirements of this chapter.

ZONING VESTED RIGHT. A right established pursuant to G.S. § 160D-108 to undertake and complete the development and use of property under the terms and conditions of an approved site development plan.

(Ord. passed 4-19-2018, § 20-3)

3. OFFICIAL ZONING MAP AND DISTRICT BOUNDARIES

§ 3.040 OFFICIAL ZONING MAP.

(A) The location and boundaries of each of the zoning districts shall be shown on the map accompanying this chapter and made a part hereof, entitled “Official Zoning Map, Red Oak, North Carolina”, and adopted by the Town Council. The zoning map and all the notations, references and amendments thereto and other information shown are hereby made a part of this chapter. The zoning map shall be kept on file in the Town Hall and shall be available for inspection by the public.

(B) The map shall be identified by the signature of the Mayor attested by the Town Clerk or Zoning Administrator, under the following words: “This is to certify that this is the official zoning map of the Zoning Ordinance for the Town of Red Oak, North Carolina”. The date of adopting shall also be shown.

(C) The town shall maintain digital and printed copies of the official zoning map and maintain records of superseded official maps in the office of the Town Clerk or Zoning Administrator.

(D) Zoning districts established by this chapter are shown and maintained with the assistance of the county’s Geographic Information System (GIS) under the direction of the Town Council and the Town Clerk or Zoning Administrator. The Zoning GIS layer constitutes the town’s official zoning map and is incorporated by reference herein. All notations, references and other information shown shall have the same force and effect as if fully set forth or described in this chapter.

(E) At the direction of Town Council, the Town Clerk or Zoning Administrator is authorized to coordinate with the county’s GIS Department in the revision of the official zoning map. No unauthorized person may alter or modify the official zoning map. All changes to the official zoning map of the town shall be identified by updating the original computer digital data of each change, together with the date of the change. A hard copy of the data and changes to the data will be kept by the town. All revisions to hard copies will be numbered, dated and signed by the Mayor and attested by the Town Clerk or Zoning Administrator.

(Ord. passed 4-19-2018, § 40-1)

§ 3.041 DISTRICT BOUNDARIES.

The boundaries of the zoning districts as are shown upon the maps incorporated by reference into this chapter are hereby adopted. The provisions of this chapter governing within each type of district the use of land and building, height of buildings, building site areas, sizes of yards around buildings and other matters as are hereinafter set forth, are hereby established and declared to be in effect upon all land included within the boundaries of each and every district as shown upon said map. (Ord. passed 4-19-2018, § 40-2)

§ 3.042 INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the location of certain boundaries of districts as shown on the official zoning map, the following rules shall apply.

(A) Boundaries indicated as approximately following the centerline and/or the rights-of-way of streets, highways or alleys shall be construed to follow such centerlines and/or rights-of-way.

(B) Boundaries indicated, as approximately following platted lot lines, shall be construed to follow such lot lines. Where a district boundary line divides a lot, which was in single ownership at the time of passage of this chapter, the Board of Adjustment may permit the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(C) Boundaries indicated, as approximately following town limit or extraterritorial boundary lines shall be construed to follow such town limit or extraterritorial boundary lines.

(D) Boundaries indicated as following the rights-of-way of railroad lines or utility easements shall be construed to follow such right-of-way. If such a railroad right-of-way or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated roadbed or utility easement.

(E) Boundaries indicated as approximately following the centerlines of watercourses (such as: streams; rivers; canals; lakes; or other bodies of water) shall be construed to follow such centerlines.

(F) Distances not specifically indicated on the official zoning map shall be determined by the scale of the map. Where a boundary line follows the edge of a road or alley right-of-way, a railroad right-of-way or utility easement, the boundary shall be construed to be in the edge of such road or alley right-of-way or utility easement. If such a road or alley right-of-way, railroad right-of-way or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated roadbed or utility easement.

(G) Where physical and cultural features existing on the ground are at variance with those shown on the official zoning map, the Board of Adjustment shall interpret the district boundaries. (Ord. passed 4-19-2018, § 40-3)

4. DISTRICT REGULATIONS

§ 3.055 GENERAL REGULATIONS.

(A) Except as hereinafter provided, the regulations set by this chapter within each zoning district shall be minimum regulations and shall apply uniformly to all structures and uses of land.

(B) No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof, shall hereafter be erected, constructed, reconstructed, moved or structurally altered, except in conformity with all the regulations specified herein for the zoning district in which it is located.

(C) No building or other structure shall hereafter be erected or altered:

(1) To exceed the maximum allowable height;

(2) To accommodate or house a greater number of families;

(3) To have narrower or smaller front yards, side yards, rear yards or other open spaces; or

(4) To occupy a greater percentage of lot area than permitted herein or in any other manner contrary to this chapter.

(D) No part of a yard or other open space required about or in connection with any building for the purpose of complying with this chapter shall be included as a part of a yard or other open space similarly required for any other building or use.

(E) Except when required as part of accommodating a public use or infrastructure element, no yard setbacks or lot existing at the time of or subsequent to passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein.

(F) For every building constructed after the date of this amendment on a lot or tract, which is located immediately adjacent to agricultural land either currently or potentially to be used as such, said lot or tract shall be required to maintain at least a 50-foot buffer where no water supply well will be permitted by the Town Clerk or Zoning Administrator at the time of the zoning permit approval.

(G) Every building hereafter erected or moved shall be on a lot adjacent to a street right-of-way or be served by a driveway accessing a street right-of-way, and all structures shall be so located as to provide safe and convenient access for servicing, fire protection and required off-street parking.

(H) In any district, more than one building housing a permitted principal use may be erected on a single lot; provided that, yard and other requirements of this chapter shall be met for each building as though it were on an individual lot. In no instance shall a single lot contain more than one principal single-family detached dwelling used for residential purposes.

(I) No lot shall be reduced or changed in size so that the total area, minimum frontage, front side or rear setbacks, lot area per dwelling unit or other dimensions, areas or open spaces required by these regulations are not maintained. No lot shall be reduced in size so as to produce an additional lot, which is not in conformity with these regulations, unless said lot is combined with other land to produce a conforming lot or unless said lot is needed and accepted solely for public use.

(J) Accessory uses and buildings may be erected in a required side or rear yard; provided, no separate accessory use or building shall be erected within ten feet of any other building, or within ten feet from a lot line. No accessory use or building shall be located in a side yard required on the street side of a corner lot.

(K) Where a minimum frontage is specified in these regulations, it shall be measured at the front yard setback line.

(L) (1) The setback line requirements of these regulations shall not prohibit any necessary retaining wall or prohibit any planted buffer strip, fence or wall.

(2) However, no fence or wall shall exceed a height of six feet in any front or side yard unless specified elsewhere.

(3) Such fences and walls shall be located on the lot with the principal building.

(M) Any lot of record existing when adopted, which has an area or a width which is less than required by this chapter, shall be subject to the following exceptions and modifications.

(1) *Adjoining lots.* When two or more adjoining lots with continuous frontage are in common ownership at any time after the adoption of this chapter, and such lots individually are less than the minimum square footage and/or have less than the minimum width required in the district in which they are located, the two lots shall be considered as a single lot.

(2) *Lot not meeting minimum lot size requirements.* Except as set forth in division (M)(1) above, in any district in which single-family dwellings are permitted, any lawfully-established lot of record existing on May 8, 2023, which has an area or a width which is less than required by these regulations may be used as a building site for a single-family dwelling.

(3) *Side yard requirements.* Except as set forth in division (M)(1) above, where a lot has a width less than the width required in the district in which it is located, then the Town Clerk or Zoning Administrator shall be authorized to reduce the side yard requirements for such lot; by up to ten percent provided, however, no side yard shall be less than ten feet wide. In cases where the requested reduction of a side yard exceeds ten percent of the side yard requirements, such request shall be subject to the requirements of §§ 3.360 through 3.367 of this chapter.

(N) The height limitations of accessory and special projections and structures shall be in accordance with the following.

(1) Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flukes and chimney shall not exceed in height their distance from the nearest lot line.

(2) Special structures, such as elevators, penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks shall not exceed in height their distance from the nearest lot line.

(3) Essential services, utilities, water towers, electric power and communication transmission lines shall not exceed in height their distance from the nearest lot line.

(4) Communication structures, such as radio and television transmission and relay towers, aerials, and observations towers, when permitted, shall meet the development standards provided in §§ 3.096.1 of this chapter, shall not exceed in height their distance from the nearest lot line.

(5) Public or semi-public facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of 60 feet, provided all required yards are increased by not less than one foot or fraction thereof for each foot of additional structure height that exceeds the maximum building height for the zoning district where the structure is established.

(Ord. passed 4-19-2018, § 50-1)

§ 3.056 DESCRIPTION AND INTENT OF CONVENTIONAL ZONING DISTRICTS.

For the purpose of this chapter, the town is hereby divided into the following conventional zoning districts.

(A) *AG, Agricultural District.* The purpose of this district is to provide a place for agricultural and very low-density residential uses. Land uses in this district are primarily agrarian and rural. Requests for rezoning to a higher intensity use district must demonstrate that the proposed development would be in accordance with the town's Land Development Plan, in character with surrounding development and supported by prevailing soil conditions. The dimensional standards for development in the AG district are established in § 3.058 of this Ordinance.

(B) *RL, Residential Low-Density District.* The district is primarily intended to accommodate very low-density single-family detached dwellings on large lots in areas without access to public water and sewer services and in areas where soil characteristics necessitate low density development. The dimensional standards for development in the RL district are established in § 3.058 of this Ordinance.

(C) *RM, Residential Medium Density District.* The purpose of this district shall be to provide for medium-density residential development in rural areas where public water and sewer are not available but soils are suitable for septic tanks and wells. Two-family dwellings (duplex) are permitted as a special use. The dimensional standards for development in the RM district are established in § 3.058 of this Ordinance.

(D) *RMH, Residential Manufactured Home District.* The purpose of this district shall be to provide for the compatible mixture of residential and individual manufactured home sites in medium density development in areas where public water and sewer are not available. A minimum lot size of 30,000 square feet is required.

(E) *R-20, Residential Moderate-Density District.* The purpose of this district shall be to provide for residential development where public or community water and/or sewer systems are available and, into the sewer system, when soils are suitable for septic tanks, on a minimum of 20,000 square foot lots. Applications to amend the official zoning map to establish an R-20 conventional district shall be prohibited after May 8, 2023. Applications to amend an existing R-20 zoning district shall require a zoning map amendment to a zoning district other than R-20.

(F) *B-1, Rural Business District.* The purpose of this district shall be to provide for small clusters of commercial development consisting of a variety of general and commercial uses that usually cater to motoring public in selected locations along rural roads and town thoroughfares. The dimensional standards for development in the B-1 district are established in § 3.059 of this Ordinance.

(G) *B-2, Central Business District.*

(1) *Purpose.* The purpose of this district shall be to provide space for the town's main business district, which consists of a variety of commercial and service oriented uses for the convenience of local shoppers along with mixed-use development that can accommodate different use types, including residential, within the same building. This district will also permit public, educational and institutional uses compatible with its role as the governmental, service, retail and educational center of the community. The configuration of sites and the design of buildings within the B-2 district shall be conducive to safe pedestrian circulation, aesthetics, and protection of Red Oak's small-town community character.

(2) *Standards.* All non-residential and mixed-use development located within the B-2 District shall comply with the following requirements. Commercial development shall also be subject to the commercial design standards in §§ 3.150 through 3.154 of this chapter.

(a) No non-residential building or non-residential portion of a mixed-use building shall include more than 10,000 square feet of floor area per level or building story.

(b) Outdoor storage of goods or materials shall be located to the side or rear of the building and shall be fully screened by an opaque fence or wall with a minimum height of at least six feet but no more than eight feet in height. Areas intended for display of items for retail sale shall be identified on the site plan and shall not be located in required parking spaces or interfere with the safe and efficient circulation of vehicles or persons around the site.

(c) Up to 40 percent of the required off-street parking, including all accessible parking spaces, may be located between the front of a building and the street it faces. All additional provided off-street parking shall be located to the side or rear of the principal building(s) in the B-2 district.

(d) Drive through facilities (including menu boards, ordering windows, and service windows) shall be located solely on or beside building walls that do not face public streets.

(e) In no instance shall an accessory structure be located between a principal building wall and the street it faces. This standard is applied along the front of the lot on interior lots and to the front and street-facing sides of corner lots.

(f) All dumpsters, recycling bins, grease collection, and other waste disposal facilities shall be located to the side or rear of a principal structure and shall be fully screened with an opaque fence or wall of a minimum height necessary to obscure the dumpster, bin, or other facility. The fenced or walled enclosure shall include gates or access partitions that obscure views into the enclosure from all off-site areas, and gates or access partitions shall remain in the closed position except when the enclosure is being serviced.

(g) All exterior lighting (except street lights), including building-mounted or canopy-mounted lighting shall be configured so that the bulb or source of illumination is not visible from abutting land zoned for residential purposes.

(h) The dimensional standards for development in the B-2 district are established in § 3.059 of this Ordinance.

(H) *OI, Office and Institutional District.* The purpose of this district is to provide for public and institutional; office; business, professional and personal services; limited support retail; and moderate-to low-density residential uses. The dimensional standards for development in the OI district are established in § 3.059 of this Ordinance.

(I) *LI, Light Industrial District.* The purpose of this district shall be to provide suitable locations for service, manufacturing and warehousing activities which are non-noxious and do not emit smoke, dust, odor, noise, fumes, glare, vibration or other objectionable characteristics from the property on which they are located. The dimensional standards for development in the LI district are established in § 3.059 of this Ordinance.

§ 3.057 DESCRIPTION AND INTENT OF CONDITIONAL ZONING DISTRICTS.

(A) In addition to the conventional zoning districts established above, a corresponding conditional zoning district, bearing the suffix “CZ” in the district name, may be established in accordance with the provisions of § 3.057 and §§ 3.370 through 3.374 of this chapter, in order to establish a zoning district with mutually agreed upon enforceable conditions. Accordingly, the following conditional zoning districts may be designated upon approval by the Town Council based on a petition by the property owner(s) to rezone to a conditional zoning district along with a set of mutually agreed-upon conditions where the intended use(s) is/are specified and a concept plan of the proposed development configuration is submitted for consideration during the review process.

(B) All regulations required in a conventional zoning district shall also apply to the corresponding conditional zoning district as well as any other conditions or regulations, which may be offered or accepted by the property owner and approved by the Town Council as part of the process.

(C) The following conditional zoning districts may be designated upon approval by the Town Council of a petition to establish a conditional zoning district:

- (1) AG (CZ), Agricultural Conditional Zoning District;
- (2) RL (CZ), Residential Low Density Conditional Zoning District;
- (3) RM (CZ), Residential Medium Density Conditional Zoning District;
- (4) RMH (CZ), Residential Manufactured Home Conditional Zoning District;
- (5) B-1 (CZ), Rural Business Conditional Zoning District;
- (6) B-2 (CZ), Central Business Conditional Zoning District;
- (7) O-I (CZ), Office and Institutional Conditional Zoning District; and
- (8) LI (CZ), Light Industrial Conditional Zoning District.

(D) *Purpose.* Conditional zoning districts are primarily intended to allow for the zoning and development of property in accordance with conventional zoning district standards and additional conditions that enable the use and development to be more compatible with neighboring properties. The review process established in this chapter provides for accommodation of such development by a reclassification of property into a conditional zoning district, subject to specific conditions, which promote compatibility of the use with neighboring properties. Zoning petitions to establish a conditional zoning district will be processed in accordance with the provisions of §§ 3.370 through 3.374 of this chapter for zoning amendments, as well as this section. A conditional zoning district classification will be considered only if the application is made by all the owners of the property or their authorized agent.

(E) *Uses within district.* Within a conditional zoning district, only those uses listed as permitted uses or special uses in the corresponding conventional zoning district shall be permitted. For special uses, the applicant shall also secure an approval of a special use permit in accordance with the requirements in Sections §§ 3.350 through 3.351 of this chapter for each use required to obtain special use permit approval in the corresponding conventional zoning district.

(F) *Conditions.*

(1) In a conditional zoning district, conditions shall specify the uses proposed for the district; the location on the property of the proposed use; the number of dwelling units; the location and extent of supporting facilities such as parking lots, driveways and access streets; design elements of the proposed use; the location and extent of buffer areas and other special purpose areas; the timing of development; the location and extent of right-of-way and other areas to be dedicated for public purposes; the alteration of streets to mitigate traffic and environmental impacts; use limitations; and other matters the applicant proposes as conditions upon the request.

(2) In approving a reclassification of property to a conditional zoning district, the Town Council may request that reasonable and appropriate conditions be attached to approval of the rezoning. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water, the provision of open space and other matters that the Town Council may find appropriate or the applicant may propose.

(3) Such conditions to approval of the rezoning may include dedication to the town or state, as appropriate, of any rights-of-way or easements for roads, water, sewer or other public utilities necessary to serve the proposed development. The applicant shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Town Council.

(4) All conditions shall be recorded in the application approval and agreed to, in writing, by the applicant in order to remain enforceable.

(5) Before filing an application for a conditional zoning district, the applicant(s) shall meet with the Town Clerk or Zoning Administrator to discuss the nature of the proposed reclassification, the standards for development under the existing and proposed classifications, and concerns that persons residing in the vicinity of the property may have regarding the proposed reclassification, if known.

(6) All applications shall include concept plan drawn to scale and supporting text which will become a part of the ordinance amendment. The application for establishment of a conditional zoning district shall include at least the items listed below:

- a) A boundary survey showing the total acreage, present zoning classifications and uses for the subject property and adjacent properties, date and north arrow;
- b) The owners' names, addresses and the tax parcel numbers of all adjoining properties;
- c) All existing easements, reservations, rights-of-way, and all yards required for the conditional zoning district requested;
- d) Delineation of areas within the regulatory floodplain as shown on official Flood Hazard Boundary Maps for the town, including delineation of streams and associated stream buffers;
- e) Proposed uses of land and structures. For residential uses, this should include the number of units and an outline of area where principal structures will be located. For non-residential uses, this should include the approximate square footage of all structures and an outline of the area where the structures will be located;

f) A transportation plan with provisions for internal vehicular, transit, bicycle and pedestrian circulation;

g) The approximate number, location, and configuration of off-street parking areas, service and loading areas, areas anticipated for outdoor storage (if any), and refuse collection facilities;

h) Areas occupied by landscaping, including approximate buffer widths, size and location of planting areas, and the anticipated level of screening to be provided, and

i) A text listing of all conditions proposed to be incorporated in the conditional zoning district.

(7) When dealing with the conditional zoning district process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Planning Board and/or Town Council may request additional information as they deem necessary. This information may include, but is not limited to, the items listed below:

a) Proposed screening, including walls, fences or planting areas as well as treatment of any existing natural features;

b) Existing and proposed topography at two-foot contour intervals or less;

c) Generalized information on the number, height and size or, in especially critical situations, the location of structures;

d) Proposed number and location of detached signs; and

e) Approximate completion time of the project and proposed phasing, if any.

(8) In approving a conditional zoning district, the Town Council may, with agreement of the applicant, impose more restrictive requirements than would otherwise be required by this chapter and those in the application, as deemed necessary to ensure that the purposes and intent of this chapter are met.

(9) A new public hearing is required for consideration of a substantial change in conditions, as determined by the Town Clerk or Zoning Administrator.

(10) No condition on a conditional zoning district application may have the effect of removing or amending any requirement of this chapter.

(11) Other than use conditions, no proposed condition can be a mere repetition of an already applicable requirement of this chapter. The Town Clerk or Zoning Administrator may order the removal of any such condition.

(12) Prior to the issuance of any permits, the applicant must submit detailed site plans to the Town Clerk or Zoning Administrator for final review and approval. A site plan shall be consistent with the approved concept plan.

(13) At the request of the applicant, a concept plan may also serve as a site plan or preliminary plat provided the concept plan includes all details required in a site plan or preliminary plat.

(14) In cases where a conditional rezoning application also includes a use type treated as a special use in the corresponding conventional zoning district, the use may not be established unless and until as special use permit is approved in accordance with all applicable requirements in this Ordinance.

(G) *Community meeting.* The applicant is required to hold a community meeting prior to the application deadline for a conditional zoning district rezoning. The applicant shall provide proof of mailed notice of the meeting. Notice of the meeting shall be provided to owners of abutting property, as listed with the county's Tax Department, and include properties directly across a street, easement, body of water, or public or private right-of-way. Notice may be sent to additional properties by the applicant. At a minimum, the notice shall be sent by standard mail and be postmarked at least 14 days prior to the date of the community meeting. Additional types of notice may be provided by the applicant.

(1) A written report of the community meeting shall be included as part of the application packet. The written report of the meeting shall include a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the time, date and location of the meeting and a description of any changes to the rezoning application made by the applicant as a result of the meeting.

(2) Revisions to existing conditional zoning districts and existing special use permits shall not require a community meeting if the physical boundaries of the district or permit are not proposed to be expanded.

(H) *Scope of approval.*

(1) Any conditions approved in association with a conditional zoning district and so authorized shall be perpetually binding unless subsequently changed or amended as provided for in this section. The applicant shall obtain certification of the approval of the conditional zoning district from the Town Clerk or Zoning Administrator, and shall record the certification and accompanying concept plan in the office of the Register of Deeds of the county. The applicant shall return a certified copy of the recorded documents to the Town Clerk or Zoning Administrator.

(2) If, for any reason, any condition established pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to accept any condition, the approval of the conditional zoning district may be deemed null and void and the governing body may initiate proceedings to rezone the property to its previous zoning classification. Continued or repeated violations of the conditions in an approved conditional zoning district shall constitute an applicant's failure to accept said conditions.

(3) Any violations of a condition in an approved conditional zoning district shall be treated the same as any other violation of this chapter and shall be subject to the same remedies and penalties as any such violation.

(4) The approval of a zoning map or text amendment does not authorize any development activity. Approval of a site plan, preliminary plat, application for a certificate of zoning compliance, and any other administrative permits required by this chapter shall be required.

(5) If an application for conditional zoning is approved, the development and use of the property shall be governed by the existing ordinance requirements applicable to the district's classification, the approved site plan for the district and any additional approved rules, regulations and conditions, all of which shall constitute the zoning regulations for approved district and are binding on the property as an amendment to these regulations and the zoning maps.

(6) If an application is approved, only those uses and structure indicated in the approved application and exhibit map/schematic plan shall be allowed on the subject property. A change of location of any structures may be authorized pursuant to applicable provisions of this chapter.

(7) Following the approval of a rezoning application for a conditional zoning district, the subject property shall be identified on the zoning map by the appropriate district designation.

(8) Any approval of a conditional zoning district shall only impart a level of vested rights specified in the applicable provisions of the North Carolina General Statutes.

(I) Alterations to approval.

(1) Except as provided herein, changes to an approved conditional zoning district or to the conditions attached to the approval shall be treated the same as a new application for a conditional zoning district and shall be processed in accordance with the original procedures.

(2) The Planning Board shall have the authority to approve an administrative change to an approved conditional zoning district application. The standard for approving or denying such a requested change shall be that the change does not significantly alter the approved concept plan or its conditions and that the change does not have a significant impact upon abutting properties, in the sole opinion of the Planning Board.

(3) Changes that increase the intensity of non-residential development of up to 10% of the approved building square footage, but not more than 5,000 square feet, may be considered. For residential development, increases in density are not allowed as an administrative change. In no instance shall any change in the range of allowable uses constitute an administrative change.

(4) The Planning Board may decline to exercise this delegated authority if it believes a requested change should be deemed a rezoning application with a public hearing and Town Council under the circumstances. If the Planning Board declines to exercise this authority, then the applicant can only file a rezoning application with a public hearing and Town Council decision.

(Ord. passed 4-19-2018, § 50-2)

TABLE OF PERMITTED USES

B = By-right

P= By right, subject to use standards

S = Special use permit

“•” = Prohibited

Use Category	Use Type	Zoning Districts								
		AG	RL	RM	RMH	R-20	OI	B-1	B-2	LI
	Silviculture	B	B	B	B	B	B	B	B	B
	Viticulture	B	B	B	•	•	•	•	•	B
Agricultural Support Services	Farm Equipment Sales and Service	P	•	•	•	•	•	•	S	P
	Farm Supply Sales	P	•	•	•	•	•	•	P	•
Livestock-Related	Animal Husbandry (other than swine)	P	P	P	•	P	P	P	P	P
	Aquaculture	B	•	•	•	•	•	•	•	•
	Equestrian Facility	P	P	P	•	•	•	P	•	•
	Swine Farm	S	•	•	•	•	•	•	•	•
	Veterinary service	P	•	•	•	•	•	•	•	•
COMMERCIAL USES										
Adult Uses	All Use Types	•	•	•	•	•	•	•	•	S
Animal-Related	Boarding	P	•	•	•	•	•	P	P	P
	Grooming	P	P	•	•	•	•	P	P	P
	Veterinary Services, small animal	P	•	•	•	•	P	P	P	P
Eating and Drinking	Bar, Cocktail Lounge, Private Club	•	•	•	•	•	•	•	S	S
	Catering Establishment	B	•	•	•	•	•	B	B	B
	Coffee Shop or Bakery	•	•	•	•	•	•	P	P	•
	Microbrewery / microdistillery	•	•	•	•	•	•	P	P	P
	Restaurant with Indoor or Outdoor Seating	•	•	•	•	•	•	S	P	•

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		AG	RL	RM	RMH	R-20	OI	B-1	B-2	LI
	Restaurant with Drive-up/Walk-up Service Only	•	•	•	•	•	•	P	P	P
Equipment-Related	Heavy Equipment Sales, Rental, & Repair	•	•	•	•	•	•	•	S	P
	Light Equipment Sales, Rental, & Repair	•	•	•	•	•	•	P	P	P
Event Venue	Event Venue, Indoor Only	P	•	•	•	•	P	P	P	•
	Event Venue, Indoors or Outdoors	P	•	•	•	•	•	S	P	•
Financial Services	Bank or Credit Union	•	•	•	•	•	B	B	B	•
	Financial Services	•	•	•	•	•	B	B	B	•
Lodging	Bed and Breakfast	P	P	•	•	P	•	P	P	•
	Campground	S	•	•	•	•	•	•	•	P
	Hotel or Motel	•	•	•	•	•	S	•	P	P
	Recreational Vehicle Park	S	•	•	•	•	•	•	P	•
Parking-Related	All Use Types	•	•	•	•	•	P	P	P	P
Personal Services	Barber or Beauty Shop	•	•	•	•	•	B	B	B	•
	Computer-Related Services	•	•	•	•	•	•	B	B	•
	Day Spa (medical or otherwise)	•	•	•	•	•	B	•	B	•
	Home maintenance and similar services	•	•	•	•	•	•	P	P	•

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		<i>AG</i>	<i>RL</i>	<i>RM</i>	<i>RMH</i>	<i>R-20</i>	<i>OI</i>	<i>B-1</i>	<i>B-2</i>	<i>LI</i>
	Fitness Center	•	•	•	•	•	•	B	B	•
	Funeral-Related Services	•	•	•	•	•	•	S	P	P
	Hair, Nails, and Skin-Related Services	•	•	•	•	•	•	B	B	•
	Instructional Services	•	•	•	•	•	P	P	P	•
	Laundry and Cleaning Services	•	•	•	•	•	•	B	B	B
	Packaging, Printing, and Shipping	•	•	•	•	•	•	B	B	•
	Repair shop	•	•	•	•	•	•	P	P	P
	Tanning Salon	•	•	•	•	•	•	B	B	•
	Tattoo and Piercing Establishment	•	•	•	•	•	•	•	S	•
Office- Related	Office, High Intensity	•	•	•	•	•	P	S	P	•
	Office, Low Intensity	•	•	•	•	•	B	B	B	•
Recreation-Related	Nightclub or Dance Hall	•	•	•	•	•	•	•	S	•
	Indoor Recreation, Commercial	•	•	•	•	•	•	P	P	•
	Outdoor Recreation, Commercial	•	•	•	•	•	•	•	P	P
	Theatre, Indoors	•	•	•	•	•	•	•	B	•
	Theatre, Outdoors	S	•	•	•	•	•	•	P	P
Retail Trade	Bulky Items Sales	•	•	•	•	•	•	•	P	P
	Convenience Store	•	•	•	•	•	•	P	P	•

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		AG	RL	RM	RMH	R-20	OI	B-1	B-2	LI
	Flea Market	•	•	•	•	•	•	P	P	•
	Gasoline Sales	•	•	•	•	•	•	P	P	P
	Grocery Store	S	•	•	•	•	•	P	P	•
	Pharmacy	•	•	•	•	•	•	P	P	•
	Retail, High Intensity	•	•	•	•	•	•	•	P	P
	Retail, Low Intensity	•	•	•	•	•	•	B	B	B
Storage-Related	Storage, Indoor Only	•	•	•	•	•	•	P	P	P
	Storage, Indoor and Outdoor	•	•	•	•	•	•	•	P	P
Vehicle-Related	Vehicle Repair and Servicing (without painting/bodywork)	•	•	•	•	•	•	P	P	•
	Vehicle Sales or Rentals	•	•	•	•	•	•	•	P	•
	Vehicle Painting/Bodywork	•	•	•	•	•	•	•	P	P
	Vehicle Towing and Storage Lot	•	•	•	•	•	•	P	P	•
	Vehicle Washing or Detailing	•	•	•	•	•	•	B	B	•
INDUSTRIAL USES										
Energy-Related	Fuel Oil/Bottled Gas Distributor	•	•	•	•	•	•	S	•	P
	Solar Farm	See Chapter 2								
	Wind Energy Conversion	•	•	•	•	•	•	•	•	S
Extractive Industry	All Use Types	S	•	•	•	•	•	•	•	S
Flex Space	Business Incubator	•	•	•	•	•	•	P	P	P

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		AG	RL	RM	RMH	R-20	OI	B-1	B-2	LI
	Maker Space	S	•	•	•	•	•	P	P	P
	Research and Development	•	•	•	•	B	•	•	•	B
Industrial Services	Asphalt or Concrete Plant	•	•	•	•	•	•	•	•	P
	Contractor Services/Yard	•	•	•	•	•	•	S	S	P
	Electrical, HVAC, or Plumbing Fabrication	•	•	•	•	•	•	•	•	B
	Metal Fabrication	•	•	•	•	•	•	•	•	P
Manufacturing	All Use Types	•	•	•	•	•	•	•	•	P
Utility-Related	Major Utility	•	•	•	•	•	P	P	P	P
	Minor Utility	B	B	B	B	B	B	B	B	B
Warehouse-Related	Freight Terminal	•	•	•	•	•	•	•	•	P
	Warehouse, Distribution	•	•	•	•	•	•	•	•	P
	Warehouse, Storage Only	•	•	•	•	•	•	•	P	P
Waste-Related	Land-Application of Wastes	S	•	•	•	•	•	•	•	•
	Landfill, LCID	•	•	•	•	•	•	•	•	S
	Landfill, Sanitary	•	•	•	•	•	•	•	•	S
	Recycling Center	S	•	•	•	•	•	•	•	S
	Salvage and Junkyard	•	•	•	•	•	•	•	•	S
	Transfer Station	S	•	•	•	•	•	•	•	S
Wholesale Sales	Indoor Only	•	•	•	•	•	•	•	P	P
	Indoor and Outdoor	•	•	•	•	•	•	•	•	S
INSTITUTIONAL USES										

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Use Category	Use Type	Zoning Districts								
		AG	RL	RM	RMH	R-20	OI	B-1	B-2	LI
Assembly	Auditorium, Coliseum, or Convention Center	•	•	•	•	•	•	•	P	•
	Community Center	•	•	•	•	•	P	P	P	•
	Fraternal Club or Lodge	P	P	P	P	P	P	P	P	•
	Religious Institution	P	P	P	P	P	P	P	P	•
Cultural Facility	Library	•	•	•	•	P	P	P	P	•
	Museum	•	•	•	•	•	P	P	P	•
Day Care	Adult Day Care	•	•	•	•	P	P		P	•
	Child Day Care	P		P	•	P	P	P	P	•
Educational	College or University	•	•	•	•	•	•	•	S	•
	School, Elementary or Middle	P	P	P	P	P	P	P	P	•
	School, High	P	P	P	P	P	P	P	P	•
	School, Vocational	•	•	•	•	B	•	•	B	B
Government Related	Fire/EMS/ Sheriff Station	B	•	•	•	B	B	B	B	•
	Government Office	•	•	•	•	•	B	B	B	•
	Government Operations	P	•	•	•	•	•	•	P	P
	Post Office	•	•	•	•	•	B	B	B	•
Health Care	Hospital	•	•	•	•	•	P	•	P	•
	Laboratory	•	•	•	•	B	•	•	B	B
	Outpatient Facility	•	•	•	•	•	P	P	P	•
	Residential Treatment Facility	S	•	•	•	•	S	•	•	•
	Urgent Care	•	•	•	•	•	P	•	P	P

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Use Category	Use Type	Zoning Districts								
		AG	RL	RM	RMH	R-20	OI	B-1	B-2	LI
Open Space	Athletic Field or Court	P	P	P	P	P	P	P	•	•
	Cemetery	P	P	P	P	P	P	•	•	•
	Community Recreation (private)	P	P	P	P	•	•	•	•	•
	Golf Course (public or private)	P	P	P	P	•	•	P	•	•
	Park or Playground (public)	P	P	P	P	P	P	P	P	•
Recreation	Indoor Recreation, Public	P	•	•	•	•	•	P	P	•
	Outdoor Recreation, Public	P	P	P	P	•	•	P	•	•
Telecom- munications	Antenna Collocation, Major	P	•	•	•	•	P	P	P	P
	Antenna Collocation Minor	P	P	P	P	•	P	P	P	P
	Broadcasting Studio	•	•	•	•	•	•	•	B	B
	Small Wireless Facility	S	S	S	S		P	P	P	P
	Telecom- munications Tower, Major	S	•	•	•	•	•	•	S	S
	Telecom- munications Tower, Minor	P	P	•	•	•	P	P	P	P
Transportation	Airport or Air Strip	S	•	•	•	•	•	•	S	S
	Bus Station	•	•	•	•	•	•	•	B	•
	Rail Yard	•	•	•	•	•	•	•	•	S
RESIDENTIAL USES										

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Use Category	Use Type	Zoning Districts								
		AG	RL	RM	RMH	R-20	OI	B-1	B-2	LI
Accessory dwelling unit		P	P	P	•	•	•	•	•	•
Caretaker dwelling		•	•	•	•	•	S	S	S	S
Emergency shelter		B	B	B	•	B	B	B	B	B
Home occupation		P	P	P	P	P	•	P	•	•
Rural family occupation		S	•	•	S	•	•	•	•	•
Satellite dish antenna		P	P	P	P	P	P	P	P	P
Swimming pool		P	P	P	P	P	P	P	P	•
TEMPORARY USES										
Carnivals and fairs		S	•	•	•	•	S	•	B	•
Christmas tree sales		B	•	•	•	•	B	B	B	•
Concerts, stage shows		•	•	•	•	•	S	•	B	•
Conventions, trade shows		•	•	•	•	•	B	•	B	B
Food Truck		•	•	•	•	•	•	P	P	P
Horse shows		P	P	P	P	•	•	P	P	•
Outdoor flea markets		•	•	•	•	•	•	B	B	•
Outdoor fruit and vegetable markets		B	•	•	•	•	•	B	B	•
Outdoor religious events		B	•	•	•	•	S	B	B	•
Temporary construction, storage or office; real estate sales or rental office (with concurrent building permit for permanent building)		B	B	B	B	B	B	B	B	B
Temporary emergency, construction and repair residence		B	B	B	B	B	B	B	B	B
Temporary hardship manufactured home		S	S	S	S	S	•	•	•	•
Temporary shelter		•	•	•	•	•	S	•	S	•
Turkey shoots		B	B	B	B	•	•	B	B	•

§ 3.059 PROHIBITED USES

(A) *Prohibited everywhere.* The following use types are not listed in the Table of Permitted Uses and are prohibited throughout the Town's jurisdiction in all zoning districts.

- (1) Slaughterhouses.
- (2) Outdoor advertising or billboards, except where prohibition is preempted by State or federal law. Outdoor advertising lawfully established prior to May 8, 2023, may be permitted to continue as a nonconforming use only in accordance with this Ordinance, and Section 160D-912 of the North Carolina General Statutes.
- (3) Acetylene gas manufacture.
- (4) Acid manufacture.
- (5) Ammonia, bleaching powder, or chlorine manufacture.
- (6) Biohazard or infectious waste storage or incineration.
- (7) Cellophane manufacture.
- (8) Creosote manufacture or treatment plants.
- (9) Correctional facilities.
- (10) Distillation of bones, coal, petroleum, refuse, tar, or wood.
- (11) Glue and size manufacture.
- (12) Hazardous or radioactive materials handling or storage.
- (13) Nitrogenous tankage, fish meal or manufacture of any fertilizer materials carrying an objectionable odor.
- (14) Oilcloth or linoleum manufacture.
- (15) Ore reduction.
- (16) Paper manufacturing.
- (17) Pulp mills.
- (18) Vinegar manufacturing.

(19) Use of a boat, houseboat, or other floating structure as a temporary or permanent residence (this shall not prevent the overnight occupancy of a vessel temporarily moored while in transit on navigable waters);

(20) Use of a tiny home that does not comply with the State Building Code requirements as a permanent residence.

(21) Use of a recreational vehicle as a permanent residence.

(B) *Prohibited in certain areas.* Regardless of how a use type is permitted or prohibited in the Table of Permitted Uses, if a lot or tract is located within one or more of the following areas, the following uses shall be prohibited:

(1) *Critical area portion of watershed protection overlay district.*

(a) New demolition or sanitary landfills;

(b) New sites for land application of residuals; and

(c) New sites for land application of petroleum-contaminated soils.

(2) *Special flood hazard area.*

(a) The following uses are prohibited in designated floodways: buildings, including manufactured homes, and any use that would cause any increase in base flood levels.

(b) The following development is prohibited in designated floodplains due to the North Carolina Flood Act of 2000: new solid waste disposal facilities, new hazardous waste management facilities, new salvage or junkyards, and new chemical storage facilities.

§ 3.060 UNLISTED USES

(A) *Procedure.*

(1) In the event that a proposed principal or accessory use type is not listed in the Table of Permitted Uses, and such land use is not listed as a prohibited use, or is not otherwise prohibited by law, the Administrator shall determine whether a materially similar land use exists in this Ordinance.

(2) The Administrator shall determine whether or not an unlisted use is similar to an existing use type based on the definitions, the standards for unlisted uses, and the appropriate use category table listed below. Nothing shall limit the Administrator from seeking input from the Planning Commission, or Town Council in making a determination of how to categorize an unlisted use.

(3) Should the Administrator determine that a materially similar land use does exist, the regulations governing that land use shall apply to the unlisted use type and the Administrator’s determination shall be recorded in writing.

(4) In cases where a proposed unlisted use type is not found to be similar to an existing use type, the Administrator may, but shall not be required to, initiate a text amendment application to revise the text of this Ordinance to add the use type.

(B) *Agricultural Uses.* The following table sets out the use categories included in the Agricultural use classification in the Table of Permitted Uses. It also describes the characteristics and examples of the use types in each use category.

AGRICULTURAL USE CATEGORIES	
Use Category	Characteristics
	Example Use Types
Agricultural Processing	The Agricultural Processing Use Category is characterized by uses engaged in the storage, distribution, refinement, packaging, and transport of agricultural products and by-products.
	Example use types include grain and feed elevators, processing, caning, and dehydration plants, as well as storage facilities. Processing of animal products is an industrial use.
Agricultural Production	The Agricultural Production Use Category is characterized by general agricultural activities, including the cultivation and production of orchard, garden, or nursery crops on a small or large scale, the production of field grown crops, specialty crops, flowers, fruit, grapes, market gardening, nursery stock, nuts, ornamental plants, sod, vegetables, and similar horticultural uses. The use category also includes agronomy, aquaculture, biotechnical agriculture (including education parks for biotechnical agriculture or a demonstration farm), fisheries, honey production, and similar uses. Accessory uses may include offices, storage areas and repair facilities related to agriculture uses.
	Example use types include agronomy, aquaculture, biotechnical, crop farming, fisheries, apiculture, silviculture, plant nurseries, and similar uses.
Agricultural Support Services	The Agricultural Support Services Use Category is characterized by commercial establishments engaged in the sales, repair, rental, and storage of tools, equipment, supplies, and machinery in support of farms, farming, agriculture, or horticulture.
	Example use types include farm equipment sales, sales of farming supplies, establishments engaged in repair, refurbishment, servicing of farm equipment (whether on-site or in a centralized location), agricultural research facilities, and similar uses.

AGRICULTURAL USE CATEGORIES	
Use Category	Characteristics
	Example Use Types
Livestock- Related	The Livestock-Related Use Category is characterized by the commercial and non-commercial propagation, rearing, exercising, feeding, milking, housing, controlling, handling, or general care of living animals and livestock.
	Example use types include the raising and production of cattle (beef and dairy), pigs, mules, ducks, horses, goats, poultry, sheep, and similar livestock or domesticated animals. Breeding and rearing of animals typically thought of as household pets (e.g., dogs, cats, small rodents, etc.) is not animal husbandry.

(C) *Commercial Uses*. The following table sets out the use categories included in the Commercial use classification in the Table of Permitted Uses. It also describes the characteristics and examples of the use types in each use category.

COMMERCIAL USE CATEGORIES	
Use Category	Characteristics
	Example Use Types
Adult Uses	An adult use as defined in Section 14-202.10(2) of the North Carolina General Statutes.
Animal- Related	The Animal-Related Use Category is characterized by uses related to the provision of medical services and treatment to animals, including veterinary services, animal hospitals, and the boarding of animals related to the provision of these services.
	Examples use types include animal shelters, animal grooming, kennels (outdoor and indoor), animal hospitals, and veterinary clinics.
Eating and Drinking	The Eating and Drinking Use Category includes use types that prepare and sell food and beverages for immediate or direct on- or off-premise consumption. Secondary uses may include bars or cocktail lounges associated with the establishment, decks and patios for outdoor seating, drive-through facilities, facilities for live entertainment or dancing, customer and employee parking areas, and valet parking facilities.
	Example use types include restaurants (including brewpubs) with indoor and outdoor seating, bars or nightclubs, caterers, restaurants with drive-through service, specialty eating establishments (ice cream parlors, bakery shops, dessert shops, juice or coffee houses). Secondary uses may include bars or cocktail lounges associated with the establishment, decks and patios for outdoor seating, drive-through facilities, facilities for live entertainment or dancing, customer and employee parking areas, and valet parking facilities.

COMMERCIAL USE CATEGORIES	
Use Category	Characteristics
	Example Use Types
Equipment-Related	The Equipment-Related Use Category is characterized by commercial establishments engaged in the rental and repair of large and small equipment, tools, tables, chairs, party supplies, plants, and similar features available for short term rental for consideration.
	Example use types include tool rental, party supply stores, and equipment repair/refurbishment uses.
Event Venue	The Event Venue Use Category is characterized by establishments that provide gathering spaces and facilities available for conducting events, receptions, and similar shared experiences. Such facilities are rented hourly or by the day, and may include dining, catering, and activity areas. Secondary uses may include classrooms, accommodations, and equipment storage.
	Example use types include conference halls, conference centers, retreats, wedding venues, and similar spaces.
Financial Services	The Financial Services Use Category includes use types engaged in the provision of financial advice, savings, making of loans, and secure storage of currency or similar valuables.
	Example use types include banks, credit unions, investment offices, payday loan establishments, and credit counselling. Pawn shops are considered retail sales uses.
Lodging	The Lodging Use Category includes use types that provide lodging units or space for short-term stays for rent, lease, or interval occupancy. Secondary uses may include pools and other recreational facilities, limited storage, restaurants, bars, supporting commercial, meeting facilities, offices, and parking.
	Example use types include hotels, motels, bed and breakfast inns, extended stay facilities, and hunting lodges.
Parking-Related	The Parking-Related Use Category includes uses engaged in the provision of short-term, temporary off-site parking for automobile, trucks, motorcycles, battery-powered vehicles, and similar vehicles intended for personal transport. Such uses may or may not permit the temporary storage of trailers and similar vehicle-related appurtenances.
	Example use types include parking lots and parking structures. Uses engaged in sales or rental are vehicle-related uses.
Personal Services	The Personal Service Use Category is characterized by use types related to the provision of services or product repair for consumers. Personal services use types meet frequent or recurrent service needs of a personal nature, including the repair of small personal items such as shoes, watches, jewelry, and clothing.

COMMERCIAL USE CATEGORIES	
Use Category	Characteristics
	Example Use Types
	<p>Example use types include financial institutions like check cashing establishments or payroll lenders, laundromats, laundry and dry-cleaning drop-off establishments, photographic studios, mailing or packaging services, photocopy and blueprint services, locksmiths, hair salons and barber/beauty shops, tanning and nail salons, tattoo parlors and body piercing establishments, massage therapy and day spas, dance or music instruction, and psychics or mediums.</p>
Office-Related	<p>The Office Use Category includes use types that provide for activities that are conducted in an office setting and generally focus on business, professional, or financial services. Secondary uses may include cafeterias, day care facilities, recreational or fitness facilities, parking, supporting commercial, or other amenities primarily for the use of employees in the business or building.</p>
	<p>Example use types include business and sales offices (such as lenders, banks, brokerage houses, tax preparers, and real estate agents), and professional services (such as lawyers, accountants, engineers, or architects). Offices that are part of and located with a principal use in another use category are considered secondary to the establishment’s primary activity. Contractors and others who perform services off-site are included in the Offices Use Category if equipment and materials are not stored outside and no fabrication, services, or similar work is carried on at the site. Government offices are classified as Civic uses. Medical and dental clinics, medical or dental labs, and blood collection facilities are classified as Health Care uses. Financial institutions offering drive-through or walk-up service to patrons (branch banks or credit unions) are classified as Personal Services.</p>
Recreation-Related	<p>The Recreation-Related Use Category is characterized by use types that provide recreational, amusement, and entertainment opportunities that are privately-owned and commercial in nature. Uses may be either indoors, outdoors, or both.</p>
	<p>Example use types include recreational uses occurring outdoors (private golf driving ranges and privately-owned miniature golf facilities; go-cart racing, race-track, or dirt-track facilities; water parks, and amusement parks; and privately-owned active sports facilities, billiard halls, indoor commercial recreation uses, bowling alleys, movie theatres, dance and yoga studios, fitness centers, sports instructional schools, martial arts instruction, and similar uses.</p>

COMMERCIAL USE CATEGORIES	
Use Category	Characteristics
	Example Use Types
Retail Sales	The Retail Sales Use Category includes use types involved in the sale, lease, or rent of new or used products primarily intended for the general public. Secondary uses may include offices, storage of goods, limited assembly, processing, or repackaging of goods for on-site sale, concessions, ATM machines, outdoor display/sales areas, and parking. Use types within this use category are categorized based on their intensity, scale, and function.
	Example use types include stores selling, leasing, or renting consumer, home, and business goods, whether new or used, including art and art supply stores, audio/video stores, bicycle sales, book stores, clothing stores, convenience stores, department stores, dry good sales, electronic equipment stores, fabric shops, furniture stores, florist shops, garden supply centers, gift shops, grocery stores, hardware stores, stores that sell household products, jewelry stores, office supply stores, pet and pet supply stores, and pharmacies. Secondary uses may include storage of products for sale, offices, concessions, seating areas, areas for testing of products prior to purchase, and provision of product-related service or repair.
Storage-Related	The Storage-Related Use Category includes uses engaged in the temporary short-term storage of goods, personal property, vehicles, and similar aspects in off-site areas. Storage of goods can take place in indoor and outdoor facilities.
	Example use types include self-storage facilities.
Vehicle-Related	The Vehicle-Related Use Category includes use types involving the direct sale; rental; storage; and servicing of automobiles, trucks, boats, motorcycles, recreational vehicles, and other consumer motor vehicles intended to transport persons or goods over land or water or through the air, whether for recreation, commerce, or personal transport. Secondary uses may include offices, sales of parts, maintenance facilities, parking, outdoor display, and vehicle storage.
	Example use types include vehicle sales or rentals; automotive repair and servicing; automotive painting/bodywork; boat and marine sales or rental; aircraft parts, sales, and maintenance; transmission shops; automotive wrecker services; oil change, state vehicle inspection, and muffler shops; automotive parts sales and maintenance; car wash and auto detailing; and tire sales and mounting services.

(D) *Industrial Uses.* The following table sets out the use categories included in the Industrial use classification in the Table of Permitted Uses. It also describes the characteristics and examples of the use types in each use category.

INDUSTRIAL USE CATEGORIES	
Use Category	Characteristics
	Example Use Types
Energy-Related	The Energy-Related Use Category is characterized by establishment engaged in the industrial-scale production of energy (electricity).
	Example use types include wind energy conversion, geothermal, and gas energy conversion activities, as well as coal-fired plants, natural gas plants, and hydro-electric facilities.
Extractive Industry	The Extractive Industry Use Category includes use types involving the extraction, removal, or basic processing of minerals, liquids, gases, or other natural resources. Such uses also include quarrying, well operation, drilling, mining, or other procedures typically done at an extraction site. Secondary uses may include offices, limited wholesale sales, security or caretaker's quarters, outdoor storage, and maintenance facilities.
	Examples use types include quarries, borrow pits, mining, and sand and gravel operations.
Flex Space	The Flex Space Use Category includes uses engaged in the provision of covered floor area available for short-term or long-term rental for the conduct of light industrial, assembly, storage, office, and related functions.
	Example use types include industrial floor area that is available for rental and configuration as a wide variety of use types.
Industrial Services	The Industrial Services Use Category includes use types involving the repair or servicing of industrial, business, or consumer machinery equipment, products, or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Secondary activities may include limited retail or wholesale sales, offices, parking, warehousing, and outdoor storage.
	Example use types include machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; heavy equipment sales, rental, or storage; heavy equipment servicing and repair; building, heating, plumbing, or electrical contractors; fuel oil or bottled gas distributors; research and development facilities; laundry, dry-cleaning, and carpet cleaning plants; and general industrial service uses. Contractors and others who perform services off-site are included in the Offices Use Category if equipment and materials are not stored outside and no fabrication, services, or similar work is carried on at the site.

INDUSTRIAL USE CATEGORIES	
Use Category	Characteristics
	Example Use Types
Manufacturing	<p>The Manufacturing Use Category includes use types involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. The use category also includes custom industries (establishments primarily engaged in the on-site production of goods by use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, such sales are a subordinate part of total sales. Relatively few customers come to the manufacturing site. Secondary uses may include retail or wholesale sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, fueling facilities, security and caretaker’s quarters.</p>
	<p>Manufacturing uses include, but are not limited to: manufacture or assembly of machinery, equipment, instruments, vehicles, appliances, communications equipment, computer or electronic equipment, precision items and other electrical items; the processing of food and related products; lumber mills, pulp and paper mills, the manufacture of other wood products; production or repair of small machines or electronic parts and equipment; and similar uses.</p>
Utility-Related	<p>The Utility-Related Use Category is characterized by governmental or institutional activities associated with the provision of a utility or infrastructure-related service such as electricity distribution, potable water treatment, storage, or delivery, wastewater collection, storage, or treatment. Facilities are classified as major or minor depending upon their impacts or scale.</p>
	<p>Example use types include potable water treatment plants, utility equipment and storage yards, utility substations, water towers, pump stations, stormwater management facilities, telephone exchanges, and facilities serving transit.</p>
Warehouse-Related	<p>The Warehouse-Related Use Category includes use types involving the storage or movement of goods for themselves or other firms or businesses. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Secondary uses include offices, truck fleet parking, outdoor storage, and maintenance areas.</p>
	<p>Example use types include separate storage warehouses (used for storage by retail stores such as furniture and appliance stores); distribution warehouses (used for distribution by trucking companies; cold storage plants; and outdoor storage (as a principal use). Self-storage is a commercial use type.</p>

INDUSTRIAL USE CATEGORIES	
Use Category	Characteristics
	Example Use Types
Waste-Related	The Waste-Related Use Category includes use types that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. This use category also includes use types that receive wastes from others. Secondary uses may include offices, outdoor storage, recycling of materials, and repackaging and trans-shipment of by-products.
	Example use types include recycling and salvage centers, convenience centers, transfer stations, land clearing and construction debris landfills, tire disposal or recycling, waste composting, incinerators, energy recovery plants, salvage yards and junkyards, and recycling drop-off centers.
Wholesale Sales	The Wholesale Use Category includes use types involving the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or taking of orders and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on-site or delivered to the customer. Secondary uses may include offices, product repair, warehouses, minor fabrication services, outdoor storage, and repackaging of goods.
	Example use types include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures; mail order houses; and wholesalers of food, clothing, plants and landscaping materials, auto parts, and building hardware.

(E) *Institutional Uses.* The following table sets out the use categories included in the Institutional use classification in the Table of Permitted Uses. It also describes the characteristics and examples of the use types in each use category.

INSTITUTIONAL USE CATEGORIES	
Use Category	Characteristics
	Example Use Types
Assembly	The Assembly Use Category is characterized by uses and facilities that bring people together for the purposes of learning or discussion, worship, recreation, or as part of a fraternal organization. Secondary uses may include entertainment or recreation facilities, day care, food preparation facilities, offices, parking, and similar features.

INSTITUTIONAL USE CATEGORIES	
Use Category	Characteristics
	Example Use Types
	Example use types include auditoriums, community centers, fraternal clubs, lodges, and religious institutions. Schools are educational facilities.
Cultural Facility	The Cultural Facility Use Category includes use types of a public, nonprofit, or charitable nature that provide government services, cultural amenities, public safety services, and educational services. Services and facilities typically include meeting areas, display areas, recreational features, as well as indoor facilities used primarily for business or professional conferences, seminars, and training programs. Generally, such uses are open to or provide services to members of the general public. Secondary uses may include parking, training facilities, kitchens/cafeterias, recreation areas, offices, meeting rooms, storage, food sales or consumption.
	Example use types include community centers, museums, libraries, senior centers, youth clubs, and art galleries.
Day Care	The Day Care Use Category includes use types that provide care, protection, and supervision for children or adults on a regular basis away from their primary residence, and for less than 24 hours a day. Care can include education and development activities. Care can be provided during daytime or nighttime hours. Secondary uses include offices, food preparation, recreation areas, and parking.
	Example use types day care centers, nurseries, nursery schools, adult day care facilities. Home day care is considered a secondary use. Drop-in or short-term day care provided in connection with employment or at a shopping center, recreational facility, religious institution, hotel, or other principal uses are not included in the Day Care Use Category.
Educational	The Educational Use Category is characterized by uses engaged in the provision of educational services to children and adults, whether through public or private learning institutions. Secondary uses include living quarters, food preparation facilities, recreational facilities, offices, gathering spaces, and related activities.
	Example use types include primary and secondary schools, colleges, vocational schools, and establishments engaged in providing training whether for profit or as a community service.
Government-Related	The Government-Related Use Category includes facilities and establishments engaged in governance and the provision of governing-related services, public safety, and operations.
	Example use types include governmental offices, governmental maintenance facilities, post offices, law enforcement facilities, fire stations, and similar uses.

INSTITUTIONAL USE CATEGORIES	
Use Category	Characteristics
	Example Use Types
Health Care	The Health Care Use Category includes use types that provide medical or surgical care and treatment to patients as well as laboratory services. Secondary uses may include offices, laboratories, laundry facilities, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, housing for staff or trainees, and limited accommodations for family members.
	Example use types include hospitals, outpatient medical facilities, urgent care providers, medical offices (doctors, dentists, radiologists, etc.), clinics, congregate care, memory care, drug and alcohol treatment facilities, psychiatric treatment facilities, and blood/tissue collection facilities.
Open Space	The Open Space Use Category includes use types that focus on open space areas largely devoted to vegetative landscaping or outdoor recreation and that tend to have few structures. Secondary uses may include club houses, recreational structures, statuary, fountains, maintenance facilities, concessions, parking, and columbaria and mausoleums (as secondary to cemeteries).
	Example use types include arboretums or botanical gardens, parks, community gardens, areas of undisturbed vegetation on land owned by the public or a conservation entity, and cemeteries
Recreation	The Recreation Use Category includes active and passive recreation uses and facilities (whether indoor or outdoor) that are available for use by the general public or by the residents of a neighborhood or community.
	Example use types include athletic fields or courts, swim clubs, country clubs, golf courses, indoor recreation uses, and similar facilities.
Telecommunications	The Telecommunications Use Category is characterized by uses and facilities engaged in the provision of wireless telecommunication signals and information.
	Example use types include telecommunications antennae, signal processing equipment, and antenna supporting structures.
Transportation	The Transportation Use Category includes use types that provide for the landing and takeoff of airplanes and helicopters, and passenger terminals for surface transportation. Secondary uses may include freight handling areas, concessions, offices, parking, maintenance, and fueling facilities.
	Example use types include airports, helicopter landing facilities, and passenger terminals for ground transportation (train, bus). Transit route facilities such as bus stops, bus shelters, and park-and-ride facilities are classified as Utilities.

(F) *Residential Uses.* The following table sets out the use categories included in the Residential use classification in the Table of Permitted Uses. It also describes the characteristics and examples of the use types in each use category.

RESIDENTIAL USE CATEGORIES	
Use Category	Characteristics
	Example Use Types
Assisted Living	The Assisted Living Use Category is characterized by establishment providing residential occupancy to unrelated individuals in need of care, treatment, or assistance. Assistance may take the form of daily life care, specialized medical care, counselling, addiction, or fostering services.
	Example use types include congregate care, nursing homes, rehabilitation centers, and retirement communities.
Group Living	The Group Living Use Category includes use types that provide for the residential occupancy of a structure by a group of people who do not meet the definition of “household.” The size of the group may be larger than the average size of a household. Tenancy is typically arranged on a monthly or longer basis. Generally, group living structures have a common eating and or congregating area for residents. The residents may receive care, training, or treatment. Secondary uses include recreational facilities, dining facilities, and parking of vehicles for occupants and staff.
	Example use types include dormitories, family care homes, group homes, rooming, boarding houses, and similar uses. Facilities for rehabilitation or the treatment of addiction are considered assisted living facilities.
Household Living	The Household Living Use Category includes use types that provide for the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis. Secondary uses commonly associated with household living are recreational activities, raising of pets, hobbies, and parking of the occupants’ vehicles. Home occupations are secondary uses that are subject to additional regulations.
	Example use types include detached residential dwellings like single-family detached dwellings or manufactured homes, attached residential structures like townhouses, multi-family uses, upper story dwellings, and similar uses.

§ 3.061 DENSITY AND DIMENSIONAL REQUIREMENTS FOR AGRICULTURAL AND RESIDENTIAL DISTRICTS.

Within the zoning districts as shows on the official zoning map, all of the following requirements shall be complied with:

(A) *Agricultural and residential.* The density and dimensional requirements for the agricultural and residential districts are found in the table in division (B)(2)(a)1. below; and

TABLE OF DENSITY AND DIMENSIONAL REQUIREMENTS FOR AGRICULTURAL AND RESIDENTIAL DISTRICTS					
	<i>Districts</i>				
	<i>AG</i>	<i>RL</i>	<i>RM</i>	<i>RMH</i>	<i>R-20</i>
Building setback (ft.)					
Road right-of-way	75	75	75	75	50
Side property line	20	20	20	20	12
Corner lot-side street	40	40	40	40	32
Rear property: line ²	30	30	30	30	25
Maximum building height	N/A	N/A	N/A	N/A	N/A
Minimum lot size (sq. ft.) ¹					
Single-family or other permitted use	80,000 ³	80,000 ³	40,000 ⁴	40,000 ⁴	20,000
Two-family			60,000	60,000	30,000
Additional area per each additional dwelling unit (added to amount required for a two-family dwelling)			10,000	10,000	
Minimum lot width (ft.)					
Single-family	120	120	110	110	100
Two-family			110	110	100
Multi-family			120	120	100

TABLE OF DENSITY AND DIMENSIONAL REQUIREMENTS FOR AGRICULTURAL AND RESIDENTIAL DISTRICTS

	<i>Districts</i>				
	<i>AG</i>	<i>RL</i>	<i>RM</i>	<i>RMH</i>	<i>R-20</i>

NOTES TO TABLE:

Setback distances shall be measured from the road right-of-way line or property line to a point on the lot that is nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it, nor a building part allowed to encroach into a setback. (See § 3.063 of this chapter.)

1 Where public water and/or public sewer service is not available, a greater lot area may be required by the county’s Health Department.

2 Through lots (double frontage) shall have two road setbacks but no rear setback.

3. Lawfully-established lots platted prior to May 8, 2023, may retain a minimum lot size as low as 40,000 square feet.

4. Lawfully-established lots platted prior to May 8 2023, may retain a minimum lot area as low as 30,000 square feet.

(B) Any open space areas proposed for public dedication shall follow the applicable procedural requirements established by the town. (Ord. passed 4-19-2018, § 50-4)

AMENDED 6.10.24 (ZOTA1-24)

§ 3.062 DENSITY AND DIMENSIONAL REQUIREMENTS FOR NON-RESIDENTIAL DISTRICTS.

(A) Dimensional requirements for non-residential districts are shown in the table in division (C)(4) below.

(B) No lot created after the effective date of this chapter that is less than the lot width required in the table in division (C)(4) below shall be entitled to a variance from any building setback requirement.

(C) Whenever a greater building setback is required by the state’s Building Code, such greater setback shall be applicable.

(1) The Health Department may require more than 30,000 square feet without public water and sewer if conditions are less than adequate.

(2) Whenever a lot in a non-evidential district has a common boundary line with a lot in a residential district and the property line setback applicable to the residential lot is greater than that applicable to the non-residential lot, then the lot in the non-residential district shall be required to comply with the property line setback applicable to the adjoining residential lot.

(3) A corner lot shall be required to provide a street side setback of one-half the distance of the road right-of-way setback. Through lots shall have two road setbacks, but no rear setback.

(4) Building setbacks can be increased one foot for every foot in height between 35 feet and 50 feet. No building can exceed 50 feet in height.

TABLE OF DENSITY AND DIMENSIONAL REQUIREMENTS NON-RESIDENTIAL DISTRICTS				
	<i>District</i>			
	<i>B-1</i>	<i>B-2</i>	<i>OI</i>	<i>LI</i>
Building setback (ft.) ²				
Road right-of-way ⁴	50	50	50	50
Side property line ³	10	10	10	10
Rear property line	20	20	20	40
Maximum building height		35	35	35
Minimum lot size (ft.) ¹	30,000	30,000	30,000	30,000
Minimum lot width (ft.)	100	100	100	100
<p>NOTES TO TABLE:</p> <p>1. Permitted residential uses in non-residential districts may comply with the R-20 density and dimensional requirements outlined in table in § 3.058 of this chapter. Without public water and sewer, the Health Department will determine the lot size.</p> <p>2. Setback distances shall be measured from the road right-of-way line or property line to a point on the lot that is the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it nor a building part allowed to encroach into a setback. (See § 3.063 of this chapter.)</p> <p>3. Whenever a greater building setback is required by the state’s Building Code, such greater setback shall be applicable.</p> <p>4. Setbacks from road rights-of-way may be reduced to 40 feet in cases where the principal building is two or more stories in height.</p>				

(Ord. passed 4-19-2018, § 50-5)

§ 3.063 SUPPLEMENTARY DIMENSIONAL REQUIREMENTS.

(A) *Structures permitted above height limits.* Except as otherwise prohibited by this chapter, the height limitations of this chapter shall not apply to public buildings, church spires, belfries, cupolas and domes not intended for residential purposes, or to monuments, water towers, observation towers, power transmission towers, silos, grain elevators, chimneys, smokestacks, derricks, conveyors, flag poles, radio, television and communication towers, masts, aerials and similar structures not for human habitation; provided, such structures meet the required state's Building Code.

(B) *Prevailing road setback.* Where 50% or more of the lots in a recorded subdivision on the same side of the road as the lot in question are developed with less than the required road setbacks, the average setback of the two principal buildings nearest the lot shall be observed as the required minimum setback.

(C) *Encroachments into required setbacks.*

(1) *Encroachments permitted in required setbacks.* The following are permitted in required setbacks; provided, there is no interference with any sight area:

(a) Landscaping features, including, but not limited to, ornamental pools, planting boxes, sculpture, arbors, trellises and birdbaths;

(b) At grade patios, play equipment or outdoor furniture, ornamental entry columns and gates, flag poles, lamp posts, address posts, HVAC equipment, mailboxes, outdoor fire places, public utility wires and poles, pumps or wells and fences or retaining walls; and

(c) Handicapped ramps.

(2) *Structures permitted in required setbacks.* The following structures may encroach into any required setback:

(a) Cornices, steps, overhanging eaves and gutters, window sills, bay windows or similar architectural features, chimneys and fireplaces, fire escapes, fire balconies and fire towers may project not more than two and one-half feet into any required setbacks, but in no case shall be closer than three feet to any property line; and

(b) Porches and decks may encroach into the required front/road and rear setbacks, as follows:

STRUCTURES PERMITTED IN REQUIRED SETBACKS			
Porches or Deck Type	Yard	Maximum Encroachment	Maximum Area
Covered or uncovered	Road	3 ft.	35 sq. ft.
Uncovered only	Rear	50% of setback	

(3) *Canopy projections.* Gas station and convenience store pump island canopies may be located in the road setback provided that no equipment or part of a canopy is located closer than 15 feet to a road right-of-way line if the pump island is parallel to the road right-of-way or 50 feet if the pump island is perpendicular to the road right-of-way.

(D) *Easement encroachments.*

(1) *Utility easements.* In addition to the lines, boxes, structures and substation buildings for which utility easements are intended, fences without foundations may be located within utility easements.

(2) *Drainage maintenance and utility easements.* Water-related improvements, such as boat docks, may be placed or constructed within drainage maintenance and utility easements with the approval of the utility provider having jurisdiction over the easement.

(Ord. passed 4-19-2018, § 50-6)

5. DEVELOPMENT STANDARDS FOR INDIVIDUAL USES

§ 3.075 APPLICATION OF DEVELOPMENT STANDARDS.

The development standards listed herein are additional to other requirements in this chapter. These development standards are use-specific and apply to those uses designated with a “P” in § 3.058 of this chapter. Uses requiring approval of a special use (designated with a “S” in § 3.058 of this chapter) shall also be subject to these standards and any additional standards or conditions required by the special use permit.

(Ord. passed 4-19-2018, § 60-1)

§ 3.076 STANDARDS FOR ALL USES.

The following rules apply to all development standards and uses listed below.

(A) *Property separation.* All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed use is to be located to the lot line of the closest use (or zoned property) from which the proposed use is to be separated.

(B) *Use separation.* All measurements shall be made by drawing straight lines from the nearest point on the wall of a proposed or existing principal building or edge of a proposed use to the nearest point on the wall of the principal building from which the subject building is to be separated, unless otherwise specified.

(C) *Outdoor lighting.* Outdoor lighting structures shall be located, angled, shielded or limited in intensity so as to cast no direct light upon adjacent property and to avoid the creation of a visual safety hazard to passing motorists.

(Ord. passed 4-19-2018, § 60-2)

§ 3.077.1 ADULT USES.

(A) No adult uses shall locate within 2,640 feet of any other sexually-oriented business.

(B) No adult uses shall locate within 1,000 feet of a religious institution, school, day care center, public park, or residentially-zoned or used property.

(C) Except for adult motels, no adult uses shall have sleeping quarters.

(D) There shall not be more than one adult use in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult use.

(E) Except for a wall sign permitted in accordance with Section §3.178 of this chapter, no other exterior advertising, promotional materials, or signage that is visible to the public from a road, sidewalk, or walkway shall be permitted.

(F) The hours of operation shall be compatible with the land uses adjacent to the proposed site.

§ 3.077.2 ADULT DAY CARE.

(A) The use shall be certified by the North Carolina Department of Health and Human Services.

(B) The use shall obtain all required licenses and permits from the State.

(C) The use includes a pick-up and drop-off area that allows patrons to enter and exit vehicles without crossing a parking lot or vehicular accessway.

(D) Centers on a site greater than three acres shall have access to a collector or thoroughfare road.

§ 3.077.3 AGRICULTURAL PRODUCTS PACKAGING AND PROCESSING

(A) All structures, buildings, enclosed areas, and areas of outdoor storage or staging shall be a minimum of 150 feet from all lot lines.

(B) Equipment-producing noise or sounds in excess of 70 decibels be located no closer than 100 feet to the nearest residence.

(C) All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

(D) Security fencing of a minimum height of four feet or other comparable method of enclosure shall be provided around all outside storage and staging areas.

(E) An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.

(F) The use shall not generate fumes or odors beyond what normally occurs in the zoning district in which it is located.

§ 3.077.4 AGRICULTURAL STORAGE AND DISTRIBUTION.

(A) All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from all lot lines.

(B) Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(C) All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

§ 3.077.5 AIRPORT OR AIR STRIP.

(A) Airports or air strips classified as a Basic Utility Stage 1 facility with a 2,000-foot runway shall require a lot or site size of at least 50 acres.

(B) Airport, air strip, and heliport size and layout shall conform to FAA Advisory Circular 150/5300-4B, as amended.

(C) There shall be a minimum 300-foot separation distance between an airport or heliport and the nearest residence.

(D) Security fencing with a minimum height of six feet shall be provided to control access to runways and taxiways.

§ 3.077.6 ANIMAL BOARDING.

(A) Animal boarding uses with pens or runs located outdoors shall include a six-foot-high opaque fence erected along all lot lines shared with a residence.

§ 3.077.7 ANIMAL GROOMING.

(A) Overnight boarding of animals shall not be permitted.

(B) Animal grooming uses with pens located outdoors shall include a six-foot-high opaque fence erected along all lot lines shared with a residence.

(C) No more than one animal grooming use shall be allowed within a multi-tenant building.

§ 3.077.8 ANIMAL HUSBANDRY (OTHER THAN SWINE).

(A) There shall be a minimum 100-foot distance between manure storage areas, barns or stables, and any adjacent residentially zoned property.

(B) All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjoining properties.

§ 3.077.9 ASPHALT OR CONCRETE PLANT.

(A) An asphalt plant shall be located at least 50 feet from a lot line.

(B) A security fence, a minimum of six feet in height, shall be provided around the use.

(C) Within one year of the cessation of the use, all equipment and stockpiles incidental to the operation shall be dismantled and removed by and at the expense of the landowner.

(D) The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public ways, nor to appreciably increase the turbidity of any natural water course, or to occlude any existing drainage course, except in an instance where redevelopment for another permitted use is in progress.

(E) Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition.

(F) Access drives shall be located no closer than 15 feet from a lot line.

(G) An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.

§ 3.077.10 ATHLETIC FIELD OR COURT.

Athletic fields or courts shall comply with the following standards:

(A) Athletic fields and courts used for night-time or weekend activities shall be located at least 100 feet from lot lines shared with residentially zoned land.

(B) The athletic field or court shall be surrounded by a fence with a minimum height of four feet, and shall be supplemented with netting or other devices that limit projectiles from travelling off-site, if determined necessary by the Zoning Administrator.

(C) Exterior lighting for athletic fields shall include aimable LED lights, louvers or glare control shielding, and configured so that the maximum illumination at any lot lines abutting residentially zoned or used lands is a maximum of one footcandle.

§ 3.077.11 AUDITORIUM, COLISEUM, OR CONVENTION CENTER.

(A) The parcel or site shall have an area of at least three acres;

(B) The building shall be located at least 500 feet from any lot in a single-family residential zoning district; and

(C) No products shall be sold on-site except those that are clearly incidental and integral to training programs and seminars conducted in the auditorium (e.g., food items, shirts, glasses and mugs, pens and pencils, and similar items bearing the logo of conference or seminar sponsors or participants).

§ 3.078.1 BAR, COCKTAIL LOUNGE, PRIVATE CLUB.

- (A) No bar, cocktail lounge, private club, or similar venue shall be located within 500 feet of any other bar, cocktail lounge, private club, night club, or dance hall.
- (B) No bar or lounge shall be located within 200 feet of a religious institution, elementary or secondary school, public park, or residentially zoned property.
- (C) No bar, cocktail lounge, private club, or similar venue, including any outdoor activity areas, shall be located within 75 feet of a public road right-of-way.
- (D) Such uses shall have direct access via a collector or higher capacity road.
- (E) The main entrance of the building shall face a street. In cases where the building could face more than one street, it shall be configured to face the street with the larger number of non-residential establishments or where the larger number of non-residentially zoned lots are located.
- (F) A six-foot-high opaque fence shall be erected along all lot lines shared with a residence.
- (G) Off-street parking areas shall be located no closer than 30 feet to the property line of abutting residences.

§ 3.078.2 BED AND BREAKFAST.

- (A) The use shall be owned and operated by a resident owner.
- (B) The use shall be located in a structure that was originally constructed as a residential dwelling.
- (C) Meals served on the premises shall be only for guests of the facility.
- (D) There shall be no exterior advertising except that which is permitted for a home occupation.
- (E) An evergreen vegetation screen or opaque fence or wall shall be installed along all lot lines shared with a residence.

§ 3.078.3 BOARDING HOUSE.

- (A) The property owner or lessee must reside on the same premise as the boarding house with the structure clearly serving as that person's permanent residence.
- (B) No more than five sleeping rooms shall be available for rent.
- (C) Separate structures, accessory buildings, and garages are not permitted to be used as boarding rooms.

(D) No separate exterior doorways for individual boarding rooms shall be permitted.

(E) There shall be no exterior advertising except that which is permitted for a home occupation.

(F) Parking for boarders shall not be served by a separate driveway from the driveway serving the principal residential structure and all parking spaces shall be fully screened from abutting residential uses with evergreen trees and shrubs.

(G) Prompt disposal of all garbage in a sanitary condition is required.

§ 3.078.4 BULKY ITEMS SALES.

(A) All outdoor storage of materials shall be screened from view of adjacent streets and residentially zoned land. This screening requirement shall not apply to the placement of goods or products for sale.

(B) Portable storage containers and dumpsters that are utilized for the purpose of display and any item that exceeds 10 feet in height shall not be placed within required setbacks, parking, or landscape areas; and

(C) Other bulky items that are less than or equal to 10 feet in height must be located at least 10 feet from any public street and shall not be placed within required parking or landscape areas.

§ 3.078.5 BUSINESS INCUBATOR.

(A) A business incubator may be provided as a principal use in its own building, as a tenant in a multi-tenant building, or as an accessory use to an existing office, personal service, or industrial use.

(B) When proposed as a accessory use to an existing business or development, the floor area devoted to the business incubator shall not exceed 25 percent of the building's gross floor area.

(C) Business incubators shall meet the off-street parking requirement for this use type, not the individual types of uses within the business incubator.

(D) Floor area within a building serving as a business incubator may be used for storage, but no outdoor activity or storage is permitted.

§ 3.079.1 CAMPGROUND.

(A) *General requirements.*

(1) No campsite shall be used as a permanent place of abode, dwelling, or business for indefinite periods of time. Continuous occupancy extending beyond three months in any 12-month period shall be presumed to be permanent occupancy.

- (2) Accessory uses shall be so designed and developed so as to blend with the park's design and natural setting. Such uses shall be clearly accessory to the principal use as a campground/recreational vehicle park.
 - (3) Accessory uses shall include management headquarters, recreational facilities, toilets, showers, coin-operated laundry facilities, and other uses and structures customarily incidental to the operation of the park.
 - (4) Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants.
 - (5) The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence, or erosion shall be used for any purpose that would expose persons or property to hazards.
 - (6) Surface drainage plans for the entire tract shall be reviewed by the Zoning Administrator to determine whether the proposed plan is compatible with the surrounding existing drainage pattern and relevant drainage plans, prior to issuance of site plan approval and building permits. No permit shall be issued where it is determined that the plan is incompatible with surrounding areas.
- (B) *Dimensional requirements.*
- (1) Minimum density shall be limited to 15 campsites per net acre, excluding public areas, rights-of-way, watercourses, and other areas as may be set forth.
 - (2) In no case shall any campsite contain less than 1,500 square feet. To the greatest extent possible, campsites shall be developed to preserve their natural character. Campsites shall be level and well-drained.
 - (3) The minimum setback from any private, interior road shall be 20 feet from the edge of pavement.
 - (4) The minimum exterior side property line setback, when abutting residentially used or zoned areas, shall be 50 feet. In all other cases, the exterior side property line setback shall be at least 20 feet.
 - (5) The minimum exterior rear property line setback, when abutting residentially used or zoned areas, shall be 50 feet. In all other cases, the exterior rear property line setback shall be at least 30 feet.
- (C) *Access and road requirements.*
- (1) Entrance driveways shall be located not closer than 150 feet from the intersection of public roads.

- (2) Interior access roads not proposed for public dedication shall conform to the construction standards for subdivision roads of NCDOT. However, requirements for minimum rights-of-way and paving widths shall not apply.
- (3) Plans and profiles shall be submitted for review and approval. In no case shall the road or parking width be less than 10 feet.
- (4) Entrances and exits to campgrounds shall be designed for safe and convenient movement of traffic into and out of the establishment and to minimize marginal friction with free movement.

(D) *Parking requirements.*

- (1) There shall be at least three off-street parking spaces designated for each two campsites. At least one space must be provided on each campsite with any residual spaces provided within 100 feet of the site.
- (2) Each campsite shall contain a stabilized vehicular parking pad of paving or other suitable material.

(E) *Utility requirements.*

- (1) No on-site water or sewer facilities shall be permitted on any campsite.
- (2) Proposals for toilets and restrooms, laundries, and baths shall have the approval and be subject to the requirements of the Nash County Health Department.
- (3) All community water facilities shall be subject to the requirements of and be approved by the Nash County Health Department or NC Division of Health Services.
- (4) All sewer facilities improvements shall have the approval of the Nash County Health Department and the NC Division of Environmental Management.
- (5) All water and sewer improvements shall comply with the NC Building Code for Plumbing.

(F) *Screening requirements.* Campgrounds abutting residentially zoned areas shall include a permanent undisturbed perimeter buffer of at least 50 feet in width. A natural, year-round screen of at least eight feet in height at maturity shall be maintained within the buffer.

(G) *Recreational space requirements.* At least eight percent of the campground area shall be set aside as common use area for open or enclosed recreation facilities.

§ 3.079.2 CEMETERY.

(A) All requirements of the North Carolina General Statutes and Nash County concerning the interment of human remains shall be met.

(B) No interment shall take place within five feet of any lot line nor within 50 feet of any public road right-of-way.

(C) A cemetery shall be served by a public street, private street, or driveway located within a minimum 18-foot-wide access easement must be reserved from a public road to the cemetery.

(D) Family cemeteries shall be platted and recorded in the offices of the Nash County Register of Deeds.

§ 3.079.3 CHILD DAY CARE.

(A) Child day care centers shall comply with the standards in Article 7, Chapter 110, of the North Carolina General Statutes, as well as the Summary of North Carolina Child Care Laws and Rules pamphlet prepared by the NC Department of Health and Human Services.

(B) Outdoor activity area(s) shall be located outside of any required street setback and shall be enclosed by a security fence of at least six feet in height.

(C) Centers on a site greater than three acres shall have access to a collector or thoroughfare road.

§ 3.079.4 COFFEE SHOP OR BAKERY.

(A) To assure provision of adequate parking, the maximum amount of seating and/or square footage of the public floor area in a multi-tenant building shall be specified at the time of site plan approval.

(B) A coffee shop or bakery shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential district.

(C) Outdoor seating areas shall be located no closer than 100 feet from any residential zoning district.

§ 3.079.5 COMMUNITY CENTER.

(A) Community centers shall not front on or gain access from a residential local street;

(B) Outdoor courts, swimming pools, and athletic fields shall be located at least 50 feet from any lot line abutting a single-family residential district; and

(C) Uses in residential districts shall be on a lot of at least two acres in area.

(D) An evergreen vegetation screen or opaque fence or wall shall be installed along all lot lines shared with a residence.

§ 3.079.6 COMMUNITY RECREATION (PRIVATE).

(A) The minimum area for a community recreation use shall be at least two acres.

(B) Private community recreation uses shall have direct access to a collector or higher capacity road. However, if the use is intended to serve only a membership that is limited to a residential development, access may be provided from an interior road within the same residential development.

(C) A minimum distance of at least 50 feet shall be maintained between a clubhouse, swimming pool, lighted tennis court, or golf course tee, green, or fairway and any adjacent residence.

(D) An evergreen vegetation screen or opaque fence or wall shall be installed along all lot lines shared with a residence.

(E) The hours of operation allowed shall be compatible with the land uses adjacent to the facility, the amount of noise generated shall not disrupt the activities of the adjacent land uses.

(F) Outdoor swimming pools shall be protected by a fence in accordance with the Nash County Health Department's public swimming pool regulations.

§ 3.079.7 CONGREGATE CARE.

(A) The facility shall provide centrally located, shared food preparation, services to residents, and shared dining areas.

(B) Common recreation, social, and service facilities shall be provided at a minimum rate of 30 square feet per dwelling unit or per rooming unit.

(C) All facilities shall be solely for the use of residents and their guests.

(D) No congregate care facility shall be located within one-half mile (2,640 feet) of another congregate care or nursing home facility.

§ 3.079.8 CONTINUING CARE RETIREMENT COMMUNITY.

(A) The maximum development density is based on the number of independent living units only and may not exceed five units per acre for the development site.

(B) Single-family detached dwellings are not subject to the dimensional standards for the zoning district where located but must maintain 15 feet from each lot line and any other principal structure whether on the same or a different lot.

(C) In no instance shall any individual site within a CCRC exceed a maximum lot coverage of 70 percent.

(D) An evergreen vegetation screen or opaque fence or wall shall be installed along all lot lines shared with a residence.

(E) To ensure the safety and security of residents within a continuing care retirement community, the development shall be surrounded by a perimeter wall or fence with a minimum height of four feet located internal to the perimeter buffer.

(F) Access and circulation shall adequately provide for firefighting equipment, service deliveries and refuse collection.

(G) Pedestrian paths shall form a logical, safe, and convenient system for pedestrian and handicap access to all on-site buildings and facilities as well as major off-site destinations.

§ 3.079.9 CONTRACTOR SERVICES/YARD.

(A) Outdoor storage of equipment, materials, and vehicles shall be screened from view from all adjacent residential uses and public rights-of-way.

(B) Equipment can exceed the required fence height but shall be stored in a manner that limits visibility from the line of sight from all street rights-of-way.

§ 3.079.10 CONVENIENCE STORE.

(A) Convenience stores shall be limited to a maximum of 3,000 square feet of gross floor area per establishment.

(B) No outdoor storage shall be permitted.

(C) There shall be no more than two gasoline service islands for each 1,000 square feet of building area.

§ 3.081.2 EQUESTRIAN FACILITY.

(A) There shall be a minimum 100-foot distance between manure storage areas, barns or stables and any adjacent residentially zoned or used property.

(B) All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjoining properties.

(C) Restroom facilities shall be approved by the Nash County Health Department.

§ 3.081.3 EVENT VENUE, INDOORS OR OUTDOORS.

(A) Outdoor activity areas shall be set back from lot lines shared with a residential use by an amount at least twice the minimum rear setback for the district where the use is located.

(B) The maximum number of guests shall be in accordance with the maximum occupancy of the principal structure as determined by the fire marshal or fire chief.

(C) Outdoor activities shall not take place between the hours of midnight and 7:00 AM.

(D) Exterior lighting shall not project into adjoining residential lots. Use of stadium-style or other pole-mounted lighting is prohibited. Lighting of accessible paths may be provided, if necessary.

(E) The event venue shall provide sufficient on-site trash receptacles and shall ensure that windblown trash or other debris does not accumulate anywhere on the site.

(F) Event venue uses shall demarcate the boundaries of the event venue site for guests and shall include fences, walls, or other techniques such as landscaping to ensure guests to do not inadvertently trespass on adjacent lots.

(G) Event venues shall ensure adequate ingress and egress from all buildings and structures to accommodate emergencies.

§ 3.081.4 EXTRACTIVE INDUSTRY.

(A) The edges of any pit where an extractive industry operation is taking place and any equipment used in the processing of rock and gravel, any asphalt plant, or other industrial uses operated in conjunction with the mine or quarry shall be located at least 100 feet from any property line.

(B) Where the mining operation site is bounded by a railroad right-of-way currently being used for rail service to the mining operation, no setback shall be required between the railroad right-of-way and such operation.

(C) All operations involving blasting discernible beyond the external property line on a quarry shall only be conducted between the hours of 7:00 AM and 6:00 PM.

(D) A valid state-issued mining permit shall be obtained before any land disturbing activity takes place.

(E) A fully opaque fence or wall of at least six feet in height shall be installed around the perimeter of the development. In cases where the Town Council determines that a berm is necessary in addition to any perimeter fence or wall, the minimum height of the berm shall be six feet.

§ 3.082.1 FAMILY CARE HOME.

(A) Family care homes shall comply with the standards in Section 160D-907 of the North Carolina General Statutes.

(B) A lot containing a family care home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home, residential treatment facility, or a group home.

§ 3.082.2 FARM EQUIPMENT SALES AND SERVICE.

(A) All outdoor storage of materials and machinery service areas shall be screened from view of adjacent streets and residentially zoned land. This screening requirement shall not apply to the placement of goods or products for sale.

(B) Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(C) All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

§ 3.082.3 FARM SUPPLY SALES.

(A) All outdoor storage of materials shall be screened from view of adjacent streets and residentially zoned land. This screening requirement shall not apply to the placement of goods or products for sale.

(B) Products for sale shall not be placed within required parking or landscape areas.

(C) All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

§ 3.082.4 FLEA MARKET.

(A) A minimum lot area of two acres shall be required.

(B) The amount of noise generated shall not disrupt the activities of the adjacent land uses.

(C) Principal access must be from a collector or higher capacity road.

(D) The hours of operation allowed shall be compatible with the land uses adjacent to the outdoor flea market.

§ 3.082.5 FRATERNAL CLUB OR LODGE.

(A) Fraternal clubs and lodges located on sites of three acres or more shall have direct access to a collector or higher capacity road.

(B) The minimum building setback from any adjacent street right-of-way shall be at least 25 feet greater than the corresponding street setback applied to a single-family detached dwelling for the zoning district in which located.

(C) The minimum side and rear setbacks shall be at least 50 feet unless a larger setback is required by the underlying zoning district.

(D) An evergreen vegetation screen or opaque fence or wall shall be installed along all lot lines shared with a residence.

§ 3.082.6 FREIGHT TERMINAL.

(A) All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

(B) Security fencing of a minimum height of six feet or other comparable method of enclosure shall be provided around all outside storage and staging areas.

(C) An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.

(D) Where the site is bounded by a railroad right-of-way currently being used for rail service to the terminal, no setback shall be required between the railroad right-of-way and such operation.

§ 3.082.7 FUEL OIL/BOTTLED GAS DISTRIBUTOR.

Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

§ 3.082.8 FUNERAL-RELATED SERVICES.

(A) Crematories shall not be located within a residential zoning district;

(B) All storage shall take place within enclosed buildings; and

(C) Display of headstones or other memorials shall be fully screened from any lot line shared with a lot in a residential zoning district.

§ 3.083.1 GASOLINE SALES.

(A) There shall be no more than two gasoline service islands with fuel pumps.

(B) All structures, buildings, and outdoor use areas shall be a minimum of 100 feet from a residentially used or zoned lot.

(C) Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(D) All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

(E) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

(F) Vehicle access to the use shall be provided only by way of a US or NC numbered highway.

§ 3.083.2 GOLF COURSE (PUBLIC OR PRIVATE).

(A) A minimum distance of at least 50 feet shall be maintained between a tee, green, or fairway and any adjacent residence.

(B) Activities like driving ranges and similar features shall incorporate fencing, netting, or other control measures around the perimeter of the activity area to ensure projectiles do not leave the area and endanger off-site areas.

§ 3.083.3 GOVERNMENT OPERATIONS.

(A) Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(B) All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

(C) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

(D) Vehicle access to the use shall be provided only by way of a US or NC numbered highway.

§ 3.083.4 GROCERY STORE.

(A) Outdoor displays shall be configured to permit safe pedestrian access along the front of the building.

(B) Outdoor storage shall not take place within a required parking or landscaping area.

§ 3.083.5 GROUP HOME.

(A) A lot containing a group home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home, residential treatment facility, or another group home.

(B) The use shall be operated in a manner that is compatible with the surrounding neighborhood and shall not be detrimental to adjacent lands as a result of traffic, noise, refuse, parking, loitering, or other activities.

(C) An evergreen vegetation screen or opaque fence or wall shall be installed along all lot lines shared with a residence.

(D) The number of occupants in a group home shall be limited to the maximum number that may be accommodated while at the same time complying with all applicable County regulations and State requirements.

(E) The use shall maintain a residential appearance compatible with its surroundings when proposed in a residential district.

(F) The use shall meet all State requirements, as well as all applicable housing and building code requirements.

§ 3.084.1 HEAVY EQUIPMENT SALES, RENTAL, & REPAIR.

(A) All outdoor storage of materials and machinery service areas shall be screened from view of adjacent streets and residentially zoned land.

(B) Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(C) All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

§ 3.084.2 HOSPITAL.

(A) A hospital shall be located on a site or parcel with an area of at least five acres that fronts or has direct access to a collector or thoroughfare street.

(B) The emergency vehicle entrance shall only be accessed via a collector or thoroughfare street and shall not be located across a street from a residential zoning district.

§ 3.084.3 HOTEL OR MOTEL.

Restaurants, bars, and night clubs approved as an accessory to a hotel or motel use shall be subject to the principal use standards for these use types.

§ 3.085.1 INDOOR RECREATION, COMMERCIAL.

The hours of operation allowed shall be compatible with the land uses adjacent to the facility, the amount of noise generated shall not disrupt the activities of the adjacent land uses.

§ 3.085.2 INDOOR RECREATION, PUBLIC.

The hours of operation allowed shall be compatible with the land uses adjacent to the facility, the amount of noise generated shall not disrupt the activities of the adjacent land uses.

§ 3.085.3 INSTRUCTIONAL SERVICES.

Instructional service uses with outdoor activity shall include an evergreen vegetation screen or opaque fence or wall along all lot lines shared with a residentially zoned or used lot.

§ 3.088.1 LAND-APPLICATION OF WASTES.

(A) The minimum lot area shall be 20 acres.

(B) A valid NCDEQ application and permit for soil remediation through land application must be filed with the Nash County Planning Department at an appropriate time.

(C) Soil application site shall comply with the setback requirements of the North Carolina Administrative Code 15A NCAC 02T. 1506.

(D) Access to the site shall be controlled with gates, chains, fences, ditches, and/or vegetation to prevent unregulated dumping.

(E) No remediation of soils containing hazardous or radioactive contaminants. No dumping or spreading of soils is permitted in the 100-year floodplain of any stream.

(F) All unpaved areas shall be maintained in a manner that prevents dust from leaving the property.

(G) The hours of operation shall be compatible with the land uses adjacent to the proposed site.

(H) A fully opaque fence or wall of at least six feet in height shall be installed around the perimeter of the development. In cases where the Town Council determines that a berm is necessary in addition to any perimeter fence or wall, the minimum height of the berm shall be six feet.

(I) Soil remediation sites shall be closed in accordance with the requirements of the requirements of the North Carolina Administrative Code 15A NCAC 02T.1507.

§ 3.088.2 LANDFILL, LCID.

(A) No areas of disturbance shall be located closer than 50 feet from any lot line and at least 300 feet from any residence.

(B) Access to the landfill shall be controlled with gates, chains, fences, ditches, and/or vegetation to prevent unregulated dumping.

(C) All unpaved areas shall be maintained in a manner that prevents dust from leaving the property.

(D) No filling shall take place within the 100-year floodplain or within any utility easements.

(E) Upon closure, landfills shall be surfaced with a minimum of two feet of clean soil, graded to a maximum slope of 3:1 and stabilized with vegetation or in accordance with current State standards.

(F) An entrance sign shall be posted and maintained which lists the name and phone number of the current operator, the types of material accepted, the hours of operation, tipping charges and any other pertinent information.

§ 3.088.3 LANDFILL, SANITARY.

(A) A minimum of 50 acres shall be required to establish a sanitary landfill facility.

(B) All structures, buildings, and landfilling operations shall be a minimum of 300 feet from a residentially zoned or used lot.

(C) Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(D) Access to the facility shall be by way of a collector or higher classified road.

(E) Entrances shall be controlled to prevent unregulated access to the facility.

(F) Access roads leading to any part of the facility shall be constructed with a gravel or crushed stone surface and maintained in a dust-free manner.

(G) No part of access roads shall be located closer than 15 feet to an external property line other than a limited access highway or railroad right-of-way line.

(H) An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.

(I) The siting and design of the facility shall comply with the applicable requirements of the NC Solid Waste Management Rules.

(J) The operation of the facility shall be in compliance with the State of North Carolina's operation, maintenance, and monitoring regulations for solid waste disposal facilities.

§ 3.088.4 LIBRARY.

Libraries shall have direct access to a collector or higher classified road.

§ 3.088.5 LIGHT EQUIPMENT SALES, RENTAL, & REPAIR.

(A) All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

(B) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

§ 3.089.1 MAKER SPACE.

- (A) No outdoor storage or activity shall be permitted.
- (B) The use shall include adequate ventilation and equipment for the dispersal of vapors, dust, or airborne contaminants created within the structure.
- (C) The use shall include a fire suppression system as required by the North Carolina Fire Code and associated appendices.
- (D) The use shall not operate between the hours of 11:00 PM and 7:00 AM.
- (E) Incidental sale of products created on site is permitted.

§ 3.089.2 MANUFACTURING.

- (A) All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.
- (B) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.
- (C) Above-ground outdoor storage tanks shall be subject to the following standards:
 - (1) They shall be located at least 200 feet from any lot line;
 - (2) Tanks or groups of tanks shall be diked to prevent the spread of liquid onto other property, waterways, or drainageways. The volumetric capacity of the diked area shall not be less than the capacity of the largest tank within the diked area.
 - (3) Dikes or retaining walls shall be of earth, steel, concrete, or solid masonry designed and constructed to be liquid tight and to withstand a full hydraulic head.
 - (4) Earthen dikes three feet or more in height shall have a flat section at the top not less than two feet in width. The slope shall be consistent with the angle of repose of the material of which the dikes are constructed.
 - (5) Dikes shall be restricted to an average height of not more than six feet above the exterior grade unless means are available for extinguishing a fire in any tank. Dikes enclosing such tanks shall be provided at the top with a flareback section designed to turn back a boil-over wave. A flareback section shall not be required for dikes and walls enclosing approved floating roof tanks. No loose combustible material, empty or full drums or barrels, shall be permitted within the diked area.
 - (6) Where provision is made for draining rainwater from diked areas, such drains shall normally be kept closed and shall be designed so that when in use they will not permit flammable

liquids to enter natural watercourses, public sewers, or public drains. Where pumps control drainage from the diked area, they shall not be self-starting.

(D) Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

§ 3.089.3 MANUFACTURED HOME (CLASS A AND B)

A manufactured dwelling shall comply with Section 160D-910 of the North Carolina General Statutes, and the following standards:

(A) It shall be located on its own individual lot unless located within a manufactured home park;

(B) It shall be occupied only as a single-family dwelling;

(C) It shall be configured in accordance with the standards established by the North Carolina Department of Insurance and the most current version of the State of North Carolina Regulations for Manufactured Homes;

(D) It shall maintain a minimum width of 16 feet;

(E) It shall be oriented with the longest axis parallel to the lot frontage, to the maximum extent practicable;

(F) The towing apparatus, wheels, axles, and transporting lights shall be removed;

(G) It shall include a continuous, permanent masonry foundation and a curtain wall of solid brick, brick veneer, or vinyl material installed under the perimeter and unpierced except for required ventilation and access. This standard shall not apply to manufactured homes located within a manufactured home park;

(H) It shall include stairs, porches, entrance platforms, ramps, and other means of entrance and exit that are installed or constructed in accordance with the standards set by the North Carolina Building Code. They shall be attached firmly to the primary structure and anchored securely to the ground;

(I) It shall maintain exterior siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, which consists of one or more of the following: vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint); cedar or other wood siding; stucco siding; or brick or stone siding;

(J) It shall maintain a roof pitch with a minimum vertical rise of three feet for each 12 feet of horizontal run;

(K) It shall include a roof finished with a Class C or better roofing material that is commonly used in standard residential construction;

(L) It shall provide an eave projection of no less than six inches, which may include a gutter; and

(M) Storage of an unlicensed (no license plate) or inoperable vehicle or trailer is prohibited outside or an enclosed building or opaque fence or wall that fully screens the vehicle or trailer from all off-site views.

§ 3.089.4 MANUFACTURED HOME PARK.

(A) *General requirements.*

- (1) A manufactured home park shall include at least five individual home spaces.
- (2) A manufactured home park shall be separated from the perimeter of a different mobile home park by at least 2,640 linear feet.
- (3) The transfer of a deed to an individual manufactured home space or spaces either by sale or by any other manner is prohibited within a manufactured home park as long as the home park is in operation.
- (4) Prefabricated structures specifically designed for manufactured dwelling extensions and any other addition meeting the State Building Code may be added to a manufactured home provided that all set back requirements are met and a building permit is obtained prior to placement.
- (5) Up to one manufactured home may be used as an administrative office.
- (6) The Nash County Health Department, the Nash County Building Inspector, and the Zoning Administrator are authorized to make inspections as are necessary to determine satisfactory compliance with this Section. The owners and occupants of manufactured home parks shall ensure free access to the premises for inspection at reasonable times.
- (7) The owner or operator shall notify park occupants of all applicable provisions in this Section and inform them of their duties and responsibilities under this Section.

(B) *Manufactured home space requirements.*

- (1) Each manufactured home shall be located on its own individual manufactured home space, and no more than one manufactured home shall be located within any single space.
- (2) All home spaces shall be served by either a municipal or community potable water or municipal or community sanitary sewer system.

- (3) Spaces served by municipal water and sewer systems or by community water and sewer systems shall have at least 5,000 square feet of lot area.
- (4) Spaces served by either a municipal or community sewer system, but not served by a municipal or community water system shall have at least 20,000 square feet of lot area or a larger area if determined necessary by the Nash County Health Department.
- (5) Spaces served by a municipal or a community water system but not served by a municipal or a community sewer system shall have at least 20,000 square feet of lot area or a larger area if determined necessary by the Nash County Health Department per manufactured home unit, and in no instance shall there be more than one manufactured home serviced by a single septic tank.
- (6) Each manufactured home space shall be clearly defined by means of concrete or iron pipe markers placed at all corners and each space shall clearly display a street address as assigned by the County.
- (7) Each manufactured home space shall be located so as not to be susceptible to flooding and shall be graded so as to prevent any water from ponding or accumulating on the premises.
- (8) Each manufactured home shall be located at least 20 feet from any other manufactured home, at least 20 feet from the perimeter of the mobile home park development, and at least 15 feet from the edge of the right-of-way of any private interior road. The setback from a public road right-of-way shall be the same as that required for the zoning district in which the manufactured home park is located.

(C) *Road and access requirements.*

- (1) No manufactured home space shall have direct vehicular access to a public road.
- (2) Convenient access to each manufactured home space shall be provided by roads with a minimum right-of-way of 50 feet for a residential collector road and 45 feet for a local residential road as defined by the North Carolina Department of Transportation Subdivision Roads Minimum Construction Standards Manual.
- (3) The required travel way or pavement width is 20 feet for a 50-foot right-of-way and 18 feet for a 45-foot right-of-way.
- (4) Private roads within manufactured home parks shall conform to the construction standards for public roads.
- (5) Proper sight lines shall be maintained at all road intersections in accordance with the current NCDOT requirements for sight clearances.
- (6) New road names shall not duplicate or be similar to existing road names in the County and shall be subject to approval by the County.

- (7) Automobile parking spaces shall be provided adjacent to each manufactured home space but shall not be located within any public right-of-way nor within any road in the park.
- (8) The manufactured home park owner shall be responsible for the continued maintenance of private roads within the mobile home park.

(D) *Utility requirements.*

- (1) An accessible, adequate, and potable supply of water shall be provided in each manufactured home park. Where a municipal water supply is available, connection shall be made used exclusively. When a municipal water supply is not available, a community water supply shall be developed and used exclusively in accordance with the standards of the NC Division of Health Services.
- (2) Placement of water improvements to manufactured home spaces shall comply with the NC Building Code for Plumbing.
- (3) Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment plants meet the approval of the NC Division of Environmental Management shall be provided.
- (4) Individual septic tank systems can be considered, if soil, topography, and ground water conditions are favorable and approval from the Nash County Health Department is obtained.
- (5) Placement of sewer improvements to manufactured home spaces shall comply with the State Building Code for Plumbing.
- (6) Provision shall be made for plugging the sewer pipe when a manufactured home does not occupy a space. Surface drainage shall be diverted away from the rise. The rim of the riser pipe shall extend at least 4 inches above ground elevation.

(E) *Solid waste disposal and sanitation requirements.*

- (1) The storage, collection, and disposal of solid waste in a manufactured home park shall be in accordance with the requirements of the Nash County Health Department.
- (2) Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the Nash County Health Director.
- (3) Manufactured home parks shall be maintained from an accumulation of debris which may provide rodent harborage or breeding places for flies, mosquitoes, and other pests.
- (4) Storage areas shall be so maintained as to prevent rodent harborage. Lumber, pipe, and other building materials shall be stored at least one foot above the ground.

- (5) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.
- (6) The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers, and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

(F) *Street lighting requirements.* All roads in a manufactured home park shall be adequately illuminated from sunset to sunrise. The minimum size streetlight shall be a 175-watt mercury-vapor (approximately 7,000 lumen class), or its equivalent, spaced at intervals of not more than 300 feet.

(G) *Electrical service requirements.* Minimum electrical service of 200 ampere, 120/240 volt single phase shall be provided to each manufactured home space. The service panel and location as well as all wiring shall be in accordance with the National Electrical Code.

(H) *Screening requirements.* An evergreen vegetation screen or opaque fence or wall shall be installed along all lot lines shared with a residence.

(I) *Recreational space requirements.*

- (1) Each manufactured home park shall provide 400 square feet of open space set aside configured for active recreation for each manufactured home space.
- (2) Recreational areas shall not be located in an area utilized for septic tank fields.

§ 3.089.5 MARINE-RELATED USES.

- (A) All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.
- (B) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.
- (C) Dry storage of boats shall not exceed a height of 35 feet.

§ 3.089.6 METAL FABRICATION.

The use shall not generate noise, vibration, glare, fumes, or odors on adjacent residentially zoned or used property.

§ 3.089.7 MICROBREWERY OR MICRODISTILLERY.

A microbrewery or microdistillery use shall comply with the use standards in this section for a bar, cocktail lounge, or private club.

§ 3.089.8 MULTI-FAMILY DWELLING.*(A) Building placement.*

- (1) Buildings shall be setback from one another in accordance with the North Carolina State Building Code.
- (2) Buildings must be set back from private drives and parking lots a minimum of ten feet as measured from back of curb or edge of pavement, if no curb is provided.
- (3) Buildings shall be setback from public streets in the development in accordance with the street setbacks for the district where located.

(B) Building length.

- (1) The maximum length of a multi-family building shall be 250 linear feet.
- (2) No maximum building length shall be applied if the building is designed for occupancy by the elderly and it has central facilities for dining and recreation.
- (3) In no instance shall the provision of a firewall between different building sections constitute two separate buildings for the purpose of meeting the building length requirement.

(C) Recreation facilities. Active recreation facilities must be placed a minimum of 50 feet from adjacent land used for single-family detached residential purposes.

(D) Utilities.

- (1) All multi-family development shall be served by public water and sanitary sewer service.
- (2) All electric, communications, water and sewer utility lines shall be installed underground.

(E) Condominiums. Multi-family development configured as condominiums shall comply with the following standards:

- (1) Condominiums shall conform to the use and development requirements of this Ordinance for the zoning district(s) where located.
- (2) Condominiums shall conform to the requirements of the North Carolina Condominium Act, in Chapter 47C of the North Carolina General Statutes.
- (3) Condominium ownership may be created by the owner or co-owners of a structure(s) by an express declaration of their intention to submit such property to the provisions of the North Carolina Condominium Act, which declaration shall be subject to approval by the Board of Commissioners and recorded in the office of the Nash County Register of Deeds.

(F) *Screening.* Utility areas such as clothes drying yards and outdoor storage areas shall be fully screened from public streets and adjacent lots zoned for single-family detached residential dwellings.

§ 3.089.9 MUSEUM.

(A) Museums and galleries shall be located on sites of two acres or more and shall have direct access to a collector or higher capacity road.

(B) The minimum building setback from any adjacent street right-of-way shall be at least 25 feet greater than the corresponding street setback applied to a single-family detached dwelling for the zoning district in which located.

(C) The minimum side and rear setbacks shall be at least 50 feet unless a deeper setback is required.

§ 3.090.1 NIGHTCLUB OR DANCE HALL.

(A) No night club, dance hall, or similar venue shall be located within 500 feet of any other night club, dance hall, bar, cocktail lounge, or private club.

(B) No night club or dance hall shall be located within 200 feet of a religious institution, elementary or secondary school, public park, or residentially zoned property.

(C) No night club, dance hall, or similar venue, including any outdoor activity areas, shall be located within 75 feet of a public road right-of-way.

(D) Such uses shall have direct access via a collector or higher capacity road.

(E) The main entrance of the building shall face a street. In cases where the building could face more than one street, it shall be configured to face the street with the larger number of non-residential establishments or where the larger number of non-residentially zoned lots are located.

(F) A six-foot-high opaque fence shall be erected along all lot lines shared with a residence.

(G) Off-street parking areas shall be located no closer than 30 feet to the property line of abutting residences.

§ 3.090.2 NURSING / REHABILITATION CENTER.

(A) No building shall be located closer than 50 feet to any lot line abutting a residence.

(B) There shall be at a minimum 50 feet of road frontage.

(C) The facility shall provide food preparation, medical care, and social service facilities for residents.

(D) All facilities shall be solely for the use of residents and their guests.

(E) No nursing home or rehabilitation center shall be located within one-half mile (2,640 feet) of another congregate care or nursing home facility.

(F) Adequate provisions shall be made for service and medical vehicles with access to the building at a side or rear entrance, and without backing onto rights-of-way to exit the development.

(G) An evergreen vegetation screen or opaque fence or wall shall be installed along all lot lines shared with a residence.

§ 3.091.1 OFFICE, HIGH INTENSITY

A high intensity office use shall not include more than 4,000 gross square feet of floor area.

§ 3.091.2 OUTDOOR RECREATION, COMMERCIAL.

(A) Go cart racing and any other racing establishments shall be located at least 500 feet away from any OI or residentially zoned property. Security fencing with a minimum height of six feet shall be provided along the entire boundary of the raceway.

(B) An automobile race track shall be located on site of 40 acres or more.

(C) No buildings or structures, temporary or otherwise, shall be located within 50 feet of any exterior lot line.

(D) Any commercial outdoor recreation facility shall be sited and operated so as not to produce noise or sound that would adversely impact adjoining and surrounding properties.

(E) Activities like batting cages, driving ranges, and similar features shall incorporate fencing, netting, or other control measures around the perimeter of the activity area to ensure projectiles do not leave the area and endanger other lands.

(F) All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjoining properties.

(G) No use that adjoins residentially used or zoned property shall conduct business between the hours of 10 PM and 8 AM.

§ 3.091.3 OUTDOOR RECREATION, PUBLIC.

(A) Such uses may only take place on lots or sites of five acres in area or more.

(B) No buildings or structures, temporary or otherwise, shall be located within 50 feet of any exterior lot line.

(C) No amusement equipment, machinery, or mechanical device of any kind may be operated within 200 feet of any residentially used or zoned property.

(D) Activities like batting cages, driving ranges, and similar features shall incorporate fencing, netting, or other control measures around the perimeter of the activity area to ensure projectiles do not leave the area and endanger other lands.

(E) Security fencing with a minimum height of six feet shall be provided along the entire perimeter of the lot or site.

(F) The hours of operation shall be compatible with adjacent land uses and in no instance shall outdoor activities take place between the hours of midnight and 7:00 AM.

§ 3.091.4 OUTPATIENT FACILITY.

An outpatient facility located on a site or parcel with an area of at least five acres shall front and have direct access to a collector or thoroughfare street.

§ 3.092.1 PARK OR PLAYGROUND (PUBLIC).

(A) The hours of operation allowed shall be compatible with the land uses adjacent to the facility.

(B) The amount of noise generated shall not disrupt the activities of the adjacent land uses.

(C) Principal access must be from a collector or higher capacity road for any facility greater than three acres in size or that generates an average daily traffic volume of over 200 or more trips per day.

(D) Outdoor swimming pools shall be protected by a fence in accordance with the Nash County Health Department's public pool regulations.

§ 3.092.2 PARKING-RELATED USE.

(A) A parking lot that is a principal use shall comply with the parking lot configuration requirements in this Ordinance.

(B) Temporary parking shall be the principal use of the parking lot.

(C) Parking spaces may be rented for parking, or otherwise used in accordance with an approved temporary use permit or other permit, but no other business of any kind shall be conducted on the lot, including repair service, washing, display, or storage of vehicles or other goods.

§ 3.094.1 RECREATIONAL VEHICLE PARK.

(A) *General requirements.*

- (1) No recreational vehicle space shall be used as a permanent place of abode, dwelling, or business for indefinite periods of time. Continuous occupancy extending beyond three months in any 12-month period shall be presumed to be permanent occupancy.
- (2) Any action toward removal of wheels of a travel trailer except for temporary purposes of repair or to attach the trailer to the ground for stabilizing purposes shall be prohibited.
- (3) Accessory uses shall be so designed and developed so as to blend with the park's design and natural setting. Such uses shall be clearly accessory to the principal use as a recreational vehicle park. Accessory uses shall include management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, and other uses and structures customarily incidental to the operation of the park.
- (4) Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence, or erosion shall be used for any purpose that would expose persons or property to hazards.
- (5) Exposed ground surfaces in all parts of the recreational vehicle park shall be paved, or covered with stone screenings, or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
- (6) Surface drainage plans for the entire tract shall be reviewed by the Zoning Administrator to determine whether the proposed plan is compatible with the surrounding existing drainage pattern and relevant drainage plans, prior to issuance of site plan approval and building permits. No permit shall be issued where it is determined that the plan is incompatible with surrounding areas.

(B) *Dimensional requirements.*

- (1) Minimum density shall be limited to 15 sites per net acre, excluding public areas, rights-of-way, watercourses, and other areas as may be set forth.
- (2) In no case shall any site contain less than 1,500 square feet. To the greatest extent possible, sites shall be developed to preserve their natural character. Sites shall be level and well-drained.
- (3) Recreational vehicles shall be separated from each other and from other structures within the RV park by at least 10 feet. Any accessory structures such as attached awnings, carports, or individual storage facilities shall, for the purpose of this separation requirement, be considered part of the recreational vehicle.
- (4) Recreational vehicle sites and off-street parking spaces shall not be within the setback areas required for main buildings or principal structures.
- (5) Setback areas for recreational vehicle sites shall contain natural vegetation or be landscaped and shall be used for no other purposes.

- (6) The minimum setback of any building, structure, or recreational vehicle site from a public road right-of-way shall be the same as that required for the zoning district in which the park is located.
- (7) The minimum setback from any private, interior road shall be 20 feet from the edge of pavement.
- (8) The minimum exterior side property line setback, when abutting residentially used or zoned areas, shall be 50 feet. In all other cases, the exterior side property line setback shall be at least 20 feet.
- (9) The minimum exterior rear property line setback, when abutting residentially used or zoned areas, shall be 50 feet. In all other cases, the exterior rear property line setback shall be at least 30 feet.

(C) *Access and road requirements.*

- (1) Entrance driveways shall be located not closer than 150 feet from the intersection of public roads.
- (2) Interior access roads not proposed for public dedication shall conform to the construction standards for subdivision roads of NCDOT. However, requirements for minimum rights-of-way and paving widths shall not apply.
- (3) Plans and profiles shall be submitted for review and approval. In no case shall the road or parking width be less than 10 feet.
- (4) Entrances and exits to RV parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic into and out of the park. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended. The Radii of curbs and pavements at intersections shall be such as to facilitate easy turning movements for vehicles with trailers attached.
- (5) No impediment to visibility shall be created or maintained which obscures the view of an approaching driver in the right lane of the road within:
 - i. 100 feet where the speed limit is 45 mph or less; or
 - ii. Within 150 feet where the speed limit is over 45 mph or any portion of the approach lane of the access way within 25 feet of its intersection with the right hand of the lane.

(D) *Parking requirements.*

- (1) There shall be at least three off-street parking spaces designated in a RV park for each two sites. At least one space must be provided on each campsite with any residual spaces provided within 100 feet of the site.
- (2) Each site shall contain a stabilized vehicular parking pad of paving or other suitable material.

(E) *Utility requirements.*

- (1) No on-site water or sewer facilities shall be permitted on any site.
- (2) Proposals for toilets and restrooms, laundries, and baths shall have the approval and be subject to the requirements of the Nash County Health Department.
- (3) All community water facilities shall be subject to the requirements of and be approved by the Nash County Health Department or NC Division of Health Services.
- (4) All sewer facilities improvements shall have the approval of the Nash County Health Department and the NC Division of Environmental Management.
- (5) All water and sewer improvements shall comply with the NC Building Code for Plumbing.

(F) *Screening requirements.* Campgrounds abutting residentially zoned areas shall include a permanent undisturbed perimeter buffer of at least 50 feet in width. A natural, year-round screen of at least eight feet in height at maturity shall be maintained within the buffer.

(G) *Recreational space requirements.* At least eight percent of the campground area shall be set aside as common use area for open or enclosed recreation facilities.

§ 3.094.2 RECYCLING CENTER.

- (A) Recycled batteries must be stored in non-porous containers;
- (B) All loading and storage areas shall be diked to prevent runoff/spill contamination; and
- (C) Recycled motor oil and grease shall be stored in above-ground tanks in accordance with the NC Fire Code and associated appendices.

§ 3.094.3 RELIGIOUS INSTITUTION.

- (A) Religious institutions located on sites of three acres or more shall have direct access to a collector or higher capacity road.
- (B) The minimum building setback from any adjacent street right-of-way shall be at least 25 feet greater than the corresponding street setback applied to a single-family detached dwelling for the zoning district in which located.
- (C) The minimum side and rear setbacks shall be at least 50 feet unless a larger setback is required by the underlying zoning district.
- (D) An evergreen vegetation screen or opaque fence or wall shall be installed along all lot lines shared with a residence.

§ 3.094.4 REPAIR SHOP.

No activity or storage of parts or materials shall take place outdoors.

§ 3.094.5 RESIDENTIAL TREATMENT FACILITY.

(A) A lot containing a group home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home or another group home.

(B) The use shall be operated in a manner that is compatible with the surrounding neighborhood and shall not be detrimental to adjacent lands as a result of traffic, noise, refuse, parking, loitering, or other activities.

(C) An evergreen vegetation screen or opaque fence or wall shall be installed along all lot lines shared with a residence.

(D) The number of occupants in a group home shall be limited to the maximum number that may be accommodated while at the same time complying with all applicable County regulations and State requirements.

(E) The use shall maintain a residential appearance compatible with its surroundings when proposed in a residential district.

(F) The use shall meet all State requirements, as well as all applicable housing and building code requirements.

§ 3.094.6 RESTAURANTS.

All restaurant use types shall comply with the following requirements:

(A) A restaurant shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential district;

(B) Restaurants having outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:

- (1) The outdoor seating area shall be located no closer than 100 feet from any single-family residential zoning district; and
- (2) The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

§ 3.094.7 RETAIL, HIGH INTENSITY.

High intensity retail uses shall be on lots or site of at least three acres in size and shall be served by a collector or thoroughfare street.

§ 3.095.1 SALVAGE AND JUNKYARD.

(A) *General requirements.*

- (1) The minimum area required to establish a salvage and junkyard shall be five acres.
- (2) The operations of salvage and junkyards shall not be any closer than 300 feet to any residential lot line, school, hospital, nursing home, congregate care home, or day care facility.

(B) *Screening.*

- (1) Salvage and junkyards shall be enclosed by a sight-obstructing screen of at least six feet in height adjacent to public roads and eight feet in height when adjacent to residential, educational, or institutional properties.
- (2) All screening shall be maintained in a sound and stable manner for the life of the operation.
- (3) If State or federal requirements for screening are more stringent, then those standards shall control.
- (4) Entrances and exits shall be secured when the salvage yard is closed.

(C) *Noise.*

- (1) Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 400 feet to the nearest residence.
- (2) Operations that produce noise that is audible on off-site areas shall not take place on Sundays, holidays, or at any time between the hours of 6:00 PM and 7:00 AM.

(D) *Vibration.* No vibration shall be produced which is transmitted through the ground and which is discernable without the aid of instruments at or beyond the lot line; nor will any vibration produce a particle velocity of 2.0 inches per second measured at or beyond the property line.

(E) *Dust and particulates.*

- (1) Emissions of dust and particulates shall be in accordance with the State of North Carolina rules and regulations governing air contamination and air pollution.
- (2) Particulate matter emission from materials and products subject to becoming windborne shall be kept to a minimum by paving, sodding, oiling, wetting, covering, or other means such as to render the surface wind resistant.
- (3) Points of ingress and egress shall be paved or hard surfaced with either concrete or asphalt.

(F) *Smoke and burning.* Emissions of smoke and burning of non-vegetative matter shall not be permitted on the site of a salvage yard.

(G) *Trash and garbage.* Disposal of trash and garbage shall be in an approved container and be regularly maintained. Open dumping of trash or garbage shall be prohibited.

(H) *Disposal of toxic/hazardous matter.* Disposal of toxic/hazardous matter on any salvage and junkyard site is prohibited.

(I) *Storage of fuels.*

- (1) Storage of fuels shall be contained in below ground tanks meeting the requirements of the State of North Carolina.
- (2) No fuel storage shall be within 1,000 feet of any residential, educational, or institutional structure.
- (3) Location of fuel storage tanks shall be so designed as to prevent leakage or spillage into any stream.
- (4) Gasoline and oil shall be removed from scrap engines or vehicles on the premises and adequately stored for disposal.

(J) *Drainage.* Salvage and junkyard sites shall be adequately drained to assure that no standing water shall exist that might provide breeding habitation for insects.

(K) *Weeds and vegetation.* Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than six inches.

(L) *Storage.* Salvage materials shall be stored in piles not exceeding 10 feet in height and shall be arranged as to permit easy access to all such salvage for firefighting purposes.

(M) *Permit requirements.* The facility shall obtain all applicable State and federal permits prior to commencing operations.

§ 3.095.2 SCHOOL, ELEMENTARY OR MIDDLE.

(A) Elementary and middle schools located on sites of three acres or more shall have direct access to a collector or higher capacity road.

(B) The minimum building setback from any adjacent street right-of-way shall be at least 25 feet greater than the corresponding street setback applied to a single-family detached dwelling for the zoning district in which located.

(C) The minimum side and rear setbacks shall be at least 50 feet unless a larger setback is required by the underlying zoning district.

(D) An evergreen vegetation screen or opaque fence or wall shall be installed along all lot lines shared with a residence.

§ 3.095.3 SCHOOL, HIGH.

(A) High schools located on sites of three acres or more shall have direct access to a collector or higher capacity road.

(B) The minimum building setback from any adjacent street right-of-way shall be at least 25 feet greater than the corresponding street setback applied to a single-family detached dwelling for the zoning district in which located.

(C) The minimum side and rear setbacks shall be at least 50 feet unless a larger setback is required by the underlying zoning district.

(D) An evergreen vegetation screen or opaque fence or wall shall be installed along all lot lines shared with a residence.

§ 3.095.4 SINGLE-FAMILY ATTACHED DWELLING.

(A) A minimum ten feet of separation shall be maintained between all individual principal and accessory buildings in the development.

(B) Buildings must be set back from private drives and parking lots a minimum of ten feet as measured from back of curb or edge of pavement, if no curb is provided.

(C) Buildings shall be set back from public streets in the development in accordance with the street setbacks for the district where located.

(D) Single-family attached developments shall abut a public street.

(E) Individual single-family attached lots need not abut a public street provided that every dwelling unit shall be provided access to their property via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership with other property owners in the development.

(F) Each dwelling unit within an attached single-family dwelling development shall have a right of access through common areas containing vehicular use areas or driveways.

(G) Adequate access shall be provided for firefighting equipment, service deliveries, and refuse collection.

(H) Active recreation facilities must be placed a minimum of 50 feet from adjacent land used for single-family detached residential purposes.

(I) All electric, communications, water and sewer utility lines shall be installed underground.

(J) Single-family attached development configured as condominiums shall comply with the following standards:

(1) Condominiums shall conform to the use and development requirements of this Ordinance for the zoning district(s) where located.

- (2) Condominiums shall conform to the requirements of the North Carolina Condominium Act, in Chapter 47C of the North Carolina General Statutes.
- (3) Condominium ownership may be created by the owner or co-owners of a structure(s) by an express declaration of their intention to submit such property to the provisions of the North Carolina Condominium Act, which declaration shall be subject to approval by the Board of Commissioners and recorded in the office of the Nash County Register of Deeds.

§ 3.095.5 STORAGE, INDOOR AND OUTDOOR.

- (A) The use shall be located on a lot or site of at least two acres in area.
- (B) No more than 50 percent of the total site may be occupied by buildings.
- (C) External-access only storage buildings shall not exceed 20 feet or one story in height.
- (D) No activity other than storage shall take place within a storage unit.
- (E) Storage of hazardous, toxic, or explosive substances shall be prohibited.

§ 3.095.6 SWINE FARM.

The use shall conform with the standards in Section 106-803 of the North Carolina General Statutes, the Swine Farm Siting Act, which delineates requirements for the siting of swine houses, lagoons, and the land area onto which waste is applied.

§ 3.096.1 TELECOMMUNICATIONS FACILITIES.

(A) *Purpose and intent.* This section establishes general standards for the siting of wireless telecommunications facilities that will provide for the public health, safety, and welfare. The standards are intended to ensure that residents, businesses, and public safety operations in the Town's planning jurisdiction have reliable access to wireless communications services. More specifically, the provisions of this section are intended to:

- (1) Ensure adequate protection of residential areas and uses from potential adverse impacts of wireless communications facilities, and to generally encourage the location of these facilities in areas where adverse impact on the community is minimal;
- (2) Encourage the placement of wireless telecommunications facilities in non-residential areas;
- (3) Create conditions where wireless telecommunications service providers are able to provide wireless telecommunications services effectively and efficiently in accordance with State and federal law;
- (4) Strongly encourage the joint use or collocation of new and existing wireless telecommunications facilities so as to minimize the number of new telecommunications towers throughout the Town;

- (5) Establish collocation and concealed towers as the preferred options for the accommodation of wireless telecommunications equipment; and
- (6) Ensure that wireless telecommunications facilities located within the public right of way do not obstruct sight distance triangles or create safety hazards for pedestrians or bicyclists.

(B) *Applicability.* The standards in this section shall apply to all wireless telecommunications facilities except for the following, which are exempted from these standards but remain subject to all other applicable standards in this Ordinance:

- (1) Removal of antennas, antenna support structures, or wireless telecommunications equipment on an existing telecommunications tower, utility pole, vertical projection, or equipment compound that does not result in a substantial modification;
- (2) The operation of a small wireless facility solely within the interior of a structure, stadium, or athletic facility;
- (3) Routine maintenance on an existing wireless telecommunication facility;
- (4) Installation, modification, or operation of a micro-wireless facility, receive-only television antenna, or receive-only radio antenna for noncommercial use;
- (5) Installation, modification, or operation of FCC-licensed amateur (“ham”) radio equipment; and
- (6) Dish antenna or earth stations.

(C) *Retention of expert assistance and reimbursement by applicant.* The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating application for a wireless telecommunications facility, including the construction and modification of the site, in accordance with these standards.

- (1) Upon filing an application, an applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of any application, including the construction and modification of the site, once permitted.
- (2) The initial deposit shall be in the amount set forth in the adopted fee schedule and shall be paid at the time the application is submitted. The Town will maintain a separate escrow account for all such funds.
- (3) The Town’s consultants/experts shall invoice the Town for its services in reviewing the application, including the construction and modification of the site, once permitted.
- (4) If at any time during the process this escrow account has a balance less than an amount set forth in the adopted fee schedule, the applicant shall immediately, upon notification by the Town, replenish the escrow account so that it maintains the minimum required balance. Any additional

escrow funds shall be deposited with the Town before any further action or consideration is taken on the application.

- (5) In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

(D) *Wireless telecommunications facilities distinguished.* The following use types and configurations are considered to be wireless telecommunications facilities subject to these requirements:

- (1) New and replacement major telecommunication towers of 50 feet in height or taller;
- (2) New and replacement minor telecommunication towers of up to 50 feet in height;
- (3) Stealth or concealed telecommunication towers, antennae, or wireless telecommunications equipment;
- (4) Major collocations of antennae and associated equipment on existing towers, buildings, or other vertical projections;
- (5) Minor collocations of antennae and associated equipment on existing towers, buildings, or other vertical projections; and
- (6) The installation of small wireless telecommunications facilities on land outside a public street right-of-way.

(E) *General standards applicable to all types of wireless telecommunications facilities.* The following requirements shall apply to all new wireless telecommunications facilities and any modifications to an existing wireless telecommunications facility that exceeds the scope of routine maintenance, as defined in this section.

(1) BUILDING PERMIT REQUIRED.

Prior to installation or modification exceeding the scope of routine maintenance, all wireless telecommunications facilities shall receive a building permit in accordance with the requirements in this Ordinance.

(2) COMPLIANCE WITH FEDERAL AND STATE REGULATIONS

All wireless telecommunication facilities shall comply with or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government that regulates telecommunications facilities. In addition to federal requirements, all wireless telecommunication facilities shall comply with or exceed current standards and regulations of the State of North Carolina pertaining to wireless telecommunications facilities Sections 160D-930 through 160D-934 of the North Carolina General Statutes.

(3) INTERFERENCE

No wireless communication facility shall disturb, diminish, or interfere with public safety, radio, television, or other wireless telecommunications signals in accordance with FCC requirements.

(4) STRUCTURALLY SOUND

All elements of a wireless telecommunication facility shall demonstrate, to the satisfaction of the Town, that the equipment and the structure supporting the equipment is structurally sound and can accommodate the proposed equipment and appurtenances.

(5) SIGHT DISTANCE AT INTERSECTIONS

All elements of a wireless telecommunication facility shall be located outside of, and shall in no way obstruct, required sight distance triangles. This requirement shall apply to existing streets as well as to future street intersections that have been designed or where right-of-way is currently being protected by the Town or the State.

(6) ACCESSORY EQUIPMENT

Accessory equipment, including any buildings, cabinets, or shelters, shall be used only for the purposes of housing wireless telecommunications equipment and other supplies in direct support of the operation of the wireless telecommunications facility. Any equipment or materials not used in direct support of such operation shall not be stored on the site.

(7) OBSTRUCTION LIGHTING

Lighting of a wireless telecommunications facility shall be limited to that required for compliance with FAA minimum standards. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Nighttime strobing or flashing lights are prohibited, unless required by the FAA.

(8) SIGNAGE

Signage shall be limited to safety or informational signage identifying the party responsible for the operation and maintenance of the facility and any additional security or safety signs, as necessary, in the opinion of the Zoning Administrator.

(9) ACCOMMODATIONS OF PUBLIC COMMUNICATIONS EQUIPMENT

Telecommunications facilities and vertical structures used to accommodate telecommunications facilities are strongly encouraged to provide physical space and structural capacity for the placement of governmental communications equipment needed to ensure public safety.

(10) UNAUTHORIZED ACCESS PROHIBITED

Telecommunications towers and vertical projections with wireless telecommunications equipment with a height of 30 feet above grade or more shall be designed or configured to prevent unauthorized persons from climbing on the wireless telecommunication facility whether through use of walls or fencing with a minimum height of six feet above adjacent grade, or anti-climbing devices.

(11) NONCONFORMING WIRELESS TELECOMMUNICATIONS FACILITIES

i. Lawfully established wireless telecommunications facilities in operation prior to November 1, 2021, that do not comply with these standards may remain and operate as nonconforming uses.

ii. In the event of conflict between these standards and the standards for nonconforming situations, the standards in this section shall control with respect to wireless communications facilities.

iii. Ordinary and routine maintenance may be performed on a nonconforming wireless telecommunications facility.

iv. Minor collocation of antennae, antenna-support structures, and related wireless telecommunications equipment is allowed, provided that the overall height of the existing nonconforming wireless telecommunications facility remains unchanged or is reduced.

v. In no instance shall a collocation resulting in an increased overall height or a requiring substantial modification, as defined in this section and Section 160D-932 of the North Carolina General Statutes, be permitted on a nonconforming wireless telecommunications facility.

vi. In the event a nonconforming telecommunications tower is removed, it shall not be replaced with another nonconforming wireless telecommunications tower.

(12) CESSATION

i. A wireless telecommunication facility shall be considered to have ceased operation if the Town receives written notice from a wireless services provider that it intends to cease operations at a particular wireless telecommunication facility, or a wireless telecommunications facility ceases to transmit a wireless telecommunications signal for a period of 30 consecutive days or longer.

ii. Upon receipt of a written notice from a wireless services provider or upon determination that a wireless communication facility has ceased operation, the Town shall forward written documentation of the cessation to the wireless services provider, or the owner of the land, if different.

(13) ABANDONMENT

i. The wireless telecommunications facility shall be deemed abandoned if wireless telecommunications signals do not resume for a period of 180 consecutive days or longer from the date the written documentation of cessation is filed.

ii. Upon making a determination that a wireless telecommunications facility has been abandoned, the Town shall forward written documentation of the abandonment to the wireless services provider, or the owner of the land, if different.

(14) REMOVAL

i. The Town may require the wireless services provider or the owner of the land, if different, to remove an abandoned wireless telecommunications facility within 30 days of the date it is deemed abandoned.

ii. Should the wireless services provider, or the owner of the land, if different, fail to remove the abandoned telecommunications facility within 30 days of the date that notice of abandonment is filed, the Town may cause the wireless telecommunications facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider, or the owner of the land, if different.

(15) LIABILITY INSURANCE

i. The permit holder for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death, and property damage, and umbrella insurance coverage, until the tower is removed from the site, in amounts as set forth below:

a. Commercial general liability covering personal injuries, death, and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;

b. Automobile coverage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
and

c. Worker's compensation and disability: statutory amounts.

ii. The commercial general liability insurance policy shall specifically include the Town and consultants as an additional named insured.

iii. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A.

iv. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 days' prior written notice in advance of the cancellation of the insurance.

v. Renewal or replacement policies or certificates shall be delivered to the Town at least 15 days before the expiration of the insurance that such policies are to renew or replace.

vi. Before construction of a permitted wireless telecommunications facility is initiated, but in no case later than 15 days after issuance of the zoning compliance permit, the permit holder shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

(F) *Standards for collocation of antennae.*

(1) COLLOCATIONS DISTINGUISHED

All collocations shall be classified as either a major collocation or a minor collocation in accordance with Section §8.4, Words Defined, and the following:

i. A major collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on any of the following: a building's roof; a building's wall; a vertical projection such as a water tank, electric transmission tower, or similar vertical projection not constructed for the sole purpose of providing wireless telecommunications services; or an existing or replacement telecommunications tower where the collocation requires a substantial modification, as defined in these standards and Section 160D-931 of the North Carolina General Statutes.

ii. A minor collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on an existing or replacement telecommunications tower, provided no substantial modification, as defined in these standards and Section 160D-931 of the North Carolina General Statutes, is required. A minor collocation may also be referred to as an "eligible facility," as defined in these standards and Section 160D-931 of the North Carolina General Statutes.

iii. In addition to the placement of antennas and antenna-support structures, collocations may also include the placement of wireless telecommunications equipment on a telecommunications tower, on a vertical projection, on the ground in close proximity to a telecommunications tower or vertical project, within an equipment compound, within an equipment cabinet, within a building, or on a building's roof. Nothing shall prohibit the replacement of an existing telecommunications tower or activities that increase the overall height of an existing telecommunications tower in order to accommodate a proposed collocation.

(2) SUBSTANTIAL MODIFICATION

Collocations on an existing or replacement telecommunications tower that require or result in any of the following shall be considered a substantial modification:

i. Increasing the existing overall height of the telecommunications tower by the greater of: 20 feet or more than ten percent; or

ii. Adding an appurtenance (excluding cabling supports) to the body of an existing telecommunications tower that protrudes horizontally from the edge of the tower by the greater of: more than the width of the telecommunications tower at the height of the appurtenance; or more than 20 feet from the edge of the tower; or

iii. Increasing the square footage of an existing equipment compound by more than 2,500 square feet.

iv. Substantial modifications that require an increase in the overall height of an existing telecommunications tower or require a replacement tower that exceeds the height of the existing telecommunications tower by more than 40 feet shall require review as a new telecommunication tower.

(3) MAXIMUM HEIGHT

Antennae, antenna-support structures, or other wireless telecommunications equipment, associated with a major collocation on a building wall or roof shall not project more than ten feet above the highest point of the building's roof or parapet wall.

(4) METHOD OF ATTACHMENT

Antennae, antenna-support structures, or other wireless telecommunications equipment, associated with a collocation shall be mechanically fastened to the building, roof, vertical projection, or telecommunications tower in a manner that minimizes the potential for structural failure or endangerment of the public from falling wireless telecommunications equipment. The Zoning Administrator shall require an applicant for a collocation to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed collocation meets the applicable State and local building and fire code requirements.

(5) APPEARANCE WHEN CONCEALED

When a collocation is proposed on a concealed telecommunications tower, the collocation shall be configured in the manner necessary to ensure the tower's concealment is not compromised or negatively impacted.

(6) SETBACKS

In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a collocation, the existing or replacement tower shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall wireless telecommunications facility height, to the maximum extent practicable. Accessory structures, including equipment cabinets, guy wire anchors, and other ground-based equipment shall conform with the applicable dimensional requirements for the zoning district where located.

(G) *Standards for telecommunications tower, major.*

(1) TOWERS DISTINGUISHED

A new or replacement telecommunications tower with a height of 50 feet or more above grade is a major telecommunications tower subject to these standards. A new or replacement telecommunications tower with a height less than 50 feet above grade shall be considered a minor telecommunications tower.

(2) SETBACKS

Towers and their associated antennas shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall wireless telecommunications facility height. In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement tower shall comply with the setback requirements, to the maximum extent practicable.

(3) MAXIMUM HEIGHT

The maximum height (including antenna and other appurtenances) for any new, replaced, or collocated wireless telecommunication tower is 300 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. In no instance shall the collocation of an eligible facility or a collocation that constitutes a substantial modification result in a telecommunication tower with a height that exceeds 300 feet above the adjacent pre-construction grade. In cases where a telecommunications tower is mounted to or on top of a building, the overall height of the building and the attached tower shall not exceed 300 feet from the adjacent preconstruction grade. The adjacent pre-construction grade shall be the grade at the base of the building closest to the tower.

(4) COLLOCATION REQUIRED

Telecommunications towers shall be designed to accommodate the present and future needs of the owner and as well as the collocation of additional equipment, in accordance with the following standards:

- i. Towers of 50 to 80 feet in height shall be configured to accommodate the collocation of at least two wireless telecommunications service provider's equipment.
- ii. Towers of 81 to 130 feet in height shall be configured to accommodate the collocation of at least three wireless telecommunications service provider's equipment.
- iii. Towers of 131 feet in height or higher shall be configured to accommodate the collocation of at least four wireless telecommunications service provider's equipment.

(H) *Standards for telecommunications tower, minor.*

(1) TOWERS DISTINGUISHED

A concealed telecommunications tower is a telecommunications tower and associated equipment that is designed to appear as something other than a traditional wireless communications facility. A minor wireless telecommunications tower is a use that is designed to appear as a traditional wireless communications facility except that the maximum height of the tower portion of the facility is less than 30 feet above grade.

(2) APPEARANCE OF A CONCEALED TELECOMMUNICATIONS TOWER

A concealed telecommunications tower shall be configured to conceal the presence of the tower, antennas, antenna-support structures, and related wireless telecommunications equipment in order to obscure its purpose as a wireless telecommunications facility, to the maximum extent practicable. Allowable configurations include, but are not limited to: bell towers, clock towers, water towers, silos, chimneys, steeples, light poles, flag poles, or evergreen trees. Antennae, antenna support structures, cabling, and related appurtenances shall be enclosed, camouflaged, screened, or otherwise obscured so that they are not readily identifiable as wireless telecommunications equipment to the casual observer.

(3) SETBACKS

Concealed and minor telecommunications towers and associated accessory structures, including equipment cabinets, shall comply with the applicable dimensional requirements for non-residential uses in the zoning district where located. In no instance shall a concealed or minor telecommunications tower be exempted from the minimum applicable setback requirements for non-residential uses. In cases where an existing concealed telecommunication tower's height is increased or where an existing concealed telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement concealed telecommunications tower shall comply with the setback requirements above, to the maximum extent practicable.

(4) MAXIMUM HEIGHT

The maximum height for any concealed wireless telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. In no instance shall a collocation of an eligible facility or work associated with a substantial modification result in a concealed telecommunication tower with a height that exceeds 200 feet above the adjacent pre-construction grade. The maximum height for a minor telecommunications tower is less than 50 feet from the adjacent pre-construction grade to the top of the highest appurtenance on the tower.

(5) COLLOCATION

Concealed and minor telecommunications towers are encouraged (but not required) to accommodate the collocation of other antennae. Collocations of equipment on a minor telecommunications tower (whether a major or minor collocation) shall not increase the overall height of the tower by more than 10 feet beyond the initially approved height of the minor telecommunications tower. Actions that result in an increase in tower height by more than 10 feet shall require the minor telecommunications tower to undergo review as a major telecommunications tower. Any collocated equipment on a concealed telecommunications tower must maintain the appearance of the facility as a concealed telecommunications tower. In no instance shall a concealed telecommunications tower be replaced with a telecommunications tower that is not concealed in order to accommodate a collocation.

(I) *Standards for wireless communications facilities, small.*

(1) CONSOLIDATED APPLICATION

An applicant may file a single consolidated application for up to 25 separate small wireless facilities at one time, but the Town may choose to issue separate decisions on one or more of the facilities included within a consolidated application.

(2) LOCATED WITHIN PUBLIC RIGHT-OF-WAY

In cases where a small wireless facility is proposed within a public right-of-way, the small wireless facility shall comply with all standards applicable to the right-of-way.

(3) TIMEFRAME FOR REVIEW

Applications for establishment of a small wireless facility shall be processed and decided within 45 days from the date the application is determined to be complete. Nothing shall prohibit the Town and the applicant from mutually agreeing to a longer review period.

(4) TIMING FOR OPERATION

Construction of a small wireless facility shall commence within six months of its approval and the small wireless facility shall be activated for use within one year from the permit issuance date, unless delayed by a lack of commercial power at the site.

(5) MAXIMUM EQUIPMENT SIZE

In no instance shall a small wireless facility exceed the following maximum size limitations; a small wireless facility that exceeds these maximum size limitations shall be reviewed in accordance with the standards for a collocation.

i. Each antenna, and any exposed elements, shall be capable of fitting within an enclosure of six cubic feet, or less.

ii. All other wireless equipment associated with the small wireless facility shall maintain a maximum cumulative volume of 28 cubic feet, or less. The following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or the support structure.

(6) MAXIMUM HEIGHT

No new structure intended to support a small wireless facility shall be taller than 50 feet above the adjacent pre-construction grade. An existing structure (such as a utility pole, light standard, sign, etc.) may be replaced in order to accommodate a small wireless facility, but the replacement structure shall not exceed the height of the original structure being replaced. In no instance shall the antennae or equipment associated with a small wireless facility project more than ten feet above the height of the structure the small wireless facility is mounted on. In cases where a new structure installed to serve a small wireless facility exceeds 50 feet in height, the structure shall be reviewed and decided in accordance with the standards for a telecommunications tower. In cases where a replacement structure intended to serve a small wireless exceeds the height of the original structure, the replacement structure shall be reviewed and decided in accordance with the standards for a collocation.

(7) PLACEMENT

A small wireless facility, including the support structure and all other equipment, shall not obstruct the safe passage of vehicles, pedestrians, or bicycles.

(8) METHOD OF ATTACHMENT

Antennae, antenna-support structures, or other wireless communications equipment, associated with a small wireless facility shall be mechanically fastened to the supporting structure in a manner that minimizes the potential for structural failure or endangerment of the public from falling wireless telecommunications equipment. The Zoning Administrator shall require an applicant for a small wireless facility to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed wireless telecommunications facility meets the applicable State and local building and fire code requirements.

(9) APPEARANCE

The portion of a small wireless facility attached to the support structure shall match the color of the support structure, to the maximum extent practicable. In cases where an applicant proposes inclusion of a small wireless facility on a decorative support structure, sign, or other existing structure not constructed solely for the purposes of providing wireless telecommunications services, the Town may require the small wireless facility to be configured or concealed to ensure compatibility with the structure.

(10) ELECTRICAL SERVICE

In cases where a small wireless facility is proposed in areas where electrical service is underground, all electrical service to the small wireless facility shall also be underground.

§ 3.096.2 THEATRE, OUTDOORS.

(A) The hours of operation allowed shall be compatible with the land uses adjacent to the outdoor theater.

(B) The amount of noise generated shall not disrupt the activities of the adjacent land uses.

(C) Principal access must be from a collector or higher capacity road.

(D) No part of any theater screen, projection booth, or other building shall be located closer than 500 feet to any residentially used or zoned property or any closer than 50 feet to any other property line or public road right-of-way.

(E) No parking space shall be located closer than 100 feet to any residentially- sed or zoned property.

(F) The theater screen shall not face a road or highway.

§ 3.096.3 TRANSFER STATION.

- (A) All structures, buildings, and landfilling operations shall be a minimum of 300 feet from a residentially zoned or used lot.
- (B) Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.
- (C) Access to the facility shall be by way of a collector or higher classified road.
- (D) Entrances shall be controlled to prevent unregulated access to the facility.
- (E) Access roads leading to any part of the facility shall be constructed with a gravel or crushed stone surface and maintained in a dust-free manner.
- (F) No part of access roads shall be located closer than 15 feet to an external property line other than a limited access highway or railroad right-of-way line.
- (G) An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.
- (H) The siting and design of the facility shall comply with the applicable requirements of the NC Solid Waste Management Rules.
- (I) The operation of the facility shall be in compliance with the State of North Carolina's operation, maintenance, and monitoring regulations for solid waste disposal facilities.

§ 3.097.1 UPPER-STORY RESIDENTIAL DWELLING.

- (A) Upper-story residential dwelling units shall occupy the second or higher floor of a building with a non-residential use on the ground floor.

§ 3.097.2 URGENT CARE.

- (A) Such uses shall have direct access via a collector or higher capacity road.
- (B) A six-foot-high opaque fence shall be erected along all lot lines shared with a residence.
- (C) Off-street parking areas shall be located no closer than 30 feet to the property line of abutting residences.

§ 3.097.3 UTILITY, MAJOR.

- (A) All structures, buildings, or enclosed areas used for the operation of a wastewater treatment facility shall be a minimum of 300 feet from a residentially used or zoned lot.

(B) Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(C) Security fencing, a minimum of six feet in height, shall be provided around the perimeter of the use.

(D) Areas of outdoor storage shall be screened by an evergreen vegetation screen or opaque fence or wall shall along all lot lines shared with a residence.

§ 3.098.1 VEHICLE PAINTING/ BODYWORK.

(A) The use shall be located at least 250 feet from any residential district, school (except vocational schools), or child day care center;

(B) Vehicles shall not be parked or stored as a source of parts; and

(C) Repair and storage of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and fully screened by an opaque fence or wall of at least six feet in height.

§ 3.098.2 VEHICLE REPAIR AND SERVICING (WITHOUT PAINTING/ BODYWORK).

(A) Air compressors, hydraulic hoists, pits, repair equipment, greasing and lubrication equipment, auto washing equipment, and similar equipment shall be entirely enclosed within a building.

(B) Outdoor storage areas and all other built-upon areas shall not exceed 24 percent of the total lot or site area. The number of vehicles stored outdoors shall not exceed the number of service bays at the establishment.

(C) No outdoor disassembly or salvaging shall be permitted.

(D) Any outdoor storage area shall be screened with a 6-foot-high opaque fence or wall in addition to any landscaping or screening required by this Ordinance.

(E) All unpaved storage areas shall be maintained in a manner so as to limit dust from leaving the storage area.

§ 3.098.3 VEHICLE SALES OR RENTALS.

(A) Vehicle display areas shall be surfaced with concrete, asphalt, or crushed stone.

(B) No vehicles or other similar items shall be displayed on the top of a building.

(C) Repair and service functions are permitted as an accessory use provided all repair-related activities take place within an enclosed building.

§ 3.098.4 VEHICLE TOWING AND STORAGE LOT.

- (A) A maximum of no more than 50 vehicles at any one time shall be stored on the property.
- (B) All towed vehicles must be stored in an approved vehicle towing and storage area.
- (C) A chain link fence, a minimum of six feet in height, shall be provided around all accessible sides of the storage area.
- (D) All entrances to and from the storage area shall be secured and locked whenever an employee is not present on the property.
- (E) Storage of motor vehicles shall be fully screened from view from off-site areas.
- (F) The storage area shall be paved with asphalt or concrete to minimize dust emissions and the buildup of dirt, mud, and other debris.
- (G) No storage area shall be permitted within 100 feet of any residentially zoned property or within any required front yard.
- (H) All buildings used to protect stored motor vehicles shall be located on the same lot.

§ 3.098.5 VETERINARY SERVICES, LARGE AND SMALL ANIMAL.

No pens or runs may be located within 500 feet of any residentially zoned or used property.

§ 3.099.1 WAREHOUSE, DISTRIBUTION OR STORAGE.

- (A) All non-paved storage areas shall be maintained in a manner so as to limit dust from leaving the storage area.
- (B) Vehicle access to the use shall be provided only by way of a US or NC numbered highway, or by an access road serving a larger industrial area.
- (C) No part of an access road shall be located closer than 15 feet to an external lot line other than a limited access highway or railroad right-of-way line.
- (D) An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.
- (E) Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

§ 3.099.2 WHOLESALE SALES, INDOOR AND OUTDOOR.

(A) Except for above-ground storage tanks, outdoor storage areas shall be no closer than 50 feet to any adjoining residential or residentially used or zoned property.

(B) Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(C) All non-paved storage areas shall be maintained in a manner so as to limit dust from leaving the storage area.

(D) Vehicle access to the use shall be provided only by way of a US or NC numbered highway, or by an access road serving a larger industrial area.

(E) No part of an access road shall be located closer than 15 feet to an external lot line other than a limited access highway or railroad right-of-way line.

(F) An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.

(G) Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

(H) Above-ground outdoor storage tanks shall be subject to the following standards:

(1) They shall be located at least 200 feet from any lot line;

(2) Tanks or groups of tanks shall be diked to prevent the spread of liquid onto other property, waterways, or drainageways. The volumetric capacity of the diked area shall not be less than the capacity of the largest tank within the diked area.

(3) Dikes or retaining walls shall be of earth, steel, concrete, or solid masonry designed and constructed to be liquid tight and to withstand a full hydraulic head.

(4) Earthen dikes three feet or more in height shall have a flat section at the top not less than two feet in width. The slope shall be consistent with the angle of repose of the material of which the dikes are constructed.

(5) Dikes shall be restricted to an average height of not more than six feet above the exterior grade unless means are available for extinguishing a fire in any tank. Dikes enclosing such tanks shall be provided at the top with a flareback section designed to turn back a boil-over wave. A flareback section shall not be required for dikes and walls enclosing approved floating roof tanks. No loose combustible material, empty or full drums or barrels, shall be permitted within the diked area.

(6) Where provision is made for draining rainwater from diked areas, such drains shall normally be kept closed and shall be designed that when in use they will not permit flammable liquids to enter natural watercourses, public sewers, or public drains. Where pumps control drainage from the diked area, they shall not be self-starting.

§ 3.099.3 WIND ENERGY CONVERSION.

(A) *Location.* No tower associated with a wind energy facility shall be located within 1,000 feet of land in a residentially zoned district or a public park. All ground-based equipment buildings shall be located under the blade sweep area, to the maximum extent practicable.

(B) *Setbacks.*

- (1) All towers associated with a wind energy facility shall be set back a distance equal to one-and-one-half times the overall height of the tower and associated wind turbine blade.
- (2) All associated facilities other than towers and associated wind turbines shall be subject to the setback standards for the district where located.

(C) *Tower structure.* Wind energy facilities shall utilize monopole or self-supporting towers.

(D) *Common configuration.* All towers and turbines within a single large wind energy facility shall maintain uniform design in terms of the following features:

- (1) Tower type;
- (2) Tower, turbine, and blade colors;
- (3) The number of blades per turbine; and
- (4) The direction of blade rotation.

(E) *Height.* The maximum height of a wind energy system (including the tower and extended blades) shall be 450 feet.

(F) *Blade clearance.* The blade tip or vane of any wind energy facility shall have a minimum ground clearance of 75 feet above grade, as measured at the lowest point of the arc of the blades. No blades shall extend over public rights-of-way.

(G) *Unauthorized access.* All wind energy facilities shall incorporate anti-climbing devices to prevent unauthorized climbing.

(H) *Utilities.* Except for transmission lines, all utilities associated with a wind energy facility shall be located underground.

(I) *Appearance.* The wind turbine and tower shall be painted or finished in the color originally applied by the manufacturer, or a matte neutral color (e.g., gray, white, or galvanized steel).

(J) *Lighting.* No illumination of the turbine or tower shall be allowed, unless required by the (FAA). In the event obstruction lighting is required by the FAA, it shall be of the lowest intensity allowed, and strobes or blinking lights shall be avoided, to the maximum extent practicable.

(K) *Signage prohibited.* Signage visible from any public street or off-site area shall be limited to the manufacturer's or installer's identification, appropriate warning signs, or owner identification.

(L) *Sound.* The noise at the lot line produced by the wind energy conversion facility during operation shall not exceed 55 dBA. This standard shall not apply during power outages, windstorms, or other conditions beyond the owner's control.

(M) *Shadow flicker.* Shadows cast by the rotating blade of a wind energy facility shall not fall upon off-site areas.

(N) *Interference.* The owner shall take all reasonable steps to prevent or eliminate interference with transmission of communications signals (e.g., radio, television, telephone, etc.) resulting from a wind energy conversion facility.

(O) *Abandonment.*

- (1) On determining that a wind energy conversion facility has been inoperable for 180 days or more, the Zoning Administrator may issue a Notice of Abandonment to the facility owner.
- (2) The facility owner shall restore operation of the wind energy conversion facility within 30 days of receipt of the Notice of Abandonment, or file a Notice of Termination with the Zoning Administrator.
- (3) The wind energy conversion facility shall be removed from the site within three months of the filing of a Notice of Termination.
- (4) Removal of a wind energy conversion facility shall include removal of the towers, turbines, above-ground equipment, outdoor storage, foundations to a depth of four feet below grade, and any hazardous material associated with the facility.

§ 3.100 ACCESSORY STRUCTURES AND USES.

(A) *Caretaker dwelling.*

- (1) *Where required.* B-1, B-2 and LI Districts.
- (2) *Operation.* A building permit for the principal building must be obtained or the principal use must be initiated prior to occupancy.
- (3) *Number.* No more than one caretaker dwelling unit shall be permitted per lot.

- (4) *Regulations.* A caretaker dwelling may be a manufactured home. A caretaker dwelling shall:
- i. Have an approved sewage disposal connection or system;
 - ii. Meet all setbacks applicable to the principal building or use;
 - iii. Be erected in accordance with the state's Building Code; and
 - iv. Be located on a lot, which has sufficient lot area for both the principal use and a single-family residence. (Ord. passed 4-19-2018, § 60-13)

(B) *Food trucks.*

- (1) *Where required.* B-1 and B-2 Districts.
- (2) *General.* Food trucks shall be permitted in accordance with the table of uses and activities, subject to the following standards: exceptions to the process. Food trucks may conduct sales while parked on a public street when the Town Council has approved a temporary street closing for a town-sponsored or civic event such as a street festival/fair. Food trucks may operate on an individual private property for a maximum of 20 days, three individual weekend events or both each calendar year when utilizing a temporary event permit for each individual parcel on which the food truck is located.
- (3) *Food truck location.* Food trucks must be located at least 100 feet from the front door of any restaurant and outdoor dining area and at least 50 feet from any permitted mobile food vending cart location. Additionally, food trucks must be parked at least 15 feet from any fire hydrant and five feet away from any driveway, sidewalk, utility box or vault, handicapped ramp, building entrance or exit or emergency call box. These minimum distance requirements are all measured in a straight line from the closest point of the proposed food truck location to the closest point from the buffered point, or in the case of a restaurant measured from the closest point of the restaurant's main entrance. If a zoning permit is issued and a restaurant subsequently open within 100 feet (measured from the restaurant's main entrance) of the approved food truck location, the food truck may continue to operate until the permit expires.
- (4) *Zoning permit.* A zoning permit is required for each site and must be signed by the property owner and completed and submitted along with a site plan or plot plan. If a property owner has a property large enough to accommodate more than one food truck, only one zoning permit is required to be submitted showing the location of all food trucks. The plot plan must show the limits of the property, the location(s) of the proposed food truck and label adjoining uses on neighboring properties. The applicant must also submit a State Department of Agriculture permit and a copy of the vehicle or trailer registration.
- (5) *Parking.* Food trucks may not occupy any required parking stall for the primary use while the primary use is open to the public. Food trucks and the primary use may share parking spaces when having separate hours of operation. Parking stalls that are overflow or extra

according to the regulations in the UDO may be used to park a food truck; however, parking stalls leased to another business or adjacent use may not be used unless the food truck is operating under separate hours of operation. Food trucks may not park in handicapped accessible parking spaces, nor can they park in access or drive aisles. The approved location for the parking trucks, as shown on the zoning permit, must be physically marked. The food truck parking space can be marked with paint, tape or other easily identifiable material. Food trucks may not be parked in an approved location after hours of operation.

- (6) *Hours of operation.* Food trucks may operate between the hours of 6:00 a.m. and 10:00 p.m., unless the food truck is located within 150 feet of a property with a single- or two-family residential dwelling. When located within 150 feet of this residential dwelling, the hours of operation shall be between 7:00 a.m. and 6:00 p.m. This measurement is taken from the property line of the residential dwelling in a straight line to the closest point of the approved food truck location.
 - (7) *Prohibitions.* Food trucks may not use audio amplification or freestanding signage. All equipment associated with the food trucks must be located within three feet of the food truck. The food truck operator is responsible for disposing of all trash associated with the operation of the food truck. Town trash receptacles may not be used to dispose trash or waste. All areas within five feet of the food truck must be kept clean. Grease and liquid waste may not be disposed in tree pits, storm drains, the sanitary sewer system or public streets. Food trucks are all subject to the town-wide Noise Ordinance.
 - (8) *Maximum number of trucks per property.* Maximum of two food trucks on lots of one-half acre or less; A maximum of three food trucks on lots between one-half acre and one acre; and A maximum of four food trucks on lots greater than one acre.
 - (9) *Outdoor seating.* Outdoor seating associated with a food truck is only permitted on lots at least two acres in size or greater. (Ord. passed 4-19-2018, § 60-27)
- (C) *Home occupation.*
- (1) *Where required.* AR, all residential and all business districts.
 - (2) *Maximum area.* The area set aside for a home occupation shall occupy no more than 25% of the gross floor area of a dwelling unit or of an accessory structure of no more than 500 square feet.
 - (3) *Outside storage.* No outside storage or display of items associated with the occupation is permitted.
 - (4) *Operation.*
 - i. The home occupation must be conducted entirely within a dwelling unit or accessory structure. It must be a use which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the

character of the residence. Permitted home occupations include, but are not limited to: computer services; internet businesses; telephone sales; barber/beauty services; doctor/dentist office; architects; insurance agency; lawyer; real estate broker; teacher; accountants; child or adult day care (five or fewer persons); food catering; tailoring and handcrafting; and the like.

- ii. No on-site retail sales, except for goods made on the premises, are allowed.
- iii. No goods, stock-in-trade or other commodities shall be displayed.
- iv. Only one person may be employed who is not an occupant of the residence.
- v. Activities shall not generate traffic, noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in the zoning district in which it is located. No home occupation shall involve the use of electrical or mechanical equipment that would change the fire rating of the structure in which the home occupation is located.
- vi. Instruction in music, dancing, art or similar subjects shall be limited to no more than five students at one time.
- vii. Any need for parking generated by the conduct of the home occupation shall be met off the street and other than in a required front yard or side yard.
- viii. The exterior of the dwelling shall not be altered in such a manner nor shall the occupation within the residence be conducted in such a way as to cause the premises to differ from its residential character in exterior appearance.
- ix. No display of goods or advertising shall be visible from the street, except one non-illuminated sign is allowed which shall not exceed four square feet in area. Signs for home occupations located within non-residential zoning districts shall conform to the requirements of §§ 3.175 through 3.179 of this chapter. (Ord. passed 4-19-2018, § 60-32)

(D) *Rural family occupation.*

- (1) *Where required.* AR and R30 MH Districts.
- (2) *Minimum area.* The rural family occupation (RFO) must be located on a tract of two acres or more. A portion of the tract measuring 40,000 square feet with 100 feet of width must be designated and reserved as exclusively residential in AR Districts: 30,000 square feet with 100 feet of width in R-30 MH Districts.
- (3) *Maximum area.* The total floor area of all buildings occupied by the RFO shall not exceed 5,000 square feet. The maximum land area that may be used in conjunction with the rural family occupation is 15,000 square feet.

- (4) *Use separation.* All operations of the RFO shall observe a 50-foot setback from all property lines.
 - (5) *Location.* All operations of the RFO shall be located behind the rear line of the building occupied as the principal residence.
 - (6) *Screening.* All operations of the RFO, including buildings, outside storage areas and parking, shall be treated as a separate use and shall be screened in accordance with the requirements of § 3.156 of this chapter.
 - (7) *Environmental review.* The county's Environmental Health Division will be requested to evaluate each RFO request to determine the occupation's impact on the surrounding area with respect to excessive noise, dust, air emissions, odors and surface or ground water discharge. The RFO shall mitigate the impact on these and other environmental concerns. A written evaluation of these potential impacts is required by the Environmental Health Division prior to the consideration of any request for an RFO.
 - (8) *Operation.*
 - i. The RFO shall be owned by the landowner who must reside on the property.
 - ii. No more than five persons shall be employed other than those residing on the property.
 - iii. Outside storage and parking of commercial vehicles is permitted. The applicant shall indicate on the site plan the type and location of outside storage and the location and proposed number of vehicles to be parked on the lot.
 - iv. The RFO shall not be operated between the hours of 9:00 p.m. to 6:00 a.m.
 - v. Permitted uses shall be limited to those products assembled or manufactured on-site for resale elsewhere, professional and business services or stock-in-trade clearly incidental to such services. Commercial retail or wholesale operations which bring to the site goods specifically for the purpose of resale shall be prohibited. (Ord. passed 4-19-2018, § 60-54)
- (E) *Swimming pool.*
- (1) *Where required.* AR, all residential and business districts. The regulations of this section shall be applicable to swimming pools located on private property which are under the control of a homeowner and the use of which is limited to the family members and invited guests.
 - (2) *Use separation.* Pools shall be located so as to comply with the minimum setback requirement for accessory structures for the district in which it is located. Pools which are not an integral part of the principal building shall be located a minimum of ten feet from the principal building.

- (3) *Security barriers.* Swimming pools located outdoors shall be protected by a barrier in accordance with the definition for swimming pool barrier provided in this chapter. (Ord. passed 4-19-2018, § 60-62)

§ 3.101 TEMPORARY STRUCTURES AND USES.

(A) *Temporary hardship manufactured home.*

- (1) *Where required.* AG, all residential and all business districts.
- (2) *Time limitation.* Permits for temporary hardship manufactured homes shall be issued initially for a one-year period. At the end of the one-year period, the Board of Adjustment shall review the permit on an annual basis and may renew the permit on a 12-month basis.
- (3) *Setbacks.* A temporary hardship manufactured home shall conform to the principal building setback requirements of the zoning district in which it is located.
- (4) *Purpose.* The person or persons occupying the temporary manufactured home are physically dependent upon the person or persons occupying all or a portion of the principal dwelling, unit or that the person or persons occupying all or a portion of the dwelling unit are physically dependent upon the person or persons occupying the temporary manufactured home and the persons or persons occupying the temporary manufactured home and/or dwelling house, cannot, because of financial other conditions, move to avoid hardship, necessitating parking the temporary manufactured home adjacent to the dwelling house.
- (5) *Living standards.* That the parking of the temporary manufactured home adjacent to the dwelling house will not create unhealthy or unreasonable living standards.
- (6) *Foundation and anchorage.* A temporary hardship manufactured home shall meet the minimum foundation and anchorage requirements of this chapter and the county's Building Code. (Ord. passed 4-19-2018, § 60-64)

(B) *Temporary emergency, construction, and repair residence.*

- (1) *Where required.* All zoning districts.
- (2) *Time limitation.* Temporary residences and offices used on construction sites of non-residential premises shall be removed within 30 days after the issuance of a final certificate of occupancy. Permits for temporary residences and offices to be occupied pending the construction, repair or renovation of the permanent residential building on a site shall expire within 12 months after the date of issuance, except that, the Board of Adjustment may renew such permit if it determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation or restoration work necessary to make such building habitable.

- (3) *Use of manufactured home and RV or travel trailer.* The use of Class B or C manufactured homes as temporary emergency, construction and repair residences is permissible in all zoning districts. Travel trailers and RVs may be used in the case of a temporary emergency only. RVs and travel trailers must have functioning bathroom and kitchen facilities and must be occupied by the residents of the on-site house, which is under repair. (Ord. passed 4-19-2018, § 60-65)
- (C) *Temporary shelter.*
- (1) *Where required.* B-2 District.
 - (2) *Time limitation.* The Board of Adjustment shall initially establish an automatic expiration date for the permit for such a facility with provisions for a maximum six-month renewal, if necessary.
 - (3) *Location.* The facility shall be contained within the building of and operated by a government agency or non-profit organization.
 - (4) *Minimum floor area.* A minimum floor space of 50 square feet shall be provided for each individual sheltered.
 - (5) *Operation.* The facility shall provide continuous on-site supervision during the hours of operation. (Ord. passed 4-19-2018, § 60-66)

6. COMMERCIAL DESIGN STANDARDS

§ 3.150 PURPOSE AND INTENT.

These commercial design standards supplement the applicable zoning district and use specific standards of this Ordinance and provide minimum requirements for the design of commercial development. These standards are intended to provide clarity on the Town's expectations for new commercial development quality and appearance. More specifically, the purpose of these standards is to:

- (A) Implement the policy guidance from the comprehensive land use plan regarding protection of the desired community character;
- (B) Assure a fair and consistent application of the commercial design standards to new development and redevelopment;
- (C) Foster increased compatibility between commercial development and nearby residences;
- (D) Encourage the maintenance of a village atmosphere; and
- (E) Promote property values and protect existing public and private investment.

§ 3.151 APPLICABILITY.

The standards in this section shall be applied to the following forms of development and land use activities:

- (A) *New commercial development.* The establishment of new principal structures containing or intended for a commercial, office, personal service, retail, restaurant, or entertainment use type, as identified in the principal table of uses found in this Article.
- (B) *Changes in use.* Changes in use of an existing principal building or development site where the new use is subject to these commercial design standards, but no additions or expansions are proposed shall comply with the requirements in § 3.153, Commercial Site Configuration Standards, but are not required to comply with the standards in § 3.154, Commercial Building Configuration Standards.
- (C) *Additions and expansions to existing development.* Increases in an existing commercial building's floor area or a commercial site's impervious surface by 51 percent or more beyond that in existence on the effective date of these standards shall require full compliance with these provisions.

- (D) *Reconstruction of existing buildings.* Reconstruction of an existing commercial building shall be treated as new development for the purposes of these standards.

§ 3.152 EXEMPTIONS.

The standards in this section shall not apply to the following forms of development:

- (A) Commercial development existing prior to effective date of these standards unless subject to a change in use, reconstruction, addition, or expansion in accordance with § 3.151, Applicability;
- (B) Commercial development taking place as part of a bona fide farm;
- (C) Commercial development subject to a historic landmark designation or subject to standards applicable in a local historic district; and
- (D) Development of civic, religious, educational, or fraternal organization use types.

§ 3.153 COMMERCIAL SITE CONFIGURATION STANDARDS.

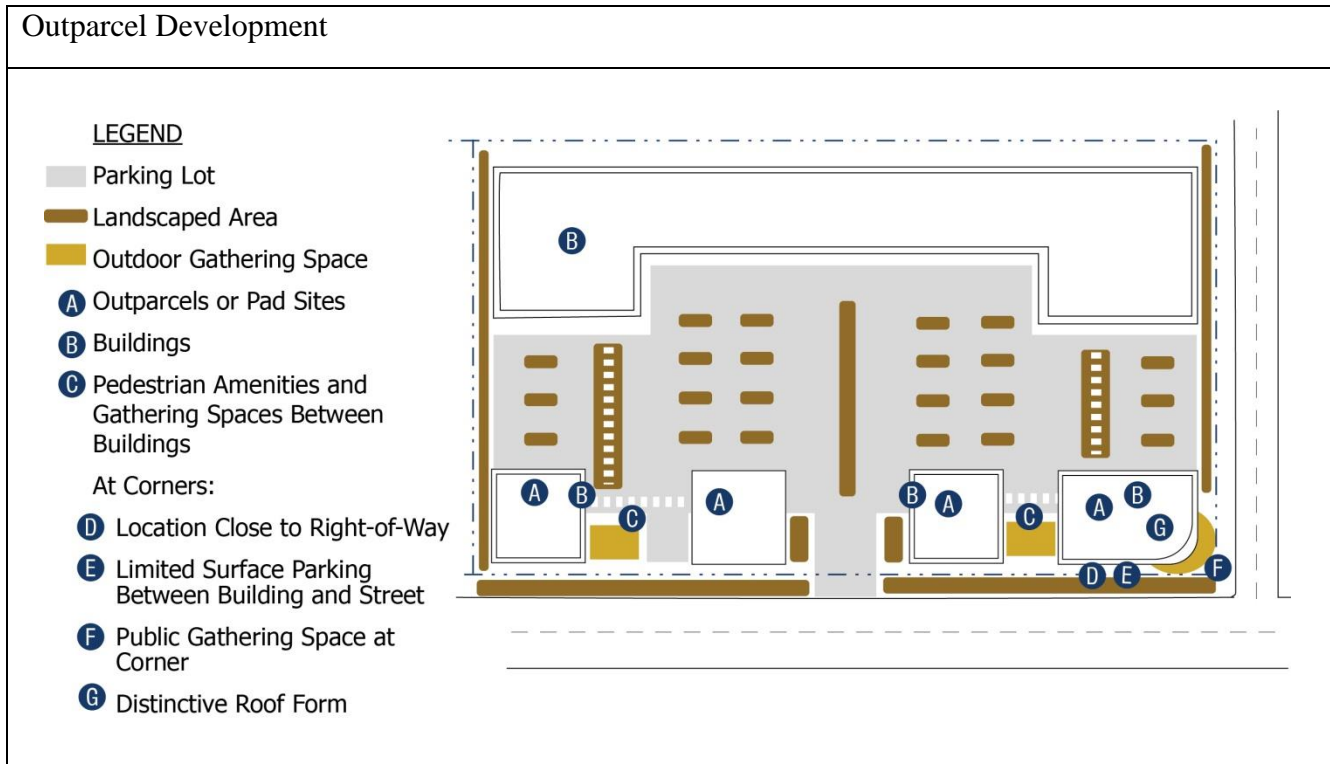
Development subject to these commercial design standards shall comply with the following:

- (A) *Building placement.*
1. All principal and accessory buildings shall be set back at least 40 linear feet from the ultimate right-of-way boundary of any adjacent street. The ultimate right-of-way boundary location shall be as indicated in the Town's adopted policy guidance or the applicable comprehensive transportation plan as indicated by the NCDOT. In cases where the ultimate right-of-way boundary is not identified, the building setback shall be measured from the centerline of the existing right-of-way outwards for a minimum distance corresponding to one-half of the currently specified right-of-way width plus 40 feet.
 2. All development subject to these standards shall have a maximum setback of 80 feet from the ultimate right-of-way boundary of any adjacent street.
- (B) *Outparcel development.*

Development on outparcels or pad sites associated with a commercial development shall comply with the following requirements (see Outparcel Development Figure):

1. Spaces between buildings on outparcels or pad sites shall include pedestrian amenities such as walkways, plazas, seating areas, and gathering places in addition to off-street parking spaces.
2. Outparcel buildings on lots at street corners shall be located and configured to define the corner through a combination of locating the building as close to the rights-of-way as is

practicable; limiting surface parking between the building and the streets; providing a public gathering space adjacent to the corner; and distinctive roof form or other pedestrian features such as porches, canopies, or arcades.



(C) *Service areas.*

1. Off-street loading areas, service areas, refuse/recycling collection areas, and outdoor storage of equipment or raw materials shall be located to the side or rear of a principal building. In addition, such features shall be screened through the use of an opaque fence or wall of a minimum height necessary to obscure views from on-site and off-site locations.
2. Outdoor display of products available for sale may be located in front of a principal building and are not required to be screened provided these areas are physically accessible to patrons, do not occupy more than 50 percent of the lot area between the building and the front lot line, are located outside of required vehicular circulation and parking areas, and are no closer to the street right-of-way than 20 feet.
3. Areas utilized for the display of products for sale that are not physically accessible to patrons shall be considered areas of outdoor storage and shall be located and screened in accordance with these standards.

(D) *Equipment screening.*

1. All ground-based and roof-mounted equipment shall be fully screened from view from adjacent streets, parks, open space, and residentially used lots (see Rooftop Screening Figure).
2. Wall-mounted mechanical equipment mounted at heights over 36 inches from grade and measuring 16 inches or more in any dimension shall be fully screened, concealed, or camouflaged to minimize its appearance from adjacent streets, parks, open space, and residentially used lots.

Rooftop Screening



(E) *Utilities.*

All new overhead utilities shall be installed underground.

§ 3.154 COMMERCIAL BUILDING CONFIGURATION STANDARDS.

Buildings subject to these commercial design standards shall comply with the following:

(A) *Orientation.*

1. The primary entrance shall be architecturally and functionally designed on the front façade facing the primary street (see Building Orientation Figure).
2. Except for multi-building developments such as shopping centers or campus-style developments, the front façade of the principal structure shall be parallel to the front lot line and street.
3. Nothing shall limit a secondary entrance from facing an off-street parking lot.

Building Orientation



(B) *Primary entrance.*

1. Building entrances shall be designated as a primary or a secondary entrance by the applicant, but each principal building shall have at least one primary entrance. Nothing shall limit a building from having multiple primary entrances.
2. Primary building entrances shall be visually prominent and shall include at least three of the following features (see Primary Building Entrances Figure):
 - a) Changes in building material or color;
 - b) Changes in paving or walking surface materials;
 - c) A significant architectural feature that extends above the primary roof height;
 - d) A projection or recess of at least five feet beyond the adjacent wall plane;
 - e) Outdoor pedestrian gathering or seating areas capable of serving at least five people at the same time;
 - f) A canopy, awning, portico, archway, arcade, or other covering that extends outwards from the building wall by at least five feet;
 - g) Glazing that extends upwards for at least 75 percent of the building's height proximate to the entrance door(s);
 - h) Architectural detailing around the entryway such as tilework, entablature, or integrated moldings; or

- i) Fountains, artwork, or landscaping plantings in raised planters immediately adjacent to the entrance door(s).

Primary Building Entrances



LEGEND

- | | |
|--|--|
| Ⓐ Change in Building Material or Color | Ⓔ Canopy, Gallery or Arcade |
| Ⓑ Change in Paving Material | Ⓕ Architectural Detail Such as Tile Work |
| Ⓒ Significant Architectural Feature | Ⓖ Landscaping Planter |
| Ⓓ Projections or Recesses | Ⓗ Outdoor Pedestrian Gathering Area |

(C) *Exterior materials.*

1. *Prohibited materials.* The following materials shall be prohibited on any primary or secondary building façade walls:
 - a) Untextured tilt-up concrete panels;
 - b) Pre-fabricated steel panels;
 - c) Corrugated sheet metal;
 - d) Smooth-face concrete blocks;
 - e) Vinyl siding, soffit, or fascia;
 - f) Synthetic stucco within two feet of the grade; or
 - g) Asphalt siding.
2. *Colors.*

a) Overly bright, neon, or "day-glow" colors shall not be used as primary exterior building colors. Nothing shall limit traditional community material colors.

b) Building trim and accent areas may feature brighter colors, including primary colors, but these colors may not comprise more than 15 percent of any building façade.

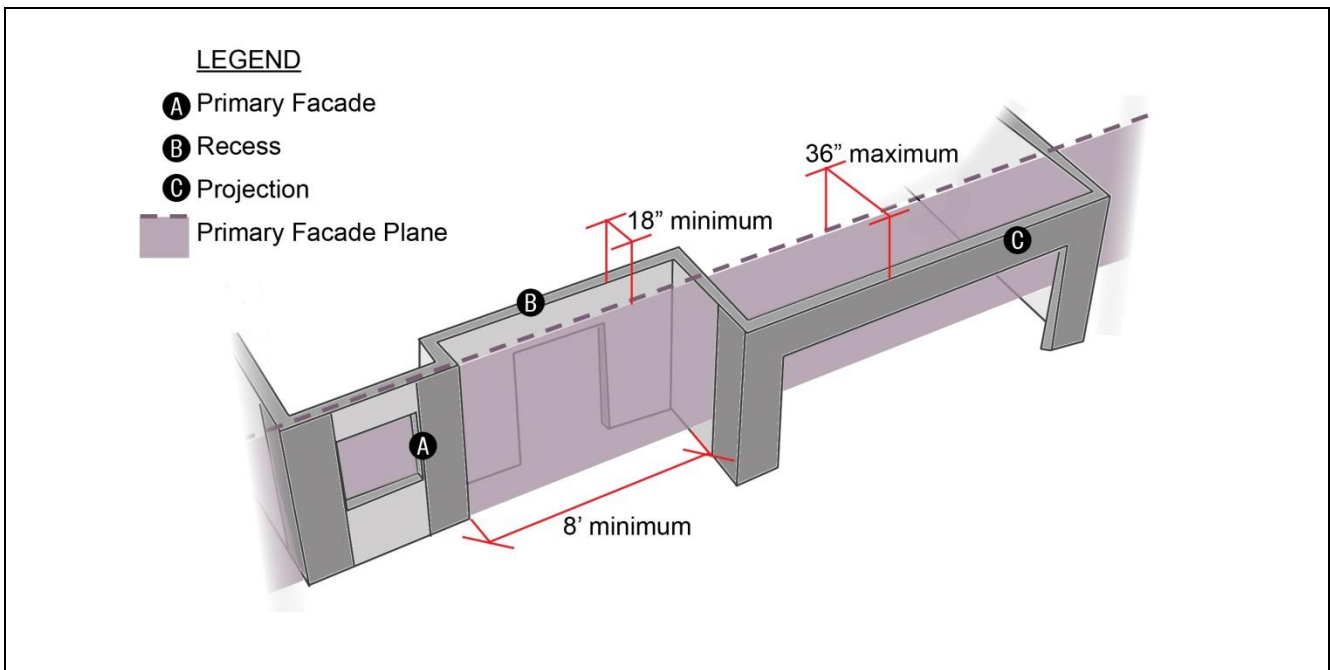
3. *Compatibility in multi-building developments.* Buildings on outparcels or pad sites shall incorporate materials that are similar to and compatible with those used on the primary buildings in the development. Corporate or prototypical architecture shall be reconfigured as necessary in order to comply with this standard.

(D) *Building articulation.*

Buildings subject to these standards shall be configured so that no single façade visible from a street shall extend for longer than 35 linear feet without inclusion of one or more of the following features:

1. The use of projections or recesses in the building façade wall with a depth of between 18 inches and 36 inches from the primary façade plane and a minimum span of eight feet (see Commercial Building Articulation Figure);
2. The use of columns, pilasters, or other architectural detail harmonious with the general design of the structure with a minimum width of eight inches and spaced no less than every ten feet on-center;
3. Distinct changes in building materials or colors from grade to the roof; or
4. A single vertical accent or focal point extending well above the primary roofline,
5. such as a tower feature, located on a prominent building corner.

Commercial Building Articulation



(E) *Canopies.*

Except for canopies associated with fuel sales, overhead canopies intended to cover the vehicles of patrons shall be configured in accordance with the following standards:

1. The total number of canopies shall be limited to three per lot;
2. The canopy shall be located to the side or rear of the structure, or configured so that it has the appearance of being enclosed by building walls on at least two sides;
3. The canopy shall be configured of consistent or complimentary materials and colors as the primary exterior materials, including canopy supports;
4. The canopy shall be subject to maximum height standards for buildings in the zoning district where located; and
5. Any exterior lighting from under the canopy shall be configured so that the source of illumination (the bulb) is recessed into the canopy and is not visible from off-site areas.

7. SCREENING AND LANDSCAPING

§ 3.155 PURPOSE.

The purpose of this subchapter is to establish minimum landscaping and screening requirements that provide:

- (A) A visual buffer between parking and loading areas and public roads;
- (B) A visual buffer between parking and loading areas and adjoining residential land uses;
- (C) Screening of solid waste collection dumpsters; and
- (D) Screening between certain incompatible land uses.

(Ord. passed 4-19-2018, § 70-1)

§ 3.156 USE OF RED OAK TREES.

Screening and landscaping materials planted in order to comply with the standards in this section shall be configured to include at least one red oak (*Quercus Rubra*) for every four new trees required. This standard shall not apply to projects required to plant four or fewer trees, in cases where existing vegetation is utilized to meet all screening and landscaping requirements, or in cases where use a red oak tree is infeasible due to existing utilities or shading conditions.

§ 3.157 OFF-STREET PARKING AREA LANDSCAPING.

(A) All surface parking facilities, greater than eight spaces shall be landscaped to the minimum requirements as outlined as follows. Requirements shall be rounded up to the nearest whole planting. Trees shall be planted by the developer as part of the conditions of approval.

OFF-STREET PARKING AREA LANDSCAPING STANDARDS	
Maximum number of contiguous spaces in a row for employee parking in the IR	25
Maximum number of contiguous spaces in a row	15
Maximum number of rows without medians	3

OFF-STREET PARKING AREA LANDSCAPING STANDARDS	
Minimum number of trees per 8 parking spaces	1 canopy or 2 understory
Minimum width of medians	8 feet
Minimum width of planting islands	8 feet
Number of trees required per 45 feet of median	1 canopy or 2 understory

(B) Each row shall begin and end with a landscaped island.

(C) A perimeter roadside buffer yard abutting a parking lot (between the street and parking lot) shall be required as follows:

PERIMETER ROADSIDE BUFFERYARD LANDSCAPING STANDARDS	
Minimum number of trees per 40 feet of road frontage	1 canopy or 2 understory
Minimum width of buffer (adjoining properties)	10 feet
Minimum width of buffer (public right-of-way)	10 feet
Shrubs required in buffer, planted on center (per 10 feet)	1

(1) All portions of the roadside buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass and/or flower beds.

(2) Landscaping and screening materials shall not obstruct the view of motorists using any road, driveway or parking aisle.

(D) Parking facilities abutting a structure, unless located on or within a structure, shall be separated from the exterior wall of a structure, exclusive of paved pedestrian walks or vehicular loading areas, by a planting strip at least six feet in width. The width may be adjusted by the Planning Commission based on unique site constraints and the nature of the business in relationship to the parking. Composition of the planting strip shall be either:

(1) A combination of flower beds and shrubs where the shrubs cover a minimum of 40% of the planting areas; or

(2) A combination of trees and flower beds so that there is a minimum of one tree per 25 linear feet of building wall abutting the planting area. A combination of shrubs, trees and flower beds is also permissible.

(Ord. passed 4-19-2018, § 90-4)

§ 3.158 BUFFER REQUIREMENTS.

(A) *Roadside buffer yard requirements for parking lots.*

(1) All parking lots containing ten or more parking spaces shall include a minimum ten-foot perpetually maintained natural or planted buffer yard to screen the parking lot from all adjoining public road rights-of-way (where an intervening building does not screen such parking lot visually).

(2) The required roadside buffer yard shall contain at least one canopy minimum of eight feet in height and shall have a minimum caliper of two inches (measured six inches above grade) at the time of planting. Each tree shall be a species which can be expected to attain a minimum height of 40 feet and have a crown width of 30 feet or greater at maturity.

(3) The required buffer yard shall also contain evergreen shrubs, planted four feet on center, which are of a species that can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within three years of planting.

(4) All portions of the roadside buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover or natural mulch of a minimum depth of three inches.

(B) *Roadside buffer yard requirements for residential subdivisions.*

(1) Residential subdivisions of five or more lots shall include a minimum ten-foot perpetually maintained natural or planted buffer yard along adjoining public road rights-of-way around the perimeter of the development.

(2) The roadside buffer yard shall not be required adjacent to roads located internal to the subdivision.

(3) The required roadside buffer yard shall contain at least one canopy tree planted with uniform spacing every 30 feet on-center or less. Trees shall be a minimum of eight feet in height with a minimum caliper of two inches (measured six inches above grade) at the time of planting.

(4) Each tree shall be a species which can be expected to attain a minimum height of 40 feet and have a crown width of 30 feet or greater at maturity. Shorter understory trees may be approved for use in cases where existing overhead utilities are directly overhead of a proposed tree location.

(5) Existing trees may be maintained and used to meet these requirements with the approval of the Zoning Administrator.

(6) Approval from the NCDOT is required in cases where the roadside buffer is proposed for inclusion within a NCDOT right-of-way.

(C) Property line buffer yard requirements.

(1) Any parking lot and loading area:

(a) Which contains ten or more parking spaces;

(b) Which is located on a commercially-, industrially- or institutionally-used lot; and

(c) Which abuts a residentially zoned lot shall include a minimum ten-foot perpetually maintained natural or planted buffer yard along all adjoining property lines that do not coincide with road rights-of-way.

(2) The required property line buffer yard shall comply with the planting standards set-out in division (A) above for roadside buffer yards; except that, there shall be one canopy tree for each 60 LF of property line adjoining a residentially zoned lot rather than for each 60 LF of road frontage.

(Ord. passed 4-19-2018, § 70-1.1)

§ 3.159 SCREENING OF DUMPSTERS.

Solid waste collection dumpsters which are:

(A) Located on sites used for multi-family residential, commercial, institutional or industrial purposes; and

(B) Abutting a residence, residentially zoned lot or road right-of-way shall be screened from the view of adjoining residences, residentially zoned lots or road rights-of-way. Such screening may consist of natural vegetation, fences, walls or berms and shall be installed, located or constructed so as to create an effective screen.

(Ord. passed 4-19-2018, § 70-1.2)

§ 3.160 SCREENING OF ADJOINING INCOMPATIBLE LAND USES.

The screening standards in this section shall apply to identified uses unless the particular use type is subject to a different screening standard in §§ 3.075 through 3.101 of this chapter. In the event of conflict between these two sections, the standards in §§ 3.075 through 3.101 shall control.

(A) *Multi-family residential uses.* Whenever three or more multi-family residential dwelling units are proposed to be located directly abutting property which is used for single-family residential

purposes or which is zoned for single-family residential use, the multi-family use shall provide screening in accordance with the following standards.

(1) A minimum 15-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a single-family used or zoned lot.

(2) The buffer yard shall contain two canopy trees and three understory trees per 100 linear feet of buffer yard. Canopy trees shall be a minimum of eight feet in height and two inches in caliper (measured six inches above grade) when planted. When mature, a canopy tree should be at least 40 feet high and have a crown width of 30 feet or greater. Understory trees shall be a minimum of four feet high and one inch in caliper (measured six inches above grade) when planted.

(3) The buffer yard shall also contain 17 shrubs per 100 linear feet of buffer yard. All shrubs shall be of a species that can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within three years of planting.

(4) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover or natural mulch of a minimum depth of three inches.

(B) *Industrial and commercial uses.* Whenever an industrial or commercial use is proposed to be located so that the principal building, accessory building(s), outdoor use areas or parking and loading areas are within 100 feet of a lot which is used for residential purposes or which is zoned for residential use, the industrial or commercial use shall provide screening in accordance with the following standards.

(1) A minimum 25-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a residentially used or zoned lot.

(a) The buffer yard shall contain three canopy trees and five understory trees per 100 linear feet of buffer yard.

(b) Canopy trees shall be a minimum of eight feet in height and two inches in caliper (measured six inches above grade) when planted.

(c) When mature, a canopy tree should be at least 40 feet high and have a crown width of 30 feet or greater.

(d) Understory trees shall be a minimum of four feet high and one inch in caliper (measured six inches above grade) when planted.

(2) The buffer yard shall also contain 25 shrubs per 100 linear feet of buffer yard. All shrubs shall be of a species that can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within three years of planting.

(3) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover or natural mulch of a minimum depth of three inches.

(C) *Manufactured home parks.* Whenever a manufactured home park is proposed to be located directly abutting property that is used for single-family residential purposes or which is zoned for single-family residential use, the manufactured home use shall provide screening in accordance with the following standards.

(1) A minimum 15-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a single-family used or zoned lot.

(a) The buffer yard shall contain two canopy trees and three understory trees per 100 linear feet of buffer yard.

(b) Canopy trees shall be a minimum of eight feet in height and two inches in caliper (measured six inches above grade) when planted.

(c) When mature, a canopy tree should be at least 40 feet high and have a crown width of 30 feet or greater.

(d) Understory trees shall be a minimum of four feet high and one inch in caliper (measured six inches above grade) when planted.

(2) The buffer yard shall also contain 17 shrubs per 100 linear feet of buffer yard. All shrubs shall be of a species that can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within three years of planting.

(3) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover or natural mulch of a minimum depth of three inches.

(Ord. passed 4-19-2018, § 70-1.3)

§ 3.161 ALTERNATIVE SCREENING METHODS.

(A) Under certain circumstances, if the application of the standards delineated in §§ 3.155 through 3.164 of this chapter is either inappropriate or ineffective in achieving the purposes of this chapter and screening is required by this subchapter or by other provisions of this chapter where the site design, topography, unique relationships to other properties, lot configuration, spatial separation, natural vegetation or other special considerations exist relative to the proposed development, the developer may submit a specific plan for alternative screening methods to the Town Clerk or Zoning Administrator or permit-issuing authority. This plan must demonstrate how the purposes and standards of this chapter will be met by measures other than those listed in §§ 3.156 and 3.157 of this chapter. If approved by the Town Clerk or Zoning Administrator or permit-issuing authority, the alternative screening plan may be utilized to meet the requirements of this chapter.

(B) A combination of natural vegetation, fences, walls and berms may be utilized to achieve the screening requirements of §§ 3.155 through 3.164 of this chapter; provided that, the following standards are met.

(1) Walls (a minimum of five feet in height and constructed of masonry, stone or pressure treated lumber) or an opaque fence (a minimum of five feet in height) may be used to reduce the widths of the buffer yards required in § 3.160 of this chapter up to ten feet.

(2) Understory tress may be substituted for canopy trees if, in the opinion of the Town Clerk or Zoning Administrator upon conferring with the electrical utility provider, a conflict exists with overhead utility lines.

(3) Wall planters shall be constructed of masonry, stone or pressure treated lumber and shall have a minimum height of 30 inches. The minimum height of shrubs in wall planters shall be six inches. The effective planting area of the wall planter shall be four feet in width (seven feet if the wall planter contains trees).

(4) Any beam utilized for screening purposes shall have a minimum height of three feet, a minimum crown width of three feet and a side slope no greater than three to one (3:1).
(Ord. passed 4-19-2018, § 70-1.4)

§ 3.162 MAINTENANCE.

In order for any screening to fulfill the purpose for which it was established, it must be properly maintained. The owner of the property and any tenant on the property where screening is required will be jointly and severally responsible for the maintenance of all required screening materials. Maintenance includes actions necessary to keep screening materials healthy, neat and orderly in appearance and free of litter and debris. Any live screening materials such as shrubs and trees that may die must be replaced in compliance with the minimum standards of this chapter. All screening and landscaping areas must be protected from damage by motor vehicles or pedestrians which could reduce the effectiveness of the screening.

(Ord. passed 4-19-2018, § 70-1.5)

§ 3.163 USE OF EXISTING SCREENING.

(A) When a lot is to be developed so that screening is required, and that lot abuts an existing hedge, fence or other screening material on the adjoining lot, then that existing screen may be used to satisfy the requirements of this chapter. The existing screen must meet the minimum standards for screening established by this chapter and it must be protected from damage by pedestrians or motor vehicles.

(B) However, the burden to provide the necessary screening remains with the use to be screened and is a continuing obligation that runs with the land so long as the original use continues in operation. Consequently, should the screening on the adjoining lot be removed, the use required to be screened shall, at that time, provide screening in accordance with the requirements of this chapter. (Ord. passed 4-19-2018, § 70-1.6)

§ 3.164 OBSTRUCTIONS PROHIBITED.

Landscaping and screening materials shall not obstruct the view of motorists using any road, driveway or parking aisle.

(Ord. passed 4-19-2018, § 70-1.7)

8. EXTERIOR LIGHTING

§ 3.165 PURPOSE AND INTENT.

The purpose of these standards is to control light trespass and glare so as not to adversely affect motorists, pedestrians, or adjacent properties. Lighting intensities should be controlled to assure public health, safety, and welfare. Further, it is the intent of this section to: maintain the minimal amounts of exterior lighting needed for night-time safety, security, commerce, and enjoyment; Minimize the adverse off-site impacts of light pollution such as glare, and light trespass, and obtrusive light; Promote the conservation of energy; Help protect the natural environment from the adverse effects of nighttime lighting; and Provide adequate lighting for pedestrian and bicycle safety.

§ 3.166 APPLICABILITY.

(A) The provisions of this section shall apply to all multi-family, single-family attached residential, mixed-use, and non-residential development unless exempted in accordance with § 3.167, Exemptions.

(B) All expansions or remodeling of principal buildings, parking areas, or open uses of land shall comply with these standards.

§ 3.167 EXEMPTIONS.

The following forms of exterior lighting or activities are exempt from the requirements of this section:

(A) Single-family detached residential dwellings and associated accessory structures;

(B) Special events and holiday displays;

(C) FAA-required lighting on buildings, towers, or other structures;

(D) Interior lighting for stadiums, arenas, and similar facilities;

(E) Security lighting that is shielded or aimed towards the ground, that are controlled and activated by motion sensor devices, and that remains lit for a duration of 10 minutes or less; and

(F) Temporary lighting necessary for construction or emergencies, when used by construction workers or emergency personnel.

§ 3.168 PROHIBITED LIGHTING.

The following forms of exterior lighting shall be prohibited:

(A) Lighting that imitates an official highway or traffic control light or sign;

(B) Lighting in the direct line of sight with any traffic control light or sign;

(C) Lights that flash, move, revolve, rotate, sparkle, blink, flicker, vary in intensity or color, or use intermittent electrical pulsation;

(D) High intensity light beams, such as searchlights or laser lights, except when used by federal, State, or local authorities;

(E) High intensity LED or neon lighting fixtures mounted around the interior or exterior of a window, door, or other architectural feature on a structure; and

(F) Luminous tube lighting (e.g., neon, rope lighting, LED strip, etc.) is prohibited on building exteriors and in configurations where it outlines a window or glass door from the inside of a structure.

§ 3.169 LIGHTING PLAN.

(A) An exterior lighting plan shall be required for development that includes a total illuminated area exceeding 10,000 square feet in area. Projects with multiple areas proposed to be illuminated (such as separate parking lots) shall submit a site lighting plan if the sum of the illuminated areas exceeds 10,000 square feet.

(B) In cases where an exterior lighting plan is not required or prepared, a site plan, if required, must indicate the following: Exterior lighting fixture type; Exterior lighting pole height; Exterior lighting fixture shielding; and A statement by the applicant that any proposed exterior lighting complies with the applicable requirements in this section.

(C) Certification must be provided by the person preparing a lighting plan that the proposed development complies with the exterior lighting standards of this section.

§ 3.170 EXTERIOR LIGHTING STANDARDS.

(A) *Generally.* All exterior lighting shall comply with the following general standards:

- (1) Vehicular areas such as exterior parking lots and driveways shall maintain a minimum threshold of ambient lighting in accordance with § 3.173, Maximum Illumination Levels, so that all light produced is as unobtrusive as possible, while also meeting functional needs such as safe circulation and protection of people and property.
- (2) Building entrances and public gathering areas shall utilize lighting that defines, high-lights, or enhances the space without glare or light trespass onto neighboring properties.
- (3) Shielded floodlights, spotlights, or any other similar lighting may be used to accent architectural elements but shall not be used to illuminate entire building facades.

(B) *Shielding.*

- (1) Overhead lighting fixtures shall be designed to prevent light from emitting upwards towards the sky. Under canopy lighting fixtures should be completely recessed within the canopy so that no source of illumination is visible except from directly underneath the light fixture.
- (2) Wall packs shall be full cut-off and wall-mounted floodlights shall be shielded (e.g., true cut-off type bulb or light source not visible from off-site) to direct light downward. No unshielded exterior light shall be installed with a light output of greater than 1,100 lumens.
- (3) Lighting fixtures shall be a maximum of 30 feet in height within the parking lot and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas. All light fixtures located within 50 feet of any single-family detached or duplex dwelling located in a residential zoning district shall not exceed 15 feet in height.
- (4) Incandescent, florescent, metal halide, light-emitting diode (LED), or color corrected high-pressure sodium lamps are permitted. Non-color-corrected high pressure sodium lamps are prohibited. Other lamp types are allowed when the color emitted is similar to the permitted lamp types.
- (5) The same lamp type must be used for the same or similar types of lighting throughout a development. Exterior lighting fixtures shall be designed in a consistent and coordinated manner for the entire site.
- (6) Exterior lighting shall be mounted and configured in such a manner so that the cone of illumination is contained on-site and does not cross any lot line around the perimeter of the site.

§ 3.171 GLARE.

Exterior lighting fixtures located on private property and visible from a residential land use shall be configured so that the source of illumination (the bulb) is not visible from an adjacent residential land use.

§ 3.172 RECREATIONAL LIGHTING.

Ball fields, basketball courts, tennis courts, swimming pools, outdoor performance areas, and similar recreational uses shall meet the following standards:

- (A) Outdoor recreational lighting shall not exceed a maximum permitted post height of 30 feet within non-residential and mixed-use districts and 20 feet in residential districts.
- (B) Lights shall be shielded and positioned so as not to shine onto adjacent roadways or adjacent lots.
- (C) No overhead lights shall be left turned on when the recreational area is not in use or no later than 10:00 PM on weeknights.
- (D) Poles shall be matte or low-gloss finish to minimize glare from the light source.

§ 3.173 MAXIMUM ILLUMINATION LEVEL.

Exterior lighting serving development subject to these standards shall be designed and located such that the maximum illumination measured in lumens shall not exceed the following table:

Measurement of exterior illumination shall take place at the lot line at the finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five percent.

Lighting fixtures that do not comply with these standards that were lawfully established as of May 8, 2023, may remain, and shall be considered nonconforming structures. Any modifications, replacement, or expansions to the exterior lighting facilities serving a development shall conform to the standards of this Ordinance.

MAXIMUM ILLUMINATION LEVELS	
TYPE OF ABUTTING USE	MAXIMUM ILLUMINATION LEVEL AT THE LOT LINE (LUMENS/SF) [1]
Single-family residential or duplex use or land zoned for single-family development	0.5
Multi-family or mixed-use development or land zoned for multi-family or mixed-use development	1.0 [2]
Institutional use or land zoned for institutional development	2.0 [2]
Commercial or industrial use or land zoned for uses other than residential	3.0 [2]
Public or private street right-of-way	5.0 [3]
<p>NOTES: [1] 1 lumen per square foot is equivalent to 1 footcandle. [2] In cases where a single development occupies multiple lots, the lot line shall be the lot line(s) around the perimeter of the project. [3] Parking lots, vehicular accessways, and driveways serving multi-family, non-residential, and mixed-use development shall maintain a minimum ambient lighting level of 0.5 lumens or more in all locations, though minimum ambient lighting levels may be lower as necessary to comply with applicable maximum illumination levels at lot lines.</p>	

9. SIGNS

§ 3.175 SIGN COMPLIANCE.

No type of exterior sign may be erected, posted, placed, replaced, hung, painted, or repainted in any district, except in compliance with this chapter. (Ord. passed 4-19-2018, § 80-1)

§ 3.176 GENERAL SIGN REGULATION.

(A) No sign shall be erected or constructed to interfere with vision clearance at any street or road right-of-way.

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

(1) All signs shall be at least five feet from street right-of-way.

(2) Any sign less than two feet from right-of-way after street widening may be moved by owner to at least five feet from the right-of-way if, in the opinion of the Board of Adjustment, said sign would not encumber the free and easy movement of traffic.

(C) All signs, together with any supports, braces, guys, and anchors shall be kept in good repair. Signs shall meet all structural requirements of the State Building Code.

(D) Illuminated signs shall be limited to those lighted from behind to silhouette letters and figures and illuminated internally, except spotlighted signs will be permitted if no glare is cast where disturbing to motorists or where it reflects on any property in separate ownership. Except for time or temperature units, no flashing or neon signs shall be permitted. All illuminated signs or structures shall be placed so as to prevent the light rays or illumination from being cast directly on any dwelling.

(E) No ground sign may exceed 35 feet in height above ground level, or grade level, whichever is higher.

(F) Window signs may be placed only on the inside of any buildings and shall not exceed 25% of the glass area of the pane on which the sign is displayed.

(G) An identification sign shall pertain solely to the name of the principal use of the premises or its operators and shall not advertise products or services which differ in name from the principal use.

(H) No sign shall be maintained for more than 180 consecutive days or 18 months in a three-year period after it has been made obsolete for any reason. (Ord. passed 4-19-2018, § 80-2)

§ 3.177 TYPE II: ADVERTISING SIGNS, BILLBOARDS.

Type II advertising signs and billboards are located so as to be primarily visible from state secondary roads.

(A) Maximum height: 15 feet.

(B) Minimum separation from another billboard: 750 feet measured along the same side of the road and 300-foot radius along the opposite side of the same road or an intersecting or adjacent road.

(1) Signs located within A-R Zoning Districts shall maintain a minimum separation of 150 feet from any residence as measured along the road beginning at a point projected perpendicular from the near side of an existing residence to the road right-of-way and 150 feet from any residential zoning district boundary.

(2) Signs located within all other non-residential zoning districts must comply with the separation standards as contained herein.

(C) Maximum size: 72 square feet in area.

(D) Minimum setback from road right-of-way: ten feet.

(E) Minimum separation from other structures and side or rear property lines: 15 feet.

(F) Minimum separation from utility lines shall be in compliance with the requirements of the utility having jurisdiction.

(G) Signs 72 square feet or less in area and 15 feet or less in height may be constructed utilizing no more than two support poles of wood or metal.

(H) Any structures, blank surfaces, backs and supports shall be uniformly painted in a neutral finish when exposed to any road and shall be maintained in good repair.
(Ord. passed 4-19-2018, § 80-4)

§ 3.178 TABLE OF PERMITTED SIGNS.

(A) Districts in which particular signs are permitted are indicated by “X”.

(B) Outdoor advertising signs shall require issuance of a special use permit, and the districts where these signs are permitted are indicated by an “S”.

(C) Districts to which particular signs are prohibited are indicated by a blank.

TYPE OF SIGN	AG	RL	RM	RMH	R-20	B-1	B-2	LI	OI
One sign per establishment or dwelling unit not exceeding 3 square feet in area mounted flat against a wall or door or hung from a mail box or lamp post	X	X	X	X	X	X	X	X	X
Temporary signs not exceeding 10 square feet in area	X	X	X	X	X	X	X	X	X
Directional or informational signs of a public or quasi-public nature, not exceeding 8 square feet in area	X	X	X	X	X	X	X	X	X
Memorial signs, tablets, names of buildings and date of construction when cut into any masonry surface or constructed of metal and affixed flat against a structure	X	X	X	X	X	X	X	X	X
Official signs and traffic or other governmental signs	X	X	X	X	X	X	X	X	X
Street address numbers provided such signs are mounted flat against a wall or door or hung from a mail box or lamp post and that no sign of this type exceeds 3 square feet in area	X	X	X	X	X	X	X	X	X
For 2 weeks prior to an election, campaign signs, not exceeding 4 square feet in area, no more than 3 per dwelling unit or industrial establishment	X	X	X	X	X	X	X	X	X
Construction fence wraps as permitted by the NC General Statutes	X	X	X	X	X	X	X	X	X
Temporary banners, pennants, and streamers if non-illuminated, for a period of not more than 2 weeks	•	•	•	•	•	X	X	X	X

TYPE OF SIGN	AG	RL	RM	RMH	R-20	B-1	B-2	LI	OI
after the opening of a new business; portable commercial signs are not included									
Signs directing traffic and pedestrians on private property not to exceed 10 square feet per sign	X	X	X	X	X	X	X	X	X
Residential entrance and exit signs, either (1) not exceeding 12 square feet in area, or (2) not exceeding 9 square feet in area per sign; provided that, the sign or pillars do not exceed either 8 feet in height	X	X	X	X	X	X	X	X	X
One on-site identification sign not exceeding 200 square feet in area or 35 feet in height	•	•	•	•	•	X	X	X	X
One on-site identification sign not exceeding 660 square feet in area or 100 feet in height above ground or road level, whichever is higher facing each public street which adjoins the property on which the use is located	•	•	•	•	•	X	X	X	X
One on-site identification sign not exceeding 64 square feet in area facing each public street which adjoins the property	•	•	•	•	•	•	•	X	•
Signs mounted flat against the walls of buildings, but not painted directly on the walls, or suspended from a canopy if the bottom of the suspended sign is at least 9 feet above sidewalk level, up to a maximum of 2 square feet of area per lineal foot of building frontage (only main entrance wall of building used in computing frontage) for all signs of this type together	•	•	•	•	•	X	X	X	X

TYPE OF SIGN	AG	RL	RM	RMH	R-20	B-1	B-2	LI	OI
Outdoor advertising signs	S	S	.	S	.

(Ord. passed 4-19-2018, § 80-5)

§ 3.179 SUBDIVISION ENTRY SIGNS.

(A) Generally.

(1) This section applies to residential subdivisions in the AG, RL, RM, RMH, R-20, and OI districts, including all sections and phases of the subdivision collectively. The number and area of signs established in this section apply to the overall subdivision, and the allowance for secondary and tertiary signs does not apply separately to each individual subdivision.

(2) A permit is required for all residential subdivision entry signs.

(3) Freestanding signs are allowed along an entrance roadway into a major project entry into a legal, recorded, multi-lot, multi-sectioned, or master-planned residential subdivision, as provided below.

(4) There are three types of subdivision entry signs:

(a) Primary;

(b) Secondary; and

(c) Tertiary.

(5) Subdivision entry signs must be monument signs constructed of stone, brick, or other approved masonry materials that are compatible with surrounding development, and may be located on a hardscape feature at the subdivision entrance.

(6) The maximum allowable sign face size limitations apply separately to each side of the street, where applicable.

(7) The maximum sign height for all subdivision entry signs shall not exceed eight feet.

(8) External or internal illumination is permitted. No digital signage is allowed.

(B) Primary Subdivision Entry Signs.

(1) Primary entrance signs are located at the primary entrance into the subdivision.

(2) Only one primary entrance sign is permitted for the subdivision, except that a maximum of two signs are permitted if two entrances to the subdivision are located on two different major arterial roadways. In that case, one primary entrance sign may be placed on each of the major arterial roadways.

(3) The maximum sign area of the entrance sign is 32 square feet for subdivisions containing 100 units or less. For each additional 100 units in the subdivision, the size can increase an additional ten square feet to a maximum size of 64 square feet of total sign face area. If the sign face is incorporated into landscape features, a wall, or architectural feature, the size of the sign face is determined by the area of the smallest rectangle within which the face of the sign can be enclosed.

(4) *License agreement.* The city may enter into a license agreement to permit the sign to be located on public right-of-way. The license agreement shall be in a form acceptable to the city.

(C) *Secondary subdivision entry signs.* Secondary subdivision entry signs:

(1) Are to be located at entrances into the subdivision other than at the primary entrance; are to be placed on private property within the subdivision and not on public right-of-way; and

(2) Shall have a sign face that is a maximum of 16 square feet in size.

(D) *Tertiary subdivision entry signs.*

(1) Are to be located at the entry way into sections within the subdivision and outside of the public right of-way;

(2) Are permitted only in subdivisions that exceed 50 acres;

(3) Shall be comprised entirely of stone or masonry, with engraved lettering set within the stone;

(4) Shall be monument signs only; and

(5) Shall be limited to a total area of ten square feet.

(E) The developer shall represent in writing to the city its plan for perpetual maintenance of such signs by the homeowner's association or similar entity before a permit will be issued for such signs.

(Ord. 2020-01, passed 3-9-2020)

10. OFF-STREET PARKING AND LOADING

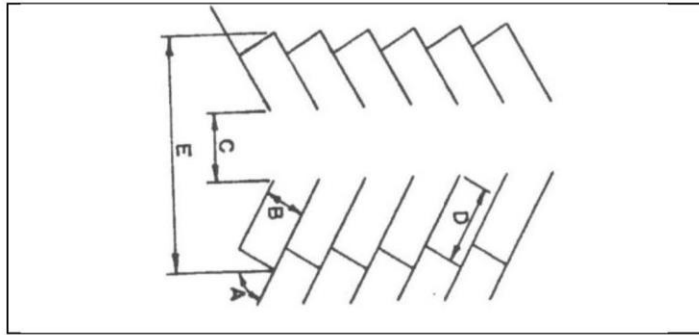
§ 3.190 STANDARDS.

All new development shall provide off-street parking and loading areas in accordance with the standards of this subchapter. Any change in use of an existing development shall be subject to these parking and loading standards to the maximum extent practicable. (Ord. passed 4-19-2018, § 90-1.1)

§ 3.191 DESIGN STANDARDS TABLE.

(A) An off-street parking space shall not be less than the size required below for the angle parking shown.

DESIGN STANDARDS TABLE				
<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E</i>
<i>Parking Angle (degree)</i>	<i>Stall Width (ft.)</i>	<i>Aisle Width (ft.)</i>	<i>Stall Length (ft.)</i>	<i>Bay Width for Double Aisle (ft.)</i>
0	9	12	22	29
30	9	11	18	45
45	9	13	18	52
60	9	18	18	59.5
75	9	22	18	62
90	9	24	18	60



(B) Parking spaces and drive aisles using dimensions other than those specified may be approved if prepared and sealed by a registered engineer in the state with expertise in parking facility design. (Ord. passed 4-19-2018, § 90-1.2)

§ 3.192 NUMBER OF PARKING SPACES REQUIRED.

All developments in all zoning districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question. When determination of the number of parking spaces required by this table results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space. The following off-street parking spaces shall be provided:

OFF-STREET PARKING AND STACKING REQUIREMENTS	
Use	Spaces Required
ACCESSORY USES	
Accessory dwelling unit	1 per unit
Caretaker dwelling	1 per unit
Home occupations	1 per, plus residence requirements
BUSINESS, PROFESSIONAL AND PERSONAL SERVICES	
Automobile repair services	3 per service bay, plus 1 per wrecker or service vehicle, plus 2 per 3 employees on the largest shift

OFF-STREET PARKING AND STACKING REQUIREMENTS

Use	Spaces Required
Banks and financial institutions	*1 per 200 square feet gross floor area, plus stacking for 4 vehicles at each drive-thru window or automatic teller machine
Barber and beauty shops	2 per operator
Boarding and rooming house; bed and breakfast	1 per bedroom, plus 2 per 3 employees on the largest shift
Car washes	
Full-service	*Stacking for 30 vehicles or 10 per approach lane, whichever is greater, plus 3 spaces in the manual drying area, plus 2 per 3 employees on the largest shift
Self-service	*3 stacking spaces per approach lane, plus 2 drying spaces per stall
Congregate care, family care or group care facilities	1 per 4 beds, plus 1 per employee and visiting specialist, plus 1 per vehicle used in the operation
Delivery services	2 per 3 employees on largest shift, plus 1 per vehicle used in the operation
Equipment rental and leasing	1 per 200 square feet gross floor area
Funeral homes or crematoria	1 per 4 seats in main chapel, plus 2/3 employees on the largest shift, plus 1 per vehicle used in the largest operation
Hotels and motels containing	
5,000 square feet or less ancillary space (i.e., restaurant, meeting rooms, lounge or lobby or a restaurant/lounge containing 3,000 square feet or less)	1.1 per rental unit
More than 5,000 square feet of ancillary space (i.e., restaurant, meeting rooms, lounge or lobby or a restaurant/lounge containing over 3,000 square feet)	1.25 per rental unit

OFF-STREET PARKING AND STACKING REQUIREMENTS

Use	Spaces Required
Kennels or pet grooming	1 per 400 square feet of sales, grooming or customer waiting area, plus 2 per 3 employees on the largest shift
Laundromat (coin operated)	*2 per 3 employees on the largest shift, plus 1 per vehicle used in the operation, plus stacking for 4 vehicles per pickup station
Laboratories	*2 per 3 employees on the largest shift, plus 1 per 350 square feet of office space
Medical, dental or related offices	3 per examining room, plus 1 per employee including doctors
Motion picture production	1 per 1,500 square feet of gross floor area
Offices not otherwise classified	1 per 350 square feet of gross floor area
Repair of bulky items (appliances, furniture, boats and the like)	2 per 3 employees on largest shift, plus 1 per vehicle used in operation
Theaters (indoor)	1 per 4 seats
Truck wash	*3 stacking spaces per stall
Veterinary service (other)	4 per doctor, plus 1 per employee including doctors
Vocational, business or secretarial schools	1 per 100 square feet of classroom space, plus 1 per 250 square feet of office space
Services and repairs not otherwise classified	1 per 250 square feet gross floor area, plus 1 per vehicle used in the operation
Drive-thrus not otherwise classified	*Stacking for 4 vehicles at each bay, window, lane, ordering station or machine in addition to the use requirement
EDUCATIONAL AND INSTITUTIONAL USES	
Ambulance services; fire stations; law enforcement stations	1 per employee on the largest shift
Churches	1 per 4 seats in main chapel

OFF-STREET PARKING AND STACKING REQUIREMENTS

Use	Spaces Required
Colleges and universities	7 per classroom, plus 1 per 4 beds in main campus dorms, plus 1 per 250 square feet of office space, plus 1 per 5 fixed seats in assembly halls and stadiums
Correctional institutions	1 per 10 inmates, plus 2 per 3 employees on largest shift, plus 1 per vehicle used in the operation
Day care, child or adult	1 per employee, plus 1 per 10 clients served with parking located on-site
Elementary and middle schools	3 per room used for offices, plus 3 per classroom
Government offices; post offices	1 per resident staff member, plus 2 per 3 non-residential staff members and/or volunteers on the largest shift, plus 1 per each vehicle used in the operation/ resident staff member, plus 2/3 non-residential staff members and/or volunteers on the largest shift, plus 1/each vehicle used in the operation
Homeless shelter	1 per 150 square feet of public service area, plus 2 per 3 employees on largest shift
Hospitals	1 per 4 in-patient or out-patient beds, plus 2 per 3 employees on largest shift, plus 1 per staff doctor
Libraries; museums and art galleries	1 per 450 square feet of gross floor area for public use, plus 2 per 3 employees on the largest shift
Nursing and convalescent homes	1 per 4 beds, plus 1 per employee and visiting specialist, plus 1 per vehicle used in the operation
Senior high schools	3 per room used for offices, plus 7 per classroom
RECREATION	
Amusement parks; fairgrounds; skating rinks	1 per 200 square feet of activity area

OFF-STREET PARKING AND STACKING REQUIREMENTS

Use	Spaces Required
Athletic fields	25 per field
Auditorium; assembly hall; convention center; stadium	1 per 5 persons based upon the design capacity of the building
Batting cages, golf driving ranges; miniature golf; shooting ranges	1 per cage, tee or firing point
Billiard parlors; tennis courts	3 per table or court
Bowling centers	4 per lane
Clubs; coin-operated amusement; physical fitness centers and similar indoor recreation	1 per 200 square feet of gross floor area
Riding academy	1 per 2 stalls
Golf course	1 per tee
Recreational vehicle park or campground	2 per site
Swimming pools	1 per 100 square feet of water and deck space
RESIDENTIAL USES	
Dwelling units, (single-family detached; duplex and twin home dwellings; manufactured homes)	2 per dwelling unit on the same lot
Multi-family dwellings (including condominiums and townhomes)	
0 to 1 bedroom units	1.25 per unit
2 bedroom units	1.5 per unit
3 or more bedroom units	2 per unit
Manufactured home parks	2 per dwelling unit on the same lot
RETAIL TRADE	
Bars; nightclubs	1 per 3 persons based upon the design capacity of building, plus 2 per 3 employees on the largest shift, located on the same zone lot

OFF-STREET PARKING AND STACKING REQUIREMENTS

Use	Spaces Required
Convenience stores	*1 per 200 square feet gross floor area, plus 4 stacking spaces at pump islands
Department stores; food stores	1 per 200 square feet gross floor area
Fuel oil sales	2 per 3 employees on largest shift, plus 1 per vehicle used in the operation
Furniture; floor covering sales	1 per 1,000 square feet gross floor area
Motor vehicle, motorcycle or recreational vehicle sales or rental; manufactured homes sales	5 spaces, plus 1 per 10,000 square feet of display area, plus 2 per 3 employees on the largest shift
Restaurants	*1 per 4 seats, plus 2 per 3 employees on the largest shift and 11 total stacking spaces with minimum 5 spaces at or before ordering station
Retail sales not otherwise classified	1 per 200 square feet gross floor area
Retail sales of bulky items (appliances, building materials and the like)	1 per 500 square feet of gross floor area
Service stations, gasoline sales	*3 per service bay, plus 1 per wrecker or service vehicle, plus 2 per 3 employees on largest shift, plus 4 stacking spaces at pump islands
TRANSPORTATION, WAREHOUSING AND UTILITIES	
Airport, bus and railroad terminals	1 per 4 seats, plus 2 per 3 employees on the largest shift
Communications towers; demolition debris landfills; heliports; utility lines or substations	No required parking
Self-storage warehouses	1 space per 5,000 square feet devoted to storage
Transportation, warehousing and utility uses not otherwise classified	2 per 3 employees on the largest shift, plus 1 per vehicle used in the operation
Manufacturing and industrial uses	2 per 3 employees on the largest shift, plus 1 per 200 square feet of retail sales or customer service area, plus 1 per vehicle used in the operation

OFF-STREET PARKING AND STACKING REQUIREMENTS	
Use	Spaces Required
WHOLESALE TRADE	
Market showroom	1 per 1,000 square feet gross floor area
Wholesale uses	2 per 3 employees on the largest shift, plus 1 per 200 square feet of retail sales or customer service area, plus 1 per vehicle used in the operation
OTHER USES	
Flea markets; other open-air sales	1 per 1,000 square feet of lot area used for storage, sales and display
Shopping centers	
< 250,000 square feet gross floor area	1 per 200 square feet gross floor area in main building(s) (excluding theaters), plus parking as required for out parcels or theaters
> 250,000 square feet gross floor area	1,250 spaces, plus 1 per 225 square feet gross floor area above 250,000 square feet
<p><u>NOTES TO TABLE:</u> * NCDOT may require additional stacking spaces on state or federal highways. The use of employee, occupant or similar numbers to determine parking space requirements shall be used only where the use of square footage or other measurement factors are not feasible. EMPLOYEES shall mean the regular working staff (paid, volunteer or otherwise) at maximum strength and in full-time equivalent numbers necessary to operate, maintain or service any given facility or use under normal levels of service.</p>	

(Ord. passed 4-19-2018, § 90-1.3)

§ 3.193 FLEXIBILITY IN ADMINISTRATION.

(A) The Town Council recognizes that the above table cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit-issuing authority (Town Clerk, Zoning Administrator, Board of Adjustment or Town Council) is authorized to determine the parking requirements using the above table as a guide.

(B) In cases where a deviation or new standards has been applied, the permit-issuing authority shall enter the resulting parking requirement on the appropriate permit and state the reasons for the

determination or deviation in writing on an appropriate document. Variances shall be handled by the Board of Adjustment. (Ord. passed 4-19-2018, § 90-1.4)

§ 3.194 OFF-SITE PARKING.

An alternative parking plan may propose to meet a portion of the minimum number of off-street vehicle parking spaces required for use with off-site parking shall be permitted per the following.

(A) The zoning district of the off-site parking area shall be one that allows the use served by the offsite parking lot.

(B) Off-site parking spaces shall be located within 500 feet walking distance of the property served by the parking.

(C) Off-site parking shall not be separated by a major or minor thoroughfare and shall provide for safe pedestrian access.

(Ord. passed 4-19-2018, § 90-1.5)

§ 3.195 OFF-STREET LOADING REGULATIONS.

The duty to provide the off-street loading space herein required shall be the joint responsibility of the owner and operator of the structure or structures for which off-street loading space is required. The space shall be provided in accordance with the table below and all off-street loading spaces shall be designed so that the vehicles loading and unloading shall not set upon or cross any public street or alley right-of-way. All off-street loading spaces shall be at least 12 feet wide, 30 feet long and have an overhead clearance of 14 feet.

TABLE OF OFF-STREET LOADING REGULATIONS	
Industrial and wholesale operations with a gross floor area of 10,000 sq. ft. or over and as follows:	
10,000 - 40,000 sq. ft. required	1 minimum number of loading berths
40,000 - 100,000 sq. ft. required	2 minimum number of loading berths
100,000 - 160,000 sq. ft. required	3 minimum number of loading berths
160,000 - 240,000 sq. ft. required	4 minimum number of loading berths
240,000 - 320,000 sq. ft. required	5 minimum number of loading berths
320,000 - 400,000 sq. ft. required	6 minimum number of loading berths

TABLE OF OFF-STREET LOADING REGULATIONS

Industrial and wholesale operations with a gross floor area of 10,000 sq. ft. or over and as follows:	
Each 90,000 sq. ft. above 400,000 required	1 minimum number of loading berths
Office buildings and hotels with a total usable floor area of 100,000 sq. ft. or more devoted to such purposes	1 space for each 100,000 square feet of floor area
Retail operation with a total usable floor area of 20,000 sq. ft. or more devoted to such purposes	1 for each 20,000 square feet of floor area; in stores having over 20,000 square feet of floor area, maximum requirements shall be 2 spaces per store
Retail operations and all first-floor non-residential uses with a gross floor area of less than 20,000 sq. ft. and all wholesale and light industrial operations with a gross floor area of less than 10,000 sq. ft.	1 space

(Ord. passed 4-19-2018, § 90-2)

§ 3.196 OFF-STREET PARKING DESIGN.

(A) No off-street parking area shall be designed to permit direct parking space ingress and egress to a public road, except by way of a driveway.

(B) All off-street parking areas must be physically separated from property lines and public street rights-of-way by a landscaped buffer.

(C) Off-street parking spaces along primary thoroughfares are encouraged to be located in the rear of the principal building or otherwise screened with landscaping to minimize the visual impact on adjacent public streets and/or residential zoning districts.

(D) Every off-street parking area shall be developed and maintained in accordance with the following requirements:

(1) All off-street parking areas requiring eight or more spaces shall be paved with a stable, dust-free surface.

(2) Lighting shall be provided for all parking areas which will receive night use. Such lighting shall be directed to the parking area and be shielded to prevent adverse glare on adjacent public streets and properties. Where proposed lighted parking areas are located adjacent to a residential district or residential use, lighting shall be of minimum intensity to assure safety and

security and shall be well shielded from the adjacent property. However, security lighting within the aforementioned pedestrian areas used at night shall be illuminated at a level not less than 0.5 candle power.

(3) All off-street parking areas shall be so arranged and marked as to provide for orderly, safe loading, unloading and parking of vehicles with individual parking spaces clearly defined, and directional arrows and traffic signs provided as necessary for traffic control.

(4) Pedestrian walkways and sidewalks shall be provided to and from all paved parking areas and shall be designed to serve on-site principally permitted uses and accessory uses for which there is pedestrian demand. Such walkways and sidewalks shall be protected from vehicular overhang and movement by curbs or other method approved by the town. Security lighting within the aforementioned pedestrian areas used at night shall be illuminated at a level not less than 0.5 candle power. Upon review of the area to be illuminated, if it is classified as a special security area by the town, an increased level of illumination may be considered and studied.

(5) In order to allow for the passing of handicapped pedestrians and wheelchairs, pedestrian walkways shall be five feet in width. (Ord. passed 4-19-2018, § 90-3)

11. ADMINISTRATION

§ 3.210 ZONING ADMINISTRATOR.

The Zoning Administrator or Town Clerk appointed by the Town Council is duly charged with the enforcement of the provisions of this chapter. If the Town Clerk or Zoning Administrator finds that any of the provisions of this chapter are being violated, he or she shall notify in writing the person(s) responsible for such violations, indicating the nature of the violation and ordering the action(s) necessary to correct it. He or she shall also take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions. He or she shall also be responsible for ensuring that the text of this chapter and The Official Zoning Map are kept up-to-date with the decisions of the Town Council. (Ord. passed 4-19-2018, § 30-1)

§ 3.211 PLANNING BOARD.

(A) *Authority.* A Planning and Zoning Board for the town is established under the authority of G.S. §§ 160D-301, 160D-307, 160D-103, and 160D-502. . The Planning Board shall be officially known as the “Red Oak Planning Board”.

(B) *Composition.* The town’s Planning Board shall consist of seven members, appointed by the Town Council. One of the members shall be a member of the Council to serve in an ex officio capacity concurrent with his or her official term of office. The composition of the Board shall reflect proportional geographic representation within the town’s corporate limits.

(C) *Qualification.* Members of the town’s Planning Board appointed by the Town Council shall be residents of the town at the time of their appointment and for the duration of their term. No official elected to office in the town, excepting the ex officio member, nor any person employed by the town, shall serve on the Planning Board.

(D) *Term of office.* Member’s terms will begin as of January 1 following their appointments. Members shall be appointed for overlapping terms of three years. Any member of the Planning Board may be removed for cause (including, but not limited to, neglect of duty, malfeasance, misconduct or failure to faithfully attend meetings) by the Town Council upon written cause. Positions on the Planning Board shall be filled after soliciting applications in the local newspaper.

(E) *Vacancies.* Any vacancy occurring for reasons other than the expiration of terms shall be filled for the unexpired term in the same manner as the original appointment. Members whose terms have expired shall continue to serve until their successors have accepted an oath of office.

(F) *Organization.*

(1) At the first meeting of the calendar year, the Planning Board shall elect a Chairperson and a Co-Chairperson who shall hold that position for one year. A past Chair and Co-Chair may be reelected. If the Chair becomes vacant, the Co-Chair shall succeed to the Chair and a new Co-Chair shall be elected by the members.

(2) The Chair shall decide all points of order and shall take such action as deemed necessary to preserve the order and integrity of proceedings before the Board. In the absence of the Chair, the Co-Chair shall act as Chair and shall have all the powers of that office. In the absence of both the Chair and Co-Chair, an acting Chair shall be elected for that meeting.

(3) No meeting of the Planning Board shall be called to order, nor shall any business be conducted, unless there shall be a quorum of four members present.

(4) Any member who has an interest in a matter under consideration by the Planning Board shall declare such interest prior to a vote and abstain from voting on the question. The member declaring the interest may participate in the discussions on the matter prior to the vote.

(5) The Town Clerk or Zoning Administrator shall be the professional staff to the Planning Board.

(6) The Planning Board shall, by a majority vote of its entire membership, adopt rules and regulations governing its procedure as it may consider necessary. Such rules shall be maintained by the Town Clerk or the Zoning Administrator, and shall be available on the Town's webpage for members of the public to review.

(7) Meetings of the Planning Board shall be held on a regular monthly basis at an agreed upon time and place. Additional meetings may be called by the Chair or by a majority of the Board. All meetings shall be held in the town in a place open and accessible to the public.

(8) In no instance shall the Planning Board be seated as the Board of Adjustment during an active Planning Board meeting.

(9) Members shall be compensated for their service at a rate determined by the Town Council.

(G) *Powers and duties.* The Planning Board shall:

(1) Make comprehensive studies of the Town's planning jurisdiction, to prepare and recommend plans, policies and ordinances that will promote orderly development and the public health, safety and general welfare of the community;

(2) Hear, review, and make recommendations to the Town Council on petitions to amend the zoning and subdivision ordinances, petitions to amend the Official

Zoning Map, requests for rezoning, site plan review, and subdivision of land within its jurisdiction;

- (3) Serve as the Board of Adjustment;
- (4) Review and make recommendations for major subdivisions in accordance with the subdivision regulations; and
- (5) Perform any other duties assigned by the Town Council.

(H) *Advisory committees.*

(1) From time to time, the Town Council may appoint one or more individuals to assist the Planning Board to carry out its planning responsibilities with respect to a particular subject or planning area.

(2) Members of such advisory committees shall sit as non-voting members of the Planning Board when such issues are being considered and lend their talents, energies and expertise to the Planning Board. However, all formal recommendations to the Town Council shall be made by the Planning Board.

(3) Nothing in this section shall prevent the Town Council from establishing independent advisory groups, committees or boards to make recommendations on any issue directly to the Town Council.

(Ord. passed 4-19-2018, § 30-4)

§ 3.212 BOARD OF ADJUSTMENT.

(A) *Authority.* The Board of Adjustment is hereby established in accordance with G.S. §160D-302 and shall perform related duties as directed by the Town Council.

(B) *Composition.* The town's Board of Adjustment shall consist of seven regular members and one alternate, each appointed by the Town Council. The composition of the Board shall reflect proportional geographic representation within the town's corporate limits. The regular members of the Board of Adjustment shall also serve as the town-appointed Planning Board. with terms consistent with the terms of the Planning Board members.

(C) *Term of Office.* Terms of the Board of Adjustment shall be consistent with the terms of the Planning Board members.

(D) *Vacancies.* Any vacancy occurring for reasons other than the expiration of terms shall be filled for the unexpired term in the same manner as the original appointment. Members whose terms have expired shall continue to serve until their successors have accepted an oath of office.

(E) *Organization.*

(1) At the first meeting of the calendar year, the Board of Adjustment shall elect a Chairperson and a Co-Chairperson who shall hold that position for one year. A past Chair and Co-Chair may be reelected. If the Chair becomes vacant, the Co-Chair shall succeed to the Chair and a new Co-Chair shall be elected by the members.

(2) The Chair shall conduct evidentiary hearings, decide all points of order and shall take such action as deemed necessary to preserve the order and integrity of proceedings before the Board. In the absence of the Chair, the Co-Chair shall act as Chair and shall have all the powers of that office. In the absence of both the Chair and Co-Chair, an acting Chair shall be elected for that meeting.

(3) The Board of Adjustment may maintain as its Chair and Vice-Chair the same ones elected for the Planning Board as its Chair and Vice-Chair. The Vice-Chair shall serve as the Chair in the absence of the Chair. Such officers shall be elected and serve on the schedule as set forth for the Planning Board.

(4) No meeting of the Board of Adjustment shall be called to order, nor shall any business be conducted, unless there shall be a quorum of at least four members present.

(5) Any member who has an interest in a matter under consideration by the Board of Adjustment shall declare such interest prior to a vote and abstain from voting on the question. The member declaring the interest may participate in the discussions on the matter prior to the vote.

(6) The Town Clerk or Zoning Administrator shall be the professional staff to the Board of Adjustment.

(7) Meeting of the Board of Adjustment shall be held on an as-needed basis at an agreed upon time and place. Additional meetings may be called by the Chair or by a majority of the Board. All meetings shall be held in the town in a place open and accessible to the public.

(8) In no instance shall the Board of Adjustment be seated as the Planning Board during an active Board of Adjustment meeting.

(9) Members shall be compensated for their service at a rate determined by the Town Council.

(F) *Voting.* The concurring vote of four-fifths of the Board of Adjustment members shall be necessary to grant a variance. A simple majority of the Board of Adjustment members shall be required to decide any other matter. Members who are recused from voting due to a conflict of interest shall not be counted towards a simple or super majority.

(G) *Rules for proceedings.* The Board shall adopt rules governing its organization and for all proceedings before it. Such rules shall provide and require the following in addition to such other rules and regulations the Board shall adopt. Such rules shall be maintained by the Town Clerk or the Zoning Administrator, and shall be available on the Town's webpage for members of the public to review.

(1) The Town Clerk or Zoning Administrator shall keep minutes of the proceedings. The minutes shall contain relevant facts and testimony of each appeal, the vote of each member on each appeal, abstention from voting and attendance. The minutes shall contain the signature of the Town Clerk or Zoning Administrator and the Chairperson.

(H) *Powers and duties.* The Board of Adjustment shall have the following powers and duties:

(1) *Appeals of decision of Town Clerk or Zoning Administrator.* To hear and decide any appeal from and review any order, requirement, decision or determination made by the Town Clerk or Zoning Administrator, including any interpretations of the zoning map, disputed district boundary lines or lot lines; and

(2) *Variations.* To authorize upon appeal, in specific cases, such variations from the terms of this chapter, which will not be contrary to the public interest; and

(3) *Special use permits.* To hear and decide applications for uses requiring approval of a special use permit; and

(4) *Reasonable accommodations.* To consider request for deviations or reductions to the standards of this chapter when doing so allows a person with a physical disability to gain access to housing under the federal Fair Housing Act; and

(5) Any other matter the Board of Adjustment is required to act upon as required by any other town ordinance.

§ 3.213 TOWN COUNCIL.

(A) The Town Council shall follow the regular voting and other requirements as set forth in other provisions of the town code or general law. (Ord. passed 4-19-2018, § 30-6)

(B) In considering proposed changes in the text of this chapter or in the zoning map, the Council acts in its legislative capacity and must proceed in accordance with the requirements of §§ 3.370 through 3.374 of this chapter.

§ 3.214 GENERAL REQUIREMENTS FOR ALL REVIEW AUTHORITIES.

(A) *All meetings shall be open.* Except for closed session meetings conducted by the Town Council, all meetings of review authorities shall be open to the public in accordance with G.S. §143-318 (Meetings of Public Bodies) and shall be conducted in accordance with the procedures set forth in these regulations and the rules of procedure adopted by the respective review bodies.

(B) *Rules of procedure.* Except for the Administrator, each review authority established in this Ordinance shall adopt formal rules of procedure consistent with the level of decision-making delegated to that body. Adopted rules of procedure shall be kept on file in the Town's offices, are available for public inspection, and shall be maintained by the designated staff to the review body.

(C) *Oath of office.* All review body members (including the Administrator) who review and decide applications under this Ordinance shall be administered the oath of office prior to commencing their duties in accordance with Article 6, Section 7 of the North Carolina Constitution by a person authorized to administer the oath. The County Clerk shall maintain a record of the oath's administration.

(D) *Conflict of interest.*

(1) *Legislative and administrative decisions*

i. A review body member shall not vote on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member in accordance with G.S. §160D-109.

ii. A review body member shall not vote on an application where the landowner or applicant is a person with whom the member has a close familial, business, or other associational relationship. For the purposes of this section, "close familial relationship" means spouse, parent, child, brother, sister, grandparent, or grandchild, including step, half, and in-law relationships.

(2) *Quasi-judicial decisions.*

i. A review body member shall not participate in or vote on any quasi-judicial matter in a manner that would violate an affected persons' constitutional rights to an impartial decision maker.

ii. Impermissible violations of due process include but are not limited to: a member having a fixed opinion prior to hearing the matter that is not susceptible to change; an undisclosed ex parte communication; a close familial, business, or other associational relationship with an affected person; or a direct, substantial, and readily identifiable financial impact on the member.

(3) *Recusal.*

i. If a conflict of interest exists, then a review body member shall recuse themselves from participating in and voting on an application.

ii. If an objection is raised to a member's participation and that member does not recuse himself or herself, then the remaining members shall, by majority vote, rule on the objection.

§ 3.215 GENERAL DEVELOPMENT REVIEW PROCEDURES.

(A) *Authority to file applications.* Unless expressly stated otherwise in this Ordinance, development applications associated with a particular lot or site reviewed under this Ordinance shall be filed by the landowner, contract purchaser, or other person having a recognized property interest in the land on which development is proposed. Applications for amendments to the text of this Ordinance may only be initiated by the Zoning Administrator, the Planning Board, the Town Council, or a landowner.

(B) *Application content.* The Town shall establish development application content and forms, which shall be maintained by the Zoning Administrator.

(C) *Application fees.* The Town Council shall establish application fees and may amend and update those fees as necessary. Fees shall cover the costs of review, including public notification, as required. No action shall be taken on an application and no application approval shall be issued until all required application fees are paid in full.

(D) *Application filing.* Applications shall be filed with the Town in the form established by the Town, along with the appropriate application fee. An application shall not be considered to be submitted until determined to be complete in accordance with the applicable requirements of this chapter. No application shall be reviewed or decided until after it is determined to be complete.

(E) *Burden of presenting complete application.* The burden of presenting and maintaining a complete application shall be solely upon the applicant.

(F) *Determination of application completeness.* Upon development application filing, the Administrator shall determine, within seven business days, whether the application is complete or incomplete. A complete application is one that:

- (1) Contains all information and materials identified in this Ordinance and all supporting documentation, as required for submittal of the particular type of application;
- (2) Is in the form and number of copies required by the Town;
- (3) Is legible and printed to scale, where appropriate;
- (4) Is signed by the person(s) with the authority to file the application;

- (5) Includes information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in this Ordinance;
- (6) Is accompanied by the fee established for the particular type of application;
- (7) Includes material associated with a pre-application conference, if one is required;
- (8) Includes the written summary of a neighborhood information meeting, if one was conducted prior to application submittal; and
- (9) Is not subject to the limitations described in §3.223, Limitation on Subsequent Applications.

(G) *Application incomplete.* If the application is incomplete, the Zoning Administrator shall notify the applicant of the deficiencies in writing. The applicant may correct the deficiencies and resubmit the application for completeness determination in accordance with this section.

(H) *Application complete.* On determining that the application is complete, it shall be considered as submitted, and the County shall notify the applicant and commence review in accordance with the procedures and standards of this Ordinance. Nothing shall preclude the Zoning Administrator or a review authority from re-evaluating an application for completeness in the event application inadequacies are revealed at a date subsequent to an application being declared complete.

(I) *Permit choice.*

- (1) If a development permit applicant submits a permit application for any type of development and a rule or ordinance is amended, including an amendment to any applicable land development regulation, between the time the development permit application was submitted and a development permit decision is made, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. If an applicable rule or ordinance is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. Provided, however, any provision of the development permit applicant's chosen version of the rule or ordinance that is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant. .
- (2) This section applies to all development permits issued by the State and by local governments.

- (3) If a permit application is placed on hold at the request of the applicant for a period of six consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested by the local or State government for a period of six consecutive months or more, the application review is discontinued and the development regulations in effect at the time permit processing is resumed apply to the application.
- (4) Where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This subsection is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit.
- (5) Any person aggrieved by the failure of a State agency or local government to comply with this section or G.S. 160D-108(b) may apply to the appropriate division of the General Court of Justice for an order compelling compliance by the offending agency or local government, and the court may issue that order. Actions brought pursuant to any of these sections shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts.

(J) Initial staff review of applications.

- (1) Following application completeness determination, development application materials shall be distributed by the Administrator to all appropriate staff and review agencies for review and comment.
- (2) Applications shall be reviewed during the review cycle in place when the application is determined to be complete.
- (3) In considering the application, the Zoning Administrator or other Town staff (as appropriate), shall review the application, relevant support material, and any comments or recommendations from other staff and review agencies to which the application was referred.
- (4) If deficiencies in complying with applicable standards of this Ordinance are identified, the Zoning Administrator shall notify the applicant of such deficiencies in writing and provide the applicant a reasonable opportunity to discuss them and revise the application accordingly.

(J) Staff report and recommendation.

- (1) The Zoning Administrator shall prepare a written staff report on any application to be reviewed or decided by the Planning Board, Town Council, or the Board of Adjustment.

- (2) The staff report shall conclude whether the application complies with all applicable review standards of this Ordinance and recommend one of the decisions authorized for the particular type of application, based on the review standards applicable to the application type.
- (3) The staff report shall not include a recommendation from Town staff on variance applications or appeals.
- (4) In cases where the staff finds an application does not comply with the provisions of this Ordinance the staff report shall cite the specific code section(s) in question and the reasons why the application fails to comply.
- (5) The staff report may identify and recommend modifications to the development proposal that specify how compliance deficiencies might be corrected and how adverse effects of the development application (if any) might be mitigated.
- (6) A staff report is not required for applications decided by the Zoning Administrator, though one may be prepared.

(K) *Distribution of application and staff report.*

In cases where a staff report is prepared, the Administrator shall take the following actions within a reasonable time period before the application is scheduled for review:

- (1) Schedule and ensure any required public notice of the application (if appropriate) is prepared in accordance with § 3.216, Public Notification;
- (2) Transmit the application, related materials, and staff report to the appropriate review authority (ies);
- (3) Transmit a copy of the staff report and any related materials to the applicant, the appellant, and the landowner (if the landowner is different from the appellant or the applicant) at the same time they are transmitted to the appropriate review authority (ies); and
- (4) Make the application, related materials, and staff report available for examination by the public.

(L) *Applications subject to decision by staff.*

- (1) In cases where a development application is decided by the Zoning Administrator or other designated Town staff member, the appropriate Town staff member shall make one of the following decisions, based on the review standards set forth for the application type:
 - i. Approve the application;

ii. Disapprove the application; or

iii. Delay decision making for a specified time to allow the applicant to revise the application for compliance with the requirements in this Ordinance.

(2) In some instances, Town staff may decide an application contingent upon further revision by the applicant in accordance with the direction provided in the decision.

(M) *Conflict of interest.*

(1) A Town staff member shall not make a decision on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable financial impact on them or a member of their immediate family; or in cases where there is a close familial, business, or other associational relationship with the landowner or applicant.

(2) No Town staff member shall be financially interested in or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the Town staff member is the owner of the land or building involved.

(3) No Town staff member or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with their duties or inconsistent with the interest of the Town, as determined by the Town.

§ 3.216 PUBLIC NOTIFICATION.

(A) *Public hearing scheduling.* When a development application is subject to a public hearing, the Zoning Administrator shall ensure that the public hearing is scheduled for a regular meeting or a meeting specially called for that purpose by the review authority.

(B) *Public notification requirements.*

(1) All development applications subject to public notification shall comply with the appropriate standards in NCGS Sections 160D-406, 160D-601, 160D-602, 160D-1005, and other applicable sections of the North Carolina General Statutes, as appropriate.

(2) The Public Notification Requirements Table below summarizes the provisions related to public notice. In computing the required time periods, the day the notice is published, mailed, or posted shall not be included, but the day of the hearing shall be included.

PUBLIC NOTIFICATION REQUIREMENTS TABLE

Application Type	Type of Notice Required (R=Required)
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	Published [1]	Mailed [2]	Posted [3]
Appeal	•	R [4]	•
Rezoning	R	R [5]	R
Special Use Permit	•	R	R
Text Amendment	R	•	•
Variance	•	R	R

NOTES:

[1] Published notice shall be provided once a week for two successive calendar weeks, with the first notice published between 10 and 25 days before the public hearing.

[2] Mailed notice shall be provided to the applicant, affected landowners, and landowners of abutting land between 10 and 25 days before the public hearing.

[3] Posted notice shall be provided between 10 and 25 days before the public hearing.

[4] Mailed notice shall only be required in cases where an appeal pertains to a particular lot or site.

[5] Public notification of large-scale zoning map amendments of more than 50 lots may be provided in accordance with NCGS Section 160D-602.b.

(C) *Published notice requirements.* When the North Carolina General Statutes require that public notice be published, the designated review authority shall publish a notice in a newspaper that is regularly published at least one time per week and that has general circulation in the Town.

(D) *Mailed notice requirements.* When the North Carolina General Statutes require that public notice be mailed, the designated review authority shall notify by certified mail return receipt of the public hearings to the applicant(s), the owner(s) of the parcel(s) owned per the most recent deed recorded in the Register of Deeds Office, and all property owners of abutting properties (as the last addresses listed in the County tax records) at least 10 but not more than 25 days prior to the date of each public hearing.

- (1) Notice shall be deemed mailed by its deposit in the United States first class mail, properly addressed, postage paid. The content and form of the notice shall comply with this section.
- (2) A copy of the mailed notice shall be maintained in the offices of the designated review authority for public inspection during normal business hours.
- (3) Mailed notice shall not be required when a rezoning includes more than 50 lots or tracts owned by at least 50 different landowners, provided the Town publishes a map (occupying at least ½ of a newspaper page) showing the boundaries of the affected area in a newspaper of general circulation once a week for two successive calendar weeks between 10 days and 25 days

before the public hearing. Affected landowners residing outside the newspaper circulation area shall be notified via first class mail pursuant to this section.

- (4) The Town may, as a matter of policy, and on a case-by-case basis, provide public notification about a pending application that exceeds the minimum requirements for who shall receive mailed notice specified in the North Carolina General Statutes. Decisions about instances when such public notification shall be provided is in the sole discretion of the Town, and evidence of such additional notification shall be included within the staff report prepared for the application.

(E) *Posted notice requirements.* When the North Carolina General Statutes require that public notice be posted, the Administrator shall provide the required posted public notice in accordance with the following:

- (1) A sign (or signs) shall be placed on the subject property in a conspicuous location so as to be clearly visible to the traveled portion(s) of the respective street(s). Where the land subject to the notice does not have frontage on a public street, the sign shall be erected on the nearest street right-of-way.
- (2) The content and form of the notice shall comply with this section.

(F) *Notice content.* Unless expressly indicated otherwise by the North Carolina General Statutes, all notices by mail or publication shall:

- (1) Identify the date, time, and place of the public hearing;
- (2) Describe the land involved by parcel identification number (PIN), street address, or by its relationship to a fronting street and the nearest cross street (if applicable);
- (3) Describe the nature and scope of the proposed development or action; and
- (4) Identify the means to contact a Town official for further information.

(G) *Constructive notice.*

- (1) Minor defects in any notice shall not impair the notice or invalidate proceedings if a bona fide attempt is made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to errors such as landowner name, title, or address existing in the County tax listing; or typographical or grammatical errors that do not impede communication of the notice to affected parties.
- (2) Failure of a party to receive written notice shall not invalidate subsequent action. A posted notice that becomes no longer visible due to weather, theft, or other unintended circumstances shall not invalidate proceedings if a bona fide attempt is made to comply with

applicable posted notice requirements. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property shall be strictly adhered to.

§ 3.217 PUBLIC HEARINGS DISTINGUISHED.

(A) Public hearings identified in this Ordinance shall be either legislative or evidentiary in nature.

(B) Public hearings conducted for appeals, variances, and special use permits are evidentiary in nature. All other public hearings are legislative in nature.

§ 3.218 LEGISLATIVE PUBLIC HEARINGS.

(A) *Procedure.*

- (1) Legislative public hearings shall not be conducted until after provision of required public notification in accordance with § 3.216, Public Notification.
- (2) The legislative public hearing shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public hearings.
- (3) Attendees shall be afforded the opportunity to comment during a public hearing, as authorized in the adopted rules of procedure.

(B) *Voting.*

- (1) The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type.
- (2) A review authority member shall not vote on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member in accordance NCGS Section 160D-109.
- (3) A review authority member shall not vote on an application where the landowner or applicant is a person with whom the member has a close, familial, business, or other associational relationship.
- (4) A decision of the review authority on an application considered during a legislative public hearing shall be decided by a simple majority of the review authority members, excluding any members who are recused from voting due to a conflict of interest.

(C) *Application revision.*

- (1) An applicant may revise an application during a legislative public hearing in response to recommendations or suggestions of the review authority.
- (2) In cases where a substantial change to an application is proposed following review by a prior review authority, the review authority deciding the application shall not make a decision on the application until after it is remanded to the prior review authority (ies) for consideration of the substantial change.
- (3) The review authority deciding the application may approve an application modified during a legislative public hearing provided that all changes are properly identified in the motion of approval and that any conditions of approval are consented to, in writing, by the applicant.
- (4) In cases where an application has been modified during a legislative public hearing, the applicant shall submit any necessary site plans, plats, or other documents depicting the modification to the appropriate Town staff for consideration and approval prior to issuance of any development permit approvals.
- (5) The Town may provide additional public notice related to revision of an application on a case-by-case basis but is under no legal requirement to provide additional notice in cases where applications are revised in accordance with this section.

(D) *Remand.* A review authority may remand the application to a prior review authority or Town staff for further consideration of new information or specified issues or concerns, if appropriate.

(E) *Record.*

- (1) A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with Town policy.
- (2) Accurate minutes shall also be kept of all proceedings, but a transcript need not be made.

§ 3.219 EVIDENTIARY PUBLIC HEARINGS.

Evidentiary public hearings shall be conducted in accordance with State law, the review authority's rules of procedure, and the following requirements:

(A) *Notice required.* Evidentiary public hearings shall not be conducted until after provision of required public notification in accordance with § 3.216, Public Notification.

(B) *Application materials.* The Zoning Administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same

time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

(C) *Opportunity to present testimony and evidence.* The applicant, the Town, and any party with standing shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of or cross examine the applicant, the applicant's representatives, anyone providing testimony during the hearing, Town staff, and the Town staff's representatives.

(D) *Limitation on evidence.* The Chair or other presiding officer may limit or exclude incompetent evidence, immaterial evidence, repetitive evidence, and personal attacks. Decisions shall not be based upon hearsay evidence though such evidence may be entered into the record. Only evidence presented during the public hearing may be relied upon in making a decision on the application.

(E) *Ex parte communication.* Ex parte communications between an applicant or an affected party and a member of the review authority are prohibited. If it occurs, it shall be disclosed during the quasi-judicial public hearing.

(F) *Voting.*

- (1) The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type.
- (2) Unless stated otherwise in this Ordinance, the decision shall reflect the review authority's determination of any contested facts and their application to the applicable standards.
- (3) A review authority member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker.
- (4) Impermissible violations of due process include but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; an undisclosed ex parte communication; a close familial, business, or other associational relationship with an affected person; or a direct, substantial, and readily identifiable financial impact on the member.
- (5) If an objection is raised to a member's participation and that member does not recuse themselves, the remaining members shall, by majority vote, rule on the objection.

(G) *Application revision.*

- (1) An applicant may revise an application during a evidentiary public hearing in response to recommendations or suggestions of the review authority.
- (2) The review authority may approve an application modified during a quasi-judicial public hearing provided all changes are properly identified in the motion of approval by the review authority and that any conditions of approval are consented to, in writing, by the applicant.
- (3) In cases where an application has been modified during a quasi-judicial public hearing, the applicant shall submit any necessary site plans, plats, or other documents depicting the modification to the appropriate Town staff prior to issuance of any development permit approvals.

(H) *Delay of decision.* The review authority may delay a decision on the application if additional information is requested of the applicant.

(I) *Record.* A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with Town policy. Accurate minutes shall be kept of all proceedings, but a transcript need not be made.

§ 3.220 CONDITIONS OF APPROVAL.

(A) Conditions shall be limited to those that address conformance of development and use of the site with Town regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use of the site.

(B) Conditions shall be in writing and may be supplemented with text or plans and maps.

(C) No condition shall be made part of the application which:

- (1) Specifies the ownership status, race, religion, or other characteristics of the occupants of housing units;
- (2) Establishes a minimum size of a dwelling unit;
- (3) Establishes a minimum value of buildings or improvements;
- (4) Excludes residents based upon race, religion, or income; or
- (5) Obligates the Town to perform in any manner relative to the approval of the application or the development of the land.

(D) All conditions of approval shall be consented to, in writing, by all owners of land or applicants subject to the conditions.

§ 3.221 WRITTEN NOTICE OF DECISION.

(A) *Content.* The notification of a decision on a development application shall be issued in the name of the applicant or applicant's agent, as appropriate, directed to the address(es) identified in the application materials, and shall identify the following:

- (1) The land or matter subject to the application;
- (2) A reference to any approved plans, as appropriate;
- (3) The approved use(s), if any; and
- (4) Any conditions of approval or other applicable requirements.

(B) *Timing.* Except where otherwise stated in this Ordinance, the Zoning Administrator shall provide the applicant written notification of a decision or action within 10 business days after a final written decision on a development application.

(C) *Copy of decision.* In addition to providing the notification of a decision on an application to an applicant, the Zoning Administrator shall make a copy of the decision available to anyone who submits a written request prior to the issuance of the decision. The Zoning Administrator shall also make a copy of the notice of decision available to the public in the Town offices during normal business hours.

§ 3.222 CONTINUANCE OR WITHDRAWAL.

An applicant may request that a review authority's consideration of a development application be continued or withdrawn by submitting a written request to the appropriate review authority.

(A) *Procedure for applications subject to a public hearing.*

- (1) In cases where an applicant seeks a continuance of an application subject to a public hearing, but public notification of the hearing has not yet been provided, the Zoning Administrator shall consider and decide the request.
- (2) If public notification of the pending public hearing has been provided in accordance with this Ordinance, the request for continuance shall be placed on the public hearing agenda and be considered by the review authority. Additional public notification may be required for a continued application.

- (3) A request for continuance may be approved in cases where the applicant needs additional time to prepare evidence, secure approval from outside agencies, bring the application into closer alignment with the Towns Adopted Policy Guidance or the requirements of this Ordinance, or for good cause, as determined by the review authority.
- (B) *Withdrawal.*
- (1) An applicant may withdraw an application at any time.
 - (2) If an applicant withdraws an application for the same land after public notification two times within a single calendar year, the same application may not be resubmitted for a period of one year from the date of the second withdrawal.
 - (3) Application fees for withdrawn applications shall not be refunded.

§ 3.223 LIMITATION ON SUBSEQUENT APPLICATIONS.

- (A) *Application denied.*
- (1) *Legislative decisions.* If a development application requiring a legislative public hearing is denied, no application proposing the same or similar development on all or part of the same site shall be submitted within one year after the date of denial unless the review authority approves a reduction in this time limit in accordance with subsection (B) below. For the purposes of this section, “the same or similar development” shall mean: the same use type(s) in the same approximate location(s) as the denied application; or the same use type(s) in the same approximate building configuration (e.g., building height, floor area, massing) as the denied application.
 - (2) *Quasi-judicial decisions.* There is no time limit on resubmitting an application that is denied during a evidentiary public hearing provided that any subsequent application may not be similar or substantially similar to the application that was denied, in the sole discretion of the review authority responsible for the decision.
- (B) *Reduction in time limit.* The owner of land subject to this subsection, or the owner's authorized agent, may submit a written request for reduction of the time limit, along with a fee to defray the cost of processing the request, to the Zoning Administrator, who shall transmit the request to the review authority. The review authority may grant the request only on a finding by two-thirds of its membership that the owner or agent has demonstrated that:
- (1) There is a substantial change in circumstances relevant to the issues or facts considered during review of the prior application that might reasonably affect the review authority’s application of the relevant review standards to the development proposed in the new application; or

- (2) New or additional information is available that was not available at the time of review of the prior application and that might reasonably affect the review authority's application of the relevant review standards to the development proposed in the new application; or
- (3) The new application proposed to be submitted is materially different from the prior application; or
- (4) The final decision on the prior application was based on a material mistake of fact.

12. ZONING PERMITS

§ 3.225 PERMITS REQUIRED.

(A) No person shall undertake any development activity subject to this chapter, except in accordance with and pursuant to a zoning permit issued by the Town Clerk or Zoning Administrator.

(B) Zoning permits are issued under this chapter only when a review of the application submitted, including the site plans contained therein, indicates that the development will comply with the provisions of this chapter if completed as proposed. Such plans and applications will be incorporated into any permit issued and, except as otherwise provided herein, all development shall occur strictly in accordance with such approved plans and applications.

(C) Physical improvements to land to be subdivided may not be commenced, except in accordance with a subdivision plan approved pursuant to appropriate provisions in the town's subdivision regulation.

(D) The following are exempt from zoning permit requirements:

- (1) Farm buildings (other than residences) used for bona fide farm purposes;
- (2) Any accessory building with a building dimension of 12 square feet or less; and
- (3) Facilities (other than buildings) of a public utility or an electric or telephone membership corporation.

(E) *Application process.*

(1) *Submission.* Unless otherwise specified, all applications for permits under this chapter shall be submitted in accordance with § 3.215, General Development Review Procedures.

- a. *Approved plans.* A copy of required plans or information submitted with the application shall be returned to the applicant after the Town Clerk or Zoning Administrator has marked the copy either approved or disapproved and attested to same. A similarly marked copy shall be retained by the Town Clerk or Zoning Administrator.
- b. *Health Department construction permit required.* A permit for any building or use for which a State or County Health Department permit for installation of a well or a sewage disposal system is required or for which approval by the State or County Health Department of an existing well or sewage disposal system is required, shall not be issued until such permit or approval has been issued by the State or County Health Department.

c. *Detailed drawings.*

- i. It is not necessary that the application contain the type of detailed construction drawings for roads, utilities and the like that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information to allow the permit-issuing authority to evaluate the application in the light of the substantive requirements set forth in the text of this chapter.
 - ii. However, whenever this chapter requires a certain element of a development to be constructed in accordance with the detailed requirements, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the NCDOT, the applicable utility provider, or other appropriate approval authority. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in the enforcement section of this chapter.
- d. All applications involving the subdivision of land into three or more lots, shall include a larger common plan of development, which shall show all subdivisions and/or improvements contemplated at the time of making the application. Any applicant failing to submit a larger plan of common development shall not be denied a permit solely for its failure to submit a larger plan of common development; provided said applicant certifies in writing to the Zoning Administrator that no further subdivision and/or improvements are contemplated at the time of making the application. Thereafter, for a period not to exceed three years, said certification may be used as the basis for denying any future applications made by the same applicant with respect to the same land, or any land contiguous to the land for which his initial application was made. Upon a showing of good cause, said three year limitation may be waived by the Zoning Administrator. As used in this division, **LARGER COMMON PLAN OF DEVELOPMENT** means documentation showing a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times and on different schedules under one common plan, regardless of the ownership of the land on which the land disturbing activities are to take place.

(F) *Plot plan.*

(1) A plot plan drawn to a scale of not less than one inch equals 40 feet shall be submitted to the Town Clerk or Zoning Administrator for all permits for single- or two-family construction on a single lot to determine if the proposal meets the requirements and intent of this chapter. If the request involves a special permit or any other requirement as such, a site plan (one inch equals 100 feet, or 200 feet if over five acres) shall be submitted.

- a. The plot plan should include among other things:

- i. The name and addresses of the owner or owners, and the designer or surveyor;
 - ii. Date, scale and approximate north arrow;
- (c) Site plan showing streets, driveways, recreation areas, parking spaces, service buildings, watercourses, easements, mobile home spaces, and all structures to be located on the park site;
- (d) Vicinity map showing the location of the park and the surrounding land uses;
- (e) Names of adjoining property owners; and
- (f) The proposed utility system for water, sewer, gas, surface water, drainage, streetlights and electrical power.
- (3) After careful review and consideration of the site plan, the Town Clerk or Zoning Administrator shall have 15 business days within which to approve or disapprove the plan.
- (a) If the plan is approved, the Town Clerk or Zoning Administrator shall issue the owner or developer a zoning permit, which is authority to continue with building permit process with the County's Planning and Inspection Department. In the case of special conditions or requirements, the Town Clerk or Zoning Administrator will note said conditions and requirements on the zoning permit, which will require a compliance inspection and certification.
 - (b) If the plan is disapproved, the Town Clerk or Zoning Administrator shall advise the owner or developer, in writing, the conditions upon which the plan will be approved. When the conditions are agreed to by the owner or developer, a zoning permit shall be issued. (Ord. passed 4-19-2018, § 30-2; Am. Ord. 2020-01, passed 3-9-2020)

§ 3.226 REVIEW CRITERIA.

A zoning compliance permit shall be approved by the Town Manager on a decision the application complies with:

- (1) All standards or conditions of any prior applicable permits and developments approvals;
- (2) Any applicable requirements of the Nash County Health Department; and
- (3) All applicable requirements of this Ordinance and in the Town Code of Ordinances.

§ 3.227 RIGHT OF APPEAL.

If the zoning permit and/or zoning compliance are denied, the applicant may appeal the action of the Town Clerk or Zoning Administrator to the Board of Adjustment. (Ord. passed 4-19-2018, § 30-3)

13. SITE PLANS

§ 3.330 SITE PLANS.

Site plans submitted in accordance with this section shall show:

(A) *General development.*

- (1) The boundary of the property by courses and distances, area and present zoning of the tract;
- (2) The angle of departure of adjoining property, street and alley lines;
- (3) The names of abutting recorded subdivision and owner and present use of all abutting property;
- (4) Widths and names of abutting streets and alleys;
- (5) All dimensions, both linear and angular, for locating boundaries of the tract, lots, street, alley, public easements and private easements;
- (6) Date, north point and scale, and number of sheets: the scale shall be designated by a numerical ratio statement; for example, one inch equals ____ feet;
- (7) Name and address of the owner or owners of record of the tract and name of the applicant;
- (8) All building restriction lines, highway setback lines, easements, covenants, reservations and right-of-way;
- (9) Existing topography with a maximum of two-foot contour intervals within 100 feet of all buildings and a maximum of five-foot contour intervals on the remainder of the tract;
- (10) The boundaries of flood zones and base flood elevation and the boundary of public water supply watersheds; and
- (11) Name, address, signature and registration number of the professionals preparing the plan.

(B) *Existing improvements.*

- (1) Sidewalks, streets, alleys and easements;
- (2) Buildings and structures;
- (3) Driveways, entrances, exits, parking areas and loading spaces;
- (4) Sanitary sewer systems;
- (5) Water mains and fire hydrants;
- (6) Gas, power and telephone lines;
- (7) Recreation and open space areas; and
- (8) Storm drainage systems to include natural and artificial watercourses.

(C) *Proposed improvements.*

- (1) All proposed streets and alleys and the boundaries of all other portions intended to be dedicated for public use;
- (2) Buildings and structures to include:
 - (a) Distance between buildings (to scale);
 - (b) Number of stories;
 - (c) Number of units;
 - (d) Structures above the building height limit; and
 - (e) For all residential uses (other than single-family) and non-residential uses located within a public water supply watershed, the total amount of existing and proposed built-upon area (in square feet) and the percentage of the site that is covered with an impervious surface.
- (3) Driveways, entrances, exists, private streets, parking areas and loading spaces to include:
 - (a) Number of parking spaces;
 - (b) Number of loading spaces; and

- (c) Typical section and pavement structure.
- (4) Sanitary sewer systems, both public and private in accordance with requirements of the town;
 - (5) Water mains and fire hydrants, both public and private in accordance with requirements of the town;
 - (6) Gas, power and telephones lines;
 - (7) All proposed utility, grading and clearing plans shall be coordinated with proposed landscape plans;
 - (8) Recreation areas, open spaces and buffer areas;
 - (9) Plans for collecting and depositing storm water in accordance with the requirements of the town; and
 - (10) Finish grades with a maximum of two-foot contour intervals within 100 feet of all buildings, and along driveways, entrances, exits private streets, parking areas and loading spaces and maximum of five-foot contour intervals on the remainder of the property.

(D) *Required improvements.* In order to assure public safety, general welfare and convenience, the town agencies and officials charged with the responsibility for review and recommendation of approval of site plans shall require such of the following improvements as fall within their respective assignments:

- (1) Designation of pedestrian walkways. Such walkways shall provide safe and convenient access between major buildings, housing clusters, parking areas, recreation areas and other pedestrian destination points shown on the site plan. Walkways shall also be provided along the exterior boundaries of the proposed development where such walkways are deemed necessary to provide access to, or between, adjoining properties or nearby development. Any walkways provided along the exterior boundaries of the proposed development shall also be connected with the interior walkways shown on the site plan in order to create an overall pedestrian access network. Walkways may include sidewalks, asphalt pathways or gravel trails as appropriate to the location and degree of use;
- (2) Connection wherever possible of all walkways, travel lanes and driveways with similar facilities in adjacent developments;
- (3) Screening, fences, walls, curb and gutter as required by the town or by the regulations of the state's Department of Transportation, Division of Highways;

(4) Easements of rights-of-way for all facilities to be publicly maintained. Each easement shall be clearly designated and labeled for the purpose intended;

(5) Extension or construction of service road and access thereto on sites bordering on a state primary highway;

(6) Landscape plan, which demonstrates compliance with all planting, screening and buffer requirements of this chapter. This plan shall:

(a) Show any existing vegetation to be retained, defined by a clearing limit line; and

(b) Show any disturbance of existing vegetation that will occur as a result of installation of utility lines.

(7) No street shall be accepted and maintained by the appropriate authority, nor shall any public utility such as water, sewer and street lighting be extended to or connected with any tract of land, nor shall any permit be issued for the construction of any building or other improvement requiring a permit upon any land for which a site plan is required by this section, unless and until all requirements have been complied with and the site plan approved by the Town Council.

(E) *Inspections.* Inspections during the installation of site improvements shall be made by the agency responsible for such improvements as required to certify compliance with the approved site plan.

(1) The owner or developer shall notify the Town Clerk or Zoning Administrator three days prior to the beginning of all street, storm sewer and water or sanitary sewer work shown to be constructed on the site plan.

(2) The owner or developer shall provide adequate supervision and inspection on the site during the installation of all required improvements.

(3) Upon satisfactory completion of the installation of required improvements, and after furnishing as built drawings of the required improvements, the owner or developer shall, upon application, receive a certificate of approval from agencies responsible for reviewing such improvements.

Said certification that all improvements have been installed in accordance with the approved site plan shall in no way obligate or require the town to assume any responsibility whatsoever for any work which does not comply with the approved site plan or for any defects or repairs which may be discovered or become necessary at any future date. (Ord. passed 4-19-2018, § 150-1)

§ 3.331 APPLICABILITY.

- (A) Except for development explicitly exempted from site plan review in accordance with this subsection, all forms of development that involve construction, moving, or significant alteration of a building or habitable structure, that result in the increase in the amount of impervious surface on a lot, or that involve the provision of landscaping, off-street parking, stormwater control mechanisms, or similar site features shall be subject to site plan review in accordance with this section.
- (B) The following forms of development are exempted from site plan review, but shall require submittal of a plot plan and shall be subject to the requirement for a zoning permit:
- (1) Construction of a single-family detached dwelling on its own individual lawfully established lot;
 - (2) Establishment of an accessory use or structure on a single-family residential lot with a lawfully established principal use; and
 - (3) Interior up-fits or changes to a lawfully established non-residential structure or use type that do not result in the need for additional off-street parking spaces, additional screening or landscaping, differing stormwater practices, or any changes to the amount of impervious surface cover.

§ 3.332 APPROVAL AND REVIEW.

(A) A review of each site plan for general completeness and compliance with adopted plans shall be carried out by the Planning Board. This review shall be coordinated by the Town Clerk or Zoning Administrator. After completion of such review, the Town Clerk or Zoning Administrator shall forward a report of this review to the applicant. A copy of each site plan shall be returned to the applicant by the Town Clerk or Zoning Administrator with notations thereon outlining any changes that will be required.

(B) The Planning Board shall recommend site plan approval or disapproval to the Town Council. Sufficient copies of the site plan shall be filed by the applicant with the Town Clerk or Zoning Administrator for final check and correction, and the copies shall be filed with the Planning Board where required, for its review consideration.

(C) A final approved site plan shall be submitted for signatures and authorization by the town to remain on file.

(Ord. passed 4-19-2018, § 150-2)

§ 3.333 REVIEW CRITERIA.

A site plan shall be approved by the Town Council, provided the application complies with:

- (A) All standards or conditions of any prior permits or development approvals;
- (B) The applicable street addressing policies of the Town and the County, and that the street address of all lots are clearly identified on the site plan;
- (C) Any applicable concept plans, master plans, or terms and conditions;
- (D) All applicable requirements of this Ordinance, including zoning district requirements, use provisions, development standards, and subdivision requirements; and
- (E) All applicable Town, State, and federal requirements.

§ 3.334 PERIOD OF VALIDITY.

An approved site plan shall become null and void if no significant work is done or no significant development is made on the site within 12 months after site plan approval. Construction of development may begin upon approval of the plan by the Town Council and acquisition of permits. The Town Council may grant a single one-year extension upon written request of the applicant made at least 30 days before the expiration of the approved site plan. (Ord. passed 4-19-2018, § 150-3)

14. SPECIAL USE PERMIT

§ 3.350 OBJECTIVES AND PURPOSE.

Subject to good planning and design standards, certain uses of property are allowed in specified districts where those uses would not otherwise be acceptable. By means of controls exercised through the special use permit procedures, uses of property, which would otherwise be undesirable in certain districts, can be developed to minimize any bad harmful effects they might have on surrounding properties.

(Ord. passed 4-19-2018, § 100-1)

§ 3.351 PROCEDURE FOR SPECIAL USE PERMIT.

(A) A special use permit may be issued by the Town Clerk or Zoning Administrator after approval by the Board of Adjustment for the uses as designated in the table of permitted uses of this chapter. All applications for special use permits shall be submitted in accordance with application requirements. Once the application has been determined complete, the Town Clerk or Zoning Administrator shall schedule a public hearing.

(B) The Board of Adjustment shall hold a public hearing prior to rendering a decision on the special use permit and, if approved, shall include approval of such plans as may be required. In approving the permit, the Board of Adjustment shall find:

- (1) The use will not materially harm the public health, safety or general welfare if located where proposed and developed according to the plan as submitted and approved;
- (2) The use meets all the required and applicable development standards and conditions;
- (3) The use will not substantially injure the value of adjoining or abutting property;
- (4) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located; and
- (5) Be in general conformity with the adopted policies and plans, including of the Land Development Plan of the town.

(C) Notice of hearings shall be provided in accordance with § 3.216, Public Notification.

(D) At the conclusion of the public hearing, the Board of Adjustment may proceed to vote on the permit request, refer it to a committee for further study or take any other action consistent with its usual rules of procedure.

(E) The Board of Adjustment is not required to take final action on a permit request within any specific period of time, but it should proceed as expeditiously as practicable on permit requests since inordinate delays can result in the applicant incurring unnecessary costs.

(F) Subject to division (B) above, the Board of Adjustment, shall approve the requested permit unless it concludes, based upon the information submitted at the hearing, that:

- (1) The requested permit is not within its jurisdiction according to the table of permissible uses;
- (2) The application is incomplete; or
- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this chapter.

(G) Even if the Board of Adjustment finds that the application complies with all other provisions of this chapter, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

- (1) Will materially harm the public health or safety;
- (2) Will substantially injure the value of adjoining or abutting property;
- (3) Will not be in harmony with the area in which it is to be located; or
- (4) Will not be in general conformity with the Land Development Plan or other plans officially adopted by the Town Council.

(H) The burden of presenting a complete application to the Board of Adjustment shall be upon the applicant. However, unless the Board informs the applicant at the hearing in what way the applicant is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be presumed to be complete. Once a completed application has been submitted, which shall include a presentation by the applicant, if competent, material and substantial evidence that the applicant has complied with the requirements of this chapter, made a “prima facie” (based on immediate impression) case with respect to use - specific findings and is entitled to a permit, the burden of presenting competent, material and substantial evidence “contra” to the application rests with those parties opposed to the application.

(I) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains at all times on the applicant. The burden of

persuasion on the issue of whether the application should be turned down for any of the reasons set forth in division (B) above rests on the party or parties urging that the requested permit should be denied.

(J) In approving the special use permit, the Board of Adjustment may designate such conditions, in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious and with the spirit and intent of this chapter. All such additional conditions shall be entered in the minutes of the meeting at which the special use permit is granted and also onto the special use permit and on the plans submitted therewith. All conditions shall run with the land and shall be binding on the original applicant for the special use permit, the heirs, successors and assigns. In order to ensure that such conditions and requirements of each special use permit will be fulfilled, the petitioner for the special use permit may be required to provide physical improvements required as a basis for the issuance of the special use permit.

(K) While considering said application, the Board of Adjustment may request reports from agencies.

(L) If the Board of Adjustment denies the special use permit, the reasons therefor shall be entered in the minutes of the meeting at which the permit is denied.

(M) In addition to the specific conditions imposed by §§ 3.075 through 3.101 of this chapter and whatever additional conditions the Board of Adjustment deems to be reasonable and appropriate, special uses shall comply with the height, yard, area and parking regulations of the zone in which they are located.

(N) In the event of failure to comply with the plans approved by the Board of Adjustment, or with any conditions imposed upon the special use permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or certificate of occupancy/compliance under the special use permit shall be issued, and the use of all completed structures shall immediately cease and not thereafter be used for any purpose other than a use as permitted by the zone in which the property is located.

(O) Where plans are required to be submitted and approved as part of the application for a special use permit, modifications of the original plans may be made by the Board of Adjustment. (Ord. passed 4-19-2018, § 100-2)

15. VARIANCE

§ 3.360 OBJECTIVES AND PURPOSE.

The purpose of this section is to allow deviations from certain standards of this Ordinance when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as topographical conditions, narrowness, shallowness, or shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

§ 3.361 APPLICABILITY.

(A) Development that would otherwise be subject to undue and unique hardship from the applications of the standards in this Ordinance may seek relief from the standards in accordance with this section.

(B) No variance may be sought that increases development density (e.g., units per acre) beyond that allowed in a base zoning district, or that would permit a use not allowed in a zoning district.

(C) Applications seeking a reasonable accommodation in order to obtain or maintain housing in Red Oak shall be filed and considered in accordance with this section.

§ 3.362 DECISION.

(A) The Board of Adjustment, after the conclusion of a evidentiary public hearing, shall decide the application for a variance.

(B) The decision shall be based on the competent, material, and substantial evidence in the record, as supplemented by the arguments presented at the quasi-judicial hearing, and the applicable standards in § 3.363, Review Criteria.

(C) The decision shall be one of the following:

- (1) Approval of the variance as proposed;
- (2) Approval of the variance with revisions; or
- (3) Denial of the variance.

(D) The vote on a variance shall require a 4/5 supermajority of all Board of Adjustment members (excluding vacant board member positions and any board members who are recused from

voting on a particular case). In accordance with G. S. 160D-406(i), supermajority calculations shall be based on the total number of board member positions, regardless of whether the member is absent. Positions may only be excluded from the supermajority calculation when the position is vacant and there is no appointed alternate or when a board member has been recused from voting based upon a conflict of interest.

(E) Each decision shall be made in writing and reflect the Board of Adjustment's determination of facts and their application to the standards in this Ordinance.

(F) The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.

(G) The decision of the Board of Adjustment shall be effective upon the filing of the written decision.

§ 3.363 REVIEW CRITERIA.

(A) *Required findings of fact.* A variance shall be approved on a finding the applicant demonstrates all of the following:

- (1) Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of the variance shall not be regarded as a self-created hardship.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.

(B) *Factors that may not be considered.* None of the following may be used as the basis for approving a zoning-related or subdivision-related variance:

- (1) Personal circumstances;
- (2) A request for a particular use that is expressly, or by inference, prohibited in the zoning district;

- (3) Hardships resulting from factors other than application of the relevant standards of this Ordinance;
- (4) The fact that land or a structure may be utilized more profitably or be more marketable with a variance;
- (5) The citing of other conforming or nonconforming uses of land or structures in the same or other zoning districts; or
- (6) Financial hardship.

§ 3.364 CONDITIONS.

In granting a variance, the Board of Adjustment may prescribe conditions of approval to ensure compliance with the standards of this section, and to assure that the use of the land to which the variance applies will be compatible with surrounding lands and will not alter the essential character of the neighborhood. Conditions shall be in accordance with the following:

- (A) Conditions must be reasonably related to the variance application.
- (B) A variance granted subject to a condition of approval shall be permitted as long as there is compliance with the condition.
- (C) Violation of a condition of approval shall be deemed a violation of this Ordinance.
- (D) If a violation or invalidation of a condition of approval occurs, the Administrator may initiate proceedings to revoke the authorization for the development subject to the variance.
- (E) Conditions of approval shall comply with § 3.220, Conditions of Approval.

§ 3.365 EFFECT.

Approval of a variance authorizes only the particular regulatory relief approved by the Board of Adjustment. It does not exempt the applicant from the responsibility to obtain all other permits or development approvals required by this Ordinance or any other applicable laws and does not indicate that the development for which the variance is granted should receive other permits or development approvals under this Ordinance unless the relevant and applicable portions of this Ordinance are met.

§ 3.366 VIOLATION.

A violation of a variance or additional conditions of a variance is considered a violation of this Ordinance and subject to the same enforcement and penalties.

§ 3.367 APPEAL.

Appeal of a quasi-judicial decision made by the Board of Adjustment with respect to a variance application shall be made to the Superior Court for Nash County in accordance with applicable state law.

§ 3.368 REASONABLE ACCOMMODATION.

(A) *Purpose and intent.* This section provides a procedure for reasonable accommodation of eligible persons in cases where the strict application of the standards of this Ordinance would deprive them of their right to equal opportunity to occupy a dwelling under the federal Fair Housing Act.

(B) *Applicability.* For the purposes of this section, an eligible person is a person who meets the definition of a disabled or handicapped person under federal law. A person recovering from substance abuse is considered a person with a disability or handicap, provided they are not currently engaging in the illegal use of controlled substances.

(C) *Application.*

(1) An application for reasonable accommodation may be made by any of the following:

- i. A person with a disability or handicap, or their legal representative; or
- ii. A provider of housing for persons with disabilities or handicaps.

(2) An application for reasonable accommodation shall also include the following:

- i. The basis for the claim that the applicant or persons receiving services from the applicant is considered disabled or handicapped under federal law;
- ii. The Ordinance provision from which the reasonable accommodation is being requested; and
- iii. An explanation of why the reasonable accommodation is necessary to make specific land or development available for the applicant.

(D) *Decision.*

(1) The Board of Adjustment, at the conclusion of an evidentiary public hearing, shall decide the application for the reasonable accommodation.

(2) The decision shall be based on the competent, material, and substantial evidence, as supplemented by arguments presented at the quasi-judicial hearing, and the standards in § 3.368(E), Review Criteria.

(3) The decision shall be one of the following:

- i. Approval of the reasonable accommodation application as proposed;
- ii. Approval of the reasonable accommodation application with revisions; or
- iii. Denial of the application.

- (4) Each decision shall be made in writing and reflect the Board of Adjustment's determination of contested facts and their application to the standards in this Ordinance.
- (5) The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.
- (6) The decision of the Board of Adjustment shall be effective upon the filing of the written decision in the offices of the Planning Department.

(E) *Review criteria.*

- (1) A reasonable accommodation application shall be approved on a finding the proposed accommodation:
 - i. Will be used by an individual or individuals with a disability or handicap protected under federal law;
 - ii. Is the minimum needed to provide accommodation; and
 - iii. Is reasonable and necessary.
- (2) For the purposes of this section, an accommodation is reasonable if it would not undermine the legitimate purposes of this Ordinance, it does not constitute a substantial alteration of this Ordinance or other Town standard, and it will not impose significant financial and administrative burden upon the Town.
- (3) For the purposes of this section, an accommodation is necessary if it would provide direct or meaningful improvement of the effects of the particular disability or handicap, and would afford handicapped or disabled persons equal opportunity to use housing in the Town.

(F) *Effect.* A reasonable accommodation shall not affect an applicant's obligation to comply with other applicable standards in this Ordinance that are not the subject of the reasonable accommodation application.

(G) *Expiration.* Reasonable accommodations such as an accessory manufactured home due to a medical hardship, are approved for a specified time on a case-by-case basis to be renewed for

successive periods so long as the hardship continues to exist, as reviewed and approved by the Zoning Administrator.

(H) *Appeal.* Appeal of a quasi-judicial decision made by the Board of Adjustment with respect to a reasonable accommodation application shall be made to the Superior Court for Nash County in accordance with applicable state law.

16. AMENDMENTS

§ 3.370 INITIATION OF AMENDMENTS.

(A) *Generally.*

- (1) The Town Council may, at any time, amend, supplement, change, modify or repeal the boundaries or regulations herein, or subsequently amended.
- (2) Proposed changes or amendments may be initiated by the Town Council, Planning Board, Board of Adjustment, Town Clerk, or Zoning Administrator or by one or more owners, optionees or lessees of property within the area proposed to be changed or affected.
- (3) In no instance shall a third-party request to downzone property be accepted by the Town.
- (4) Petitions to amend this chapter shall be presented to the Planning Board for review and recommendation by said Board at least 25 days prior to its hearing.

(B) If the petition is a proposed amendment to the text of this chapter, it shall be submitted in typed form along with a statement of specific objectives for said change. If it is a request to amend the official zoning map in the form of a rezoning request, the petition shall be submitted on an application form, as furnished by the town, which will state such information as the nature of the proposed amendment, a legal description of the property involved and the name(s) of the property owner(s). Each petition, unless initiated by the Town Council or the Planning Board, shall be accompanied by a fee set by the Town Council each year to defray cost of advertising and other administrative costs involved. (Ord. passed 4-19-2018, § 140-1)

§ 3.371 PLANNING BOARD CONSIDERATION.

(A) The Planning Board shall have 60 days from the first meeting of consideration within which to submit its recommendation to the Town Council. Failure of the Board to submit its recommendation within this time period shall constitute a favorable recommendation. The Planning Board's report shall be submitted in writing to the Town Clerk or Zoning Administrator and to the petitioner(s).

(B) *Plan Consistency.* When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with the applicable Adopted Policy Guidance. The Planning Board shall provide a written recommendation to the governing board that addresses policy guidance consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Adopted Policy Guidance shall not preclude

consideration or approval of the proposed amendment by the governing board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Planning Board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

(C) The Planning Board may seek comments or recommendations from appropriate agencies on matters related to the request.

(D) If the Planning Board recommends the adoption of a proposed amendment, the Planning Board shall incorporate in the minutes and submit a written statement to that effect to the Town Council for its consideration and to schedule a public hearing.

(E) If the Planning Board recommends against the adoption of a proposed amendment, the applicant may appear before the Town Council to request that a public hearing be held. If the Town Council refuses to schedule a public hearing, the amendment petition is summarily denied. If the Town Council agrees to schedule a public hearing, it will direct the Town Clerk or Zoning Administrator to publish a notice of said hearing.

(F) The Town Council need not wait for the recommendations or is not bound by any recommendation of the Planning Board that are before it at the time it takes action on a proposed amendment.

(Ord. passed 4-19-2018, § 140-2)

§ 3.372 PUBLIC HEARING.

(A) No petition or ordinance that amends any of the provisions of this chapter or boundaries of the official zoning map may be adopted until a legislative public hearing has been held on such petition or ordinance in accordance with § 3.218, Legislative Public Hearing.

(B) A public hearing shall be noticed in accordance with § 3.216, Public Notification.

§ 3.373 TOWN COUNCIL ACTION ON AMENDMENTS.

(A) At the conclusion of the public hearing on a proposed amendment, the Council may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

(B) The Town Council is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

(C) Unless otherwise specified, a simple majority vote of the Town Council shall be the required minimum to amend this chapter or the official zoning map.

§ 3.374 ULTIMATE ISSUE BEFORE THE TOWN COUNCIL ON AMENDMENTS.

(A) In deciding whether to adopt a proposed amendment to this chapter, the central issue before the Town Council is whether the proposed amendment advances the public health, safety or welfare of the area and conforms with the Land Development Plan. All other issues are irrelevant and all information related to other issues at the public hearing may be declared irrelevant by the presiding official and excluded from consideration.

(B) When considering proposed map amendments:

(1) Except for rezoning requests submitted in conjunction with conditional zoning, the Town Council shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification/district. Rather, the Town Council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification; and

(2) The Town Council shall not regard as controlling consideration any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the area, community and the public at large. (Ord. passed 4-19-2018, § 140-4)

(C) *Governing board statement regarding plan consistency.* When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with the Adopted Policy Guidance. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the Adopted Policy Guidance, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(D) *Statement of reasonableness regarding zoning map amendments.* When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors,

(1) the size, physical conditions, and other attributes of the area proposed to be rezoned,

(2) the benefits and detriments to the landowners, the neighbors, and the surrounding community,

(3) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;

(4) why the action taken is in the public interest; and

(5) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.

(E) *Conditional rezoning.*

(1) As stated in § 3.057 of this chapter, the conditional zone is designed to allow the property owner(s) of property included in the request to voluntarily to petition for a rezoning concurrent with a conditional zoning in those situations when a specified use(s) would be acceptable and allow the Town Council to approve said use(s) with reasonable conditions to assure the compatibility of the use with surrounding properties. It is intended for definitive and firm development proposals, which includes a development timetable as well as a site plan.

(2) The property owner(s) or agent shall submit to the Town Clerk or Zoning Administrator an application for zoning map amendment (rezoning), an application for conditional zoning, the required application fee, and a site plan containing the required information outlined in § 3.330 of this chapter. These items are required at least 25 days prior to the Planning Board meeting at which these requests are to be reviewed. In the course of evaluating the proposed use, the Planning Board or the Town Council may request additional information deemed reasonable and appropriate to provide a complete analysis of the proposal.

(3) The use(s) that are to be proposed shall be restricted to those uses permitted in the underlying conventional zoning district. If the proposed use in this request would be allowed by special use permit, it shall be reviewed and approved by the Board of Adjustment if the conditional rezoning application is approved.

(4) The property owner(s) is/are encouraged to initiate discussions with adjoining property owners concerning critical land development issues and to develop conditions as part of the proposal prior to or during the application process.

(5) In approving an application for the reclassification of property to a conditional zone, the Planning Board may recommend and the Town Council may attach additional reasonable and appropriate limitations and conditions as it may be deemed necessary to mitigate critical land development issues surrounding the proposal in accordance with § 3.220, Conditions

of Approval. Such conditions should relate to the relationship of the proposed use to the surrounding properties, on-site support facilities, road and utilities facilities, open space and environmental issues or other matters that the Planning Board or Council or applicant may find appropriate. The applicant shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Council.

(6) After the hearing(s), the Town Council may impose additional restrictions or conditions upon such permit as it deemed necessary, reasonable, and appropriate to serve the intent of this chapter, serve the public welfare, and provide substantial justice. If the applicant agrees to all limitations and conditions, the Council shall make at least the following minimum affirmative findings:

- i. The use requested is among those listed as an eligible use either by right, by zoning permit, or by special use permit within the corresponding conventional zoning district in which the subject property is located or proposed;
- ii. The use limitations and conditions as proposed and/or imposed for the conditional zoning meet or exceed and/or are at least as restrictive as the minimum and applicable development standards and specifications for such use(s);
- iii. The use will not materially harm the public health or safety if located where proposed and developed according to the plan as submitted and approved;
- iv. The use will not substantially injure the value of adjoining or abutting property;
- v. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is located and in general conformity with the Land Development Plan of the town;
- vi. The use limitations and conditions as proposed and/or imposed for the requested conditional zoning can reasonably be implemented and enforced for the subject property;
- vii. When implemented the proposed and/or imposed use limitations and conditions will mitigate specific land development issues that would likely result if the subject property were zoned to accommodate all the uses and the minimum standards of the corresponding conventional zoning district; and

viii. The applicant has agreed to accept the use limitations and conditions as proposed and/or imposed for the requested conditional zoning.

(7) If the applicant does not accept any of the imposed conditions or limitations and an agreement cannot be reached, the Council shall deny the rezoning request.

(8) If the application is approved, the approval is considered an amendment to this chapter and map. The new conditional zoning, which shall be identified as such on the official zoning map, the approved conditional zoning along with all approved conditions are perpetually binding to the property unless subsequently changed or amended by the Council, as provided for in this subchapter. All subsequent development and use of the property shall be in accordance with the standards for the approved conditional zoning .

(9) Prior to the actual issuance of the conditional zoning, the applicant shall submit two copies of the final site plan embodying all the use limitations and conditions approved to the Town Clerk or Zoning Administrator to be reviewed by the Town Council. The town shall maintain a corresponding file with all records and approved permit and plan.

(10) Minor changes in some of the details of the site plan, which will not alter the basic relationship of the proposed development to adjoining properties or intended standards established for this development, may be approved by the Town Clerk or Zoning Administrator and Planning Board without going through an amendment process. If it is determined that the proposed changes in detail on the plan warrant review by the Town Council, the changes are forwarded to the Council for consideration as an amendment to this chapter and map.

(11) The Town Clerk or Zoning Administrator is responsible for periodically examining the progress made toward developing the property in accordance with information submitted and approved as part of the application. If not developed in accordance with the permit, a report is submitted to the Town Council, with copy to the property owner(s), for consideration of reclassifying the property back to the original zoning district or to another appropriate district.

(12) The Town Clerk or Zoning Administrator is also responsible for periodically monitoring the development in accordance with the site plan and the subsequent use in accordance to the approved limitations and conditions.

(Ord. passed 4-19-2018, § 140-5)

§ 3.375 EFFECT OF DENIAL.

When a petition for amendment is denied by the Town Council, a period of 12 months must elapse before another petition for the same change previously involved may be submitted. Once a proposed change to this chapter or the zoning map, special use request or conditional use request is denied by the Town Council, said proposal may not be resubmitted within a period of one year from the date of denial

by the Town Council unless the Town Council shall first determine in a separate and subsequent resolution that the circumstances related to a determination of the proper zoning for a specific area have so substantially changed from the date of the town's previous consideration that a petition for rezoning should be accepted, in which case it will be treated as a new proposal and application. (Ord. passed 4-19-2018, § 140-7)

17. APPEAL

§ 3.380 APPLICABILITY.

Appeals of decisions or determinations by the Zoning Administrator or Town Staff made pursuant to this Ordinance shall be reviewed and decided in accordance with G.S. §§160D-405 and 160D-1403 and this procedure, as appropriate.

§ 3.381 APPEALS NOT REGULATED BY THIS ORDINANCE.

The following appeals and challenges shall be governed by the following:

(A) *Decisions by Board of Adjustment.*

- (1) Persons with standing as defined in G.S. 160D-1402(c) may appeal a decision by the Board of Adjustment to the Superior Court for the county where located in accordance with G.S. 160D-1402.
- (2) Appeal of a quasi-judicial decision shall be in the nature of certiorari and in accordance with G.S. §§160D-406, 160D-1402, and 160D-1405, as appropriate.
- (3) A landowner or applicant with standing shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the Board of Adjustment and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.
- (4) Any other person with standing to appeal shall file a petition for review with the Clerk of Court within 30 days from receipt, by any source, actual or constructive notice of the decision being appealed.
- (5) Receipt of written notice provided via first class mail in accordance with G.S. 160D-403(b) shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

(B) *Decisions by Town Council.* Persons with standing as defined in G.S. 160D-1403(b) may challenge legislative decisions by the Town Council, whose challenge shall be heard by the Superior Court for the county where located in accordance with G.S. §§160D-1401 and 160D-1405.

- (1) Challenges to official zoning map adoption or amendment; development agreement.

i. Legislative decisions made by the Town Council pursuant to the adoption of the Official Zoning Map, amendment to the Official Zoning Map, or with respect to a Development Agreement shall be subject to review at the request of any aggrieved party by the Superior Court for the county where located as detailed in G.S. §§160D-1401 and 160D-1405.

ii. The challenge to the legislative decision must be filed with the Clerk of Court for the Superior Court of the county where located within 60 days from the receipt of written notice or receipt from any source of constructive notice of the determination.

(2) Challenges to unified development ordinance text adoption or amendment.

Legislative decisions made by the Town Council pursuant to the adoption of this Ordinance or other development regulation shall be subject to review at the request of any aggrieved party by the Superior Court for the county where located as detailed in G.S. §§160D-1401 and 160D-1405. The challenge to the Superior Court must be filed within the following timeframes:

i. Challenges to the validity of ordinance language shall be filed within one year of the date that the ordinance or amendment becomes effective or when the party bringing the challenge has standing to file the challenge, whichever is later.

ii. Challenges to an ordinance or amendment based upon the process of adoption shall be filed within three years of the adoption date of the ordinance or amendment.

(C) *Original civil actions.* Persons with standing, as defined in G.S. 160D-1403.1 may bring an original civil action in Superior Court in the county where located without first being heard by the Board of Adjustment for some administrative decisions, determinations of vested rights, and notices of violation in cases where the applicant claims the decision or a provision in this Ordinance is:

- (1) Unconstitutional;
- (2) Beyond statutory authority;
- (3) Pre-empted by State law; or
- (4) A taking of all property value.

§ 3.382 STANDING TO APPEAL.

Only those parties possessing any of the following criteria shall have standing to appeal a decision by a Town staff member to the Board of Adjustment:

(A) An ownership interest, a leasehold interest, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed; or

- (B) An option or contract to purchase the property that is the subject of the decision being appealed; or
- (C) An applicant before the review authority whose decision is being appealed; or
- (D) Any other person who will suffer special damages as the result of the decision being appealed; or
- (E) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal; or
- (F) The appellant is the Town Council of Red Oak.

§ 3.383 INITIATION.

- (A) An applicant, property owner, or other person with standing shall initiate an appeal by filing a notice of appeal with the Zoning Administrator within 30 days of the date they receive the written notice of decision being appealed.
- (B) Receipt of written notice of decision provided via first class mail in accordance with G.S. 160D-403(b) shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

§ 3.384 APPLICATION.

- (A) Petitions for appeal shall specify the grounds for the appeal.
- (B) The Planning Director shall transmit to the Board of Adjustment all the papers constituting the record upon which the action being appealed was taken.

§ 3.385 DECISION.

- (A) The decision shall be based on the competent, material, and substantial evidence in the record of the Appeal, as supplemented by arguments presented at the evidentiary hearing, and the standards in § 3.386, Review Criteria.
- (B) The decision shall be one of the following:
 - (1) Affirmation of the decision or determination (in whole or in part);

(2) Modification of the decision or determination (in whole or in part); or

(3) Reversal of the decision or determination (in whole or in part).

(C) Voting shall be in accordance with § 3.219(F), Voting.

(D) If a motion to reverse or modify is not made, or a motion fails to receive a majority vote from Board of Adjustment members eligible to vote, then the appeal shall be denied.

(E) Each decision shall be made in writing and reflect the Board of Adjustment's determination of contested facts and their application to the standards in this Ordinance.

(F) The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.

(G) The decision of the Board of Adjustment shall be effective upon the filing of the written decision in the offices of the Planning Department.

§ 3.386 REVIEW CRITERIA.

(A) The Board of Adjustment is limited to the following decisions in considering the appeal: whether the review authority erred in the determination of this Ordinance, or whether the review authority erred in determining whether a standard of this Ordinance was met.

(B) The Board of Adjustment shall not hear any evidence or make any decision based on hardships or special conditions, except as part of an application for a variance.

§ 3.387 EFFECT.

(A) The filling of an appeal shall stay all of the following:

(1) Any further proceedings or actions conducted by the applicant except in such cases where such stoppage would cause imminent peril to life or property as determined by the Planning Director;

(2) The application of any further remedies for violation of this Ordinance by the Town; and

(3) The accumulation of any further fees or fines associated with violation of this Ordinance.

(B) In cases where the Town official from whose decision an appeal is taken certifies to the Board of Adjustment that a stay would cause imminent peril to life or property or would seriously interfere with enforcement of this Ordinance; administrative proceedings shall not be stayed except through issuance of a restraining order by a court of competent jurisdiction.

(C) In the event enforcement proceedings are not stayed by an appeal, the appellant may file a request for an expedited hearing of the appeal in accordance with G.S. 160D-405(f), and the Board of Adjustment shall conduct a meeting to hear the appeal within 15 days of the date the request for an expedited hearing is filed.

(D) Nothing shall prevent the Board of Adjustment from staying the issuance of any final approval of development applications, including building permits, affected by the issue being appealed in accordance with G.S. 160D-405(f).

18. ENFORCEMENT AND VIOLATIONS

§ 3.400 VIOLATIONS.

Any of the following shall be a violation of this chapter and shall be subject to the enforcement remedies and penalties provided by this subchapter and by state law.

(A) *Development without permit.* A development without a permit type of violation means to engage in any development, use, construction, remodeling or other activities of any nature upon the land or improvements thereon subject to the jurisdiction of this chapter without required permits, certificates or other forms of authorization as set forth in this chapter.

(B) *Development inconsistent with permit.* A development inconsistent with a permit type of violation means to engage in any development, use, construction, remodeling or other activity of any nature in any way inconsistent with any approved plan, permit, certificate or other form of authorization granted for such activity.

(C) *Violation by act or omission.* A violation by act or omission means to violate, by act or omission, any term, variance or waiver, condition or qualification placed by the Town Council or its authorized boards upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereon.

(D) *Use in violation.* A use in violation means to erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this chapter, or any other regulation made under the authority conferred thereby.

(E) *Separate offense.* Any person, firm or corporation who violates any provision of this chapter shall be guilty of a misdemeanor. Each day that the violation continues to exist shall be considered a separate offense.

(Ord. passed 4-19-2018, § 30-7.1)

§ 3.401 ENFORCEMENT INTENT AND RIGHT OF APPEAL.

(A) It is the intention of this chapter, unless otherwise provided, that all questions arising in connection with the enforcement of this chapter shall be presented first to the Town Clerk or Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the Town Clerk or Zoning Administrator's decision.

(B) An appeal from the decision of the Board of Adjustment shall be by proceedings in the nature of certiorari to the Superior Court as provided by law and must be filed with the county's Clerk of Court within the 30-day appeal period. It is further the intention of this chapter that the duties of the Town Council in connection with this chapter shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof. (Ord. passed 4-19-2018, § 30-7.2)

(C) *Appeals.* Appeals of decisions made by the staff under this Chapter shall be made to the Board of Adjustment. Appeal of a decision made pursuant to an erosion and sedimentation control regulation, a stormwater control regulation, or a provision of the housing code shall not be made to the Board of Adjustment unless required by a local government ordinance or code provision.

§ 3.402 ENFORCEMENT PROCEDURES.

When the Town Clerk or Zoning Administrator or designated agent finds a violation of this chapter or receives a complaint alleging a violation of this chapter, it shall be his or her duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation. The owner or occupant shall immediately remedy the violation.

(A) *Notice of violation.* If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the Town Clerk or Zoning Administrator shall issue a written notice of violation. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property.

(B) The notice shall specify the following:

- (1) The land, building, sign, structure or use is in violation of this chapter;
- (2) The nature of the violation and citation of the section of this chapter violated;
- (3) The measures necessary to remedy the violation; and
- (4) A notification of owner or occupant's right to appeal.

(C) The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to G.S. 160D-405.

(D) *Appeal.* Any owner or occupant who has received a notice of violation may appeal in writing the decision of the Town Clerk or Zoning Administrator to the Board of Adjustment, in accordance with the provisions of §§ 3.380 through 3.387 of this chapter, within 30 days following the date of the notice of violation. The Board of Adjustment shall hear an appeal within a reasonable time, and it may affirm, modify or revoke the notice of violation. In the absence of an appeal, the remedies and penalties sought by the Town Clerk or Zoning Administrator in the notice of violation shall be final.

(E) *Order of corrective action.* If, upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this chapter, the Board of Adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance.

(F) *Failure to comply with an order.* If the owner or occupant of a property fails to comply with a notice of violation from which no appeal has been taken, or an order of corrective action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by state law (G.S. 160D-1203(6)) and § 3.403 of this chapter. If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction. (Ord. passed 4-19-2018, § 30-7.3)

§ 3.403 REMEDIES AND PENALTIES.

Pursuant to G.S. 160D-404, the Town may utilize one or more of the following remedies and penalties to correct or abate a violation of this Ordinance:

(A) *Conditioned permit or certificate.*

- (1) A review authority may condition the authorization of any permit, certificate, or other approval for land, subdivision, building, structure, sign, use, or development activity with a violation or outstanding, but still authorized enforcement action, upon the correction of the violation, payment of civil penalties within a specified time, or the posting of a compliance guarantee approved by the appropriate governmental authority.
- (2) In no instance shall the authorization of any permit, certificate, or approval for one property with a violation or outstanding enforcement action be conditioned with the correction of a violation, payment of civil penalties within a specified time, or the posting of a compliance guarantee for a different property.

(B) *Stop work orders.*

- (1) Whenever the Zoning Administrator or a designee determines that a person is engaged in doing work that constitutes, creates, or results in a violation of this Ordinance and that irreparable injury will occur if the violation is not terminated immediately, that official may order the specific part of the work that constitutes, creates, or results in a violation of this Ordinance to be immediately stopped.

- (2) The stop work order shall be in writing and directed to the landowner, and the occupant or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The Town official delivering the notice shall certify that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud.
 - (3) Any person aggrieved by the issuance of a stop work order may appeal the issuance of the order to the Board of Adjustment in accordance with §3.380. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal.
 - (4) Neither the responsible person nor a landowner upon whom a stop work order is served shall continue with work in violation of the stop work order while it remains in effect, unless the order is stayed.
- (C) *Revocation of permits.*
- (1) The Zoning Administrator may revoke and require the return of a permit by notifying the permit holder in writing, stating the reason for the revocation.
 - (2) Building permits may be revoked, in accordance with G.S. 160D-1115, for any of the following:
 - i. Any substantial departure from the approved application, plans, or specifications;
 - ii. Refusal or failure to comply with the requirements of State or local laws; or
 - iii. For making false statements or misrepresentations in securing the permit, certificate, or approval.
 - (3) Any permit or certificate mistakenly issued in violation of an applicable State or Town law may also be revoked.
 - (4) Revocation of a permit or approval shall be processed in the same manner as the permit or approval was granted.
- (D) *Civil penalty.*
- (1) In accordance with G.S. 153A-123(c), the Zoning Administrator imposes a civil penalty by giving the violator a written citation, either in person or by certified mail return receipt request.

- (2) The citation must describe the violation, specify the amount of the civil penalty being imposed, and direct the violator to pay the civil penalty to the county within 10 days of the date the citation is received or presumed to have been received.
- (3) Violations of this Ordinance subject the violator to a civil penalty in the amount of one \$100 per day.
- (4) Each day's continued violation is a separate and distinct offense.
- (5) If the penalty is not paid timely, the Town may recover the civil penalties through legal action.
- (6) In addition, the Town may place of a lien on the property subject to the penalty.

(E) *Injunctive relief.*

- (1) Whenever the Town Council has reasonable cause to believe that any person is violating or threatening to violate this Ordinance, or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provision of an approved development plan, or soil erosion and sedimentation control plan, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the Town, for injunctive relief to restrain, correct, abate, mandate, or enjoin the violation or threatened violation.
- (2) The action shall be brought in the Superior Court of Nash County. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation.
- (3) The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

(F) *Order of abatement.* In addition to an injunction, the Town may apply for and the court may enter an Order of Abatement as part of the judgment in the case. An Order of Abatement may direct any of the following actions:

- (1) That buildings or other structures on the property be closed, demolished, or removed;
- (2) That fixtures, furniture, or other moveable property be moved or removed entirely;
- (3) That improvements, alterations, modifications, or repairs be made; or
- (4) That any other action be taken as necessary to bring the property into compliance with this Ordinance.

(G) *Equitable remedy.* The Town may apply to a court of law for any appropriate equitable remedy to enforce the provisions of this Ordinance. The fact that other remedies are provided under general law or this Ordinance shall not be used by a violator as a defense to the Town’s application for equitable relief.

(H) *State and common law remedies.* In addition to other enforcement provisions contained in this section, the Town Council may exercise any and all enforcement powers granted to it by state law or common law.

(I) *Previous enforcement.* Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions.

(J) *Remedies; cumulative and continuous.* All such remedies provided herein shall be cumulative. To the extent that North Carolina law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

§ 3.404 REPEAT VIOLATIONS.

Any violation that is corrected but subsequently reestablished within a period of one year (365 days) from the date of correction shall be considered a continuation of the violation and the Zoning Administrator shall continue issuing the civil penalty or pursue other equitable relief.

§ 3.405 STATUTE OF LIMITATIONS.

Enforcement of violations of this Ordinance shall be in accordance with G.S. 1-49(3) and G.S. 1-51(5).

§ 3.406 APPEAL.

(A) A violator who has received a notice of violation may appeal the determination that a violation has occurred to the Board of Adjustment by making a written request as described in Section § 3.380.

(B) Citations that follow the original notice of violation may not be appealed to the Board of Adjustment.

(C) If there is no appeal, the determination of the Zoning Administrator is final.

19. NON-CONFORMING SITUATIONS

§ 3.425 INTENT.

A non-conforming situation occurs when, on the effective date of this chapter and any applicable amendments thereto, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Unless otherwise specifically provided for in this chapter and subject to the restrictions and qualifications set forth in the remaining sections of this subchapter, non-conforming situations that were otherwise lawful on the effective date of this chapter may be continued. Whenever this subchapter refers to the effective date of this chapter, the reference shall be deemed to include the effective date of any amendments to this chapter if the amendment, rather than this chapter as originally adopted, creates a non-conforming situation.

(Ord. passed 4-19-2018, § 120-1)

§ 3.426 NON-CONFORMING LOTS.

(A) *Single lot of record with lot area and/or lot width non-conformity.*

(1) When an undeveloped lot has an area or width which does not conform to the dimensional requirements of the district where located, but such lot was approved and of record at the time of adoption of this chapter or any subsequent amendment which renders such lot non-conforming, then such lot may be used for a use permitted in the district where located; provided that, the setback dimensions and other requirements, except area or width, are complied with.

(2) In residential zones, only a single-family dwelling shall be permitted on the non-conforming lot.

(3) Nothing contained herein exempts a lot from meeting the applicable provisions of the Nash County Health Department regulations.

(B) *Reduction of a lot of record.* A lot of record reduced to less than the required area, width, or setback dimensions as the result of a condemnation or purchase by a local or state government agency shall become a non-conforming lot of record.

(C) *Lot of record with setback non-conformity.* When the use proposed for an undeveloped nonconforming lot is one that is conforming in all other respects; except that, the applicable setback requirements cannot reasonably be complied with, then the permit-issuing authority authorized by this

chapter to issue a permit for the proposed use may allow deviations from the applicable setback requirements if it finds that:

- (1) The property cannot reasonably be developed for the use proposed without such deviations;
- (2) The deviations are necessitated by the size or shape of the non-conforming lot; and
- (3) The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety. (Ord. passed 4-19-2018, § 120-2)

§ 3.427 NON-CONFORMING USE OF LAND.

(A) *Continuance of non-conforming use of land.* Any non-conforming use legally existing at the time of adoption or amendment of this chapter may be continued so long as it remains otherwise lawful subject to conditions provided in this subchapter.

(B) *Conditions for continuance.* Such non-conforming use of land shall be subject to the following conditions.

(1) No non-conforming use shall be changed to another non-conforming use unless such use is determined to be of equal or less intensity. In determining whether a non-conforming use is of equal or less intensity, the Board of Adjustment shall consider:

- (a) Probable traffic of each use;
- (b) Parking requirements of each use;
- (c) Probable number of persons on the premises of each use at a time of peak demand; and
- (d) Off-site impacts of each use, such as noise, glare, dust, vibration, or smoke, and other impacts on surrounding properties or the public health or safety.

(2) The number of dwelling units in a non-conforming residential use shall not be increased.

(3) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this chapter.

(4) If any non-conforming use of land ceases for any reason for a continuous period of more than 180 days, any subsequent use of such land shall be a permitted use in the district in which such land is located.

(5) The resumption of a non-conforming use of land shall not be permitted if such nonconforming use is superseded by a permitted use for any period of time.

(6) No additional structure(s) not conforming to the requirements of this chapter shall be erected in connection with such non-conforming use of land.

(C) *Extension, enlargement, or replacement of a non-conforming use.*

(1) Except as provided for in divisions (C)(2) through (C)(6) below, no non-conforming use shall be extended, enlarged, or replaced.

(2) Any single-family residential non-conforming use (which may be a manufactured home) may be enlarged or replaced with a similar single-family residential structure of the same size or of a larger size, so long as the enlargement or replacement does not create new non-conformities or increase the extent of existing non-conformities with respect to setback requirements.

(3) Any other non-conforming use may be extended, enlarged, or replaced only upon the issuance of a special use permit if the Board of Adjustment finds that, in completing the extension, enlargement or replacement work:

- (a) There is no increase in the total amount of lot area devoted to the non-conforming use;
- (b) There is no greater non-conformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking, loading, and landscaping requirements; and
- (c) There is no significant adverse impact on surrounding properties or the public health or safety. In issuing a special use permit, the Board of Adjustment may affix other reasonable and appropriate conditions such as, but not limited to, landscaping and buffering to separate dissimilar uses or to screen parking and loading areas.

(4) A non-conforming use may be extended throughout any portion of a completed building that, when the use was made non-conforming by this chapter, was manifestly designed or arranged to accommodate such use. However, a non-conforming use may not be extended to additional buildings or to land outside the original building unless specifically authorized in accordance with division (C)(3) above.

(5) A non-conforming use of open land may not be extended to cover more land than was occupied by that use when it became non-conforming; except that, a use that involves the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the limits of the site plan upon which the mining permit was granted if 10% or more of the natural materials had already been removed on the effective date of this chapter.

(6) The volume, intensity or frequency of use of property where a non-conforming use exists may be increased and the equipment or processes used at a location where a non-conforming use exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind or use and no violations of other sections of this subchapter occur. (Ord. passed 4-19-2018, § 120-3)

§ 3.428 NON-CONFORMING STRUCTURES.

(A) *Continuance of non-conforming.* Any non-conforming structure legally existing at the time of adoption or amendment of this chapter may be continued so long as it remains otherwise lawful.

(B) *Conditions for continuance.* Such non-conforming structures shall be subject to the following conditions.

(1) No non-conforming structure may be enlarged or altered in any way which increases its dimensional deficiencies; however, any non-conforming structure or portion thereof may be altered to decrease its dimensional deficiencies. Any enlargement of the structure shall conform to the current dimensional requirements.

(2) In the event of damage by fire or other causes to the extent exceeding 60% of its tax value prior to such damage as established by the Building Inspector, reconstruction of a non-conforming structure shall be permitted only in compliance with the dimensional provisions of this chapter.

(3) In the event of damage by fire or other causes to the extent causing less than 60% of its tax value prior to such damage as established by the Town Clerk or Zoning Administrator, with the requested assistance of the county's Building Inspector or Fire Marshal, reconstruction of a nonconforming structure shall be permitted; provided, it is constructed:

(a) In the same manner in which it originally existed subject to compliance with the requirements of the state's Building Code; or

(b) In compliance with the dimensional requirements.

(4) No non-conforming structure shall be moved or relocated unless it is made to comply with the dimensional and use requirements of the district in which it is relocated and with the requirements of the state's Building Code.

(C) *Preservation of safe or lawful conditions.* Nothing in this chapter shall prevent the strengthening or restoration to a safe or lawful condition any part of any building declared unsafe or unlawful by the county's Building Inspector or other duly authorized official. (Ord. passed 4-19-2018, § 120-4)

§ 3.429 MISCELLANEOUS NON-CONFORMING SITUATIONS.

(A) *Non-conforming situation resulting from governmental acquisition.* Any lot reduced in size by municipal, county or state condemnation or purchase of land shall obtain non-conforming lot or building status to the extent that said condemnation or purchase causes non-compliance with any provisions of this chapter.

(B) *Non-conforming parking created by change of use.* Whenever a change of use that does not involve the enlargement of an existing structure is proposed for a lot on which the parking requirements of this chapter for the proposed new use cannot be met due to insufficient lot area, the proposed change of use shall not be regarded as an impermissible extension or enlargement of a non-conforming situation. However, the permit-issuing authority shall require that the parking requirements be satisfied to the extent possible utilizing the lot area that is available and may require that satellite parking space be obtained.

(Ord. passed 4-19-2018, § 120-5)

§ 3.430 NON-CONFORMING PROJECTS.

All non-conforming projects on which construction was begun at least 180 days before the effective date of this chapter as well as all non-conforming projects that are at least 10% completed in terms of the total expected cost of the project on the effective date of this chapter may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this section shall apply only to the particular phase under construction. In addition, as provided in G.S. § 160D-108, neither this chapter, nor any amendment to it, shall, without the consent of the property owner, affect any lot with respect to which a building permit has been issued pursuant to G.S. § 160D-1110 prior to the enactment of this chapter making the change so long as the building permit remains valid, unexpired and unrevoked.

(Ord. passed 4-19-2018, § 120-6)

§ 3.431 NON-CONFORMING SIGNS.

(A) *Continuance of non-conforming signs.*

(1) Signs in existence on the effective date of this chapter which do not conform to the provisions of this chapter, but which were constructed, erected, affixed or maintained in compliance with all previous regulations, shall be regarded as non-conforming signs. Although it is not the intent of this chapter to encourage the continued use of non-conforming signs, non-

conforming signs shall be allowed to continue and a decision as to the continued existence and use or removal of such signs shall be controlled as follows.

- (a) No non-conforming sign shall be changed to another non-conforming sign.
- (b) No non-conforming sign shall have any changes made in the words or symbols used or the message displayed on the sign unless the sign is specifically designed for periodic change of message.
- (c) No non-conforming sign shall be structurally altered so as to change the shape, size, type or design of the sign other than to make the sign a conforming sign.
- (d) No non-conforming sign shall be re-established after the activity, business or use to which it relates has been discontinued and such sign shall be removed.

(e) No non-conforming sign shall be re-established, and all remains of the sign must be removed after damage or destruction, if the estimated expense of repairs exceeds 50% of the estimated total value of the sign at the time of destruction, as determined by the Building Inspector. If damaged by less than 50%, but repairs are not made within three months of the time such damage occurred, the non-conforming sign shall not be allowed to continue and must be removed.

- (f) No non-conforming sign shall be relocated unless it is brought into conformance with the requirements of this chapter.
- (g) Normal maintenance and repair of a non-conforming sign is permitted providing the shape, size, type or design of the sign is not altered.

(2) Any non-conforming sign which is structurally altered, relocated or replaced shall immediately be brought into compliance with all the provisions of this chapter.

(3) Any non-conforming sign which:

- (a) Is a menace to the public safety;
- (b) Has been abandoned; or
- (c) Which has not been properly maintained, including cleaning and painting of painted surface areas and replacement of damaged parts, shall be removed after due notice has been given by the Town Clerk or Zoning Administrator.

(B) *Violations of non-conforming sign provisions.* The Town Clerk or Zoning Administrator shall order the removal of any sign maintained in violation of the provisions of this section for which removal procedures are herein prescribed, accordingly: the Town Clerk or Zoning Administrator shall

give 90 days' written notice to the owner or lessee to remove the sign or to bring it into compliance with this chapter. If the owner or lessee fails to remove the sign within 90 days after the 90-day written notice has been given, the Town Clerk or Zoning Administrator or his or her duly authorized representative may institute removal proceedings according to the procedures specified in G.S. § 160A-175.

(Ord. passed 4-19-2018, § 120-7)

20. VESTED RIGHTS

§ 3.450 PURPOSE.

This section is intended to implement G.S.160D-108 with respect to the establishment of zoning vested rights for landowners or applicants who have received a development approval from the Town.

§ 3.451 VESTED RIGHTS DEFINED.

As used in this Ordinance, a zoning vested right is defined as the right to undertake and complete the development and use of land under the terms and conditions of a development approval issued by the Town.

§ 3.452 EFFECT OF A VESTED RIGHT.

(A) Development approvals that have an established vested right in accordance with G.S. 160D-108 and this section shall preclude any action by the Town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property authorized by the development approval, except where a change in State or federal law occurs and has a retroactive effect on the development or use.

(B) Except when subject to sub-section (C) below, amendments to this Ordinance shall not be applicable to any of the following development approvals after they are vested:

- (1) Building or uses of land for which a development permit application has been submitted and approved in accordance with this Ordinance and G.S. 143-755;
- (2) Subdivisions of land for which a subdivision application has been submitted and approved in accordance with this Ordinance and G.S. 143-755;
- (3) A site-specific vesting plan approved in accordance with this Ordinance and G.S. 160D-108.1;
- (4) A multi-phase development approved in accordance with this Ordinance and G.S.160D-108; and
- (5) A vested right established by the terms of an approved development agreement in accordance with this Ordinance and Article 10 of Chapter 160D of the North Carolina General Statutes.

(C) Amendments to this Ordinance shall apply to vested development approvals if:

- (1) A change to State or federal law occurs and has a retroactive effect on the development or use;

- (2) There is written consent to be subject to the amendment by the landowner;
- (3) The development approval expires; or
- (4) The development is not undertaken or completed in accordance with the approval.

§ 3.453 ESTABLISHMENT OF A VESTED RIGHT.

A vested right may only be established following an approval of a development application in accordance with this section and the applicable requirements in the North Carolina General Statutes. The following sub-sections detail the ways in which a vested right may be established.

(A) *Common law vested rights.*

- (1) A common law vested right establishes the right to undertake and complete the development and use of property on substantial expenditures in good faith reliance on a valid governmental approval. Such approvals include, but are not limited to:
 - i. Zoning permits;
 - ii. Building permits;
 - iii. Special use permits; and
 - iv. Subdivision preliminary plats.
- (2) The applicant shall provide satisfactory proof that each of the following standards are met in order to establish a common law vested right:
 - i. The applicant has, prior to the adoption or amendment of an ordinance, made expenditures or incurred contractual obligations amounting to 25 percent or more of the total project cost not including any land costs; and
 - ii. The obligations and/or expenditures were incurred in good faith; and
 - iii. The obligations and/or expenditures were made in reasonable reliance on and after the issuance of a valid governmental permit, if such permit is required provided however, a mistakenly-issued governmental permit shall not give rise to a common law vested right; and
 - iv. The amended or newly adopted ordinance is a substantial detriment to the applicant.

(B) *Issuance of a building permit.* Issuance of a building permit by the Town in accordance with the applicable standards in this Ordinance and applicable State law shall entitle the building permit holder to vested rights to develop the proposal as identified in the approved building permit, subject to the following standards:

- (1) The applicant shall not be required to file for a determination to establish common law vested rights to establish or maintain vested status during the time period for which the building permit remains valid.
- (2) The owner has a vested right only as long as the building permit remains valid and only for the work approved by the building permit.
- (3) The building permit shall expire six months after issuance if work has not substantially commenced.
- (4) The building permit shall expire after work commences if there is a 12-month discontinuance of work.
- (5) The building permit may be revoked for any substantial departure from the approved plans, failure to comply with any applicable local or State law (not just the building code and this Ordinance), and any misrepresentations made in securing the permit.
- (6) Building permits mistakenly issued may be revoked.
- (7) If the building permit expires or is revoked, the vested right based on it is also lost.

(C) *Statutory vested rights.* Development permits for a building, use of a building, use of land, or subdivision of land establishes statutory vested rights, which shall entitle the permit holder to vested rights to develop the proposal as identified in the approved permit, subject to the following standards:

- (1) Issuance of a building permit is not considered a development permit, and the vesting term shall only continue in accordance with State laws applicable to building permit vesting.
- (2) A development permit is valid for one year after issuance, unless otherwise specified by statute, and the applicant is vested in that permit for the term of validity.
- (3) If the applicant fails to substantially commence authorized work within one year, then the development permit and vesting expire.
- (4) Vesting shall continue provided there is a substantial commencement of authorized work under a valid development permit.

- (5) The development permit and vesting shall expire after substantial work commences if there is a two-year period of intentional and voluntary discontinuance of work unless otherwise specified by statute.

(D) *Site-specific vesting plan.*

- (1) For the purposes of this section, a site-specific vesting plan is defined as a plan of land development submitted to the Town for purposes of obtaining approval.
- (2) A site-specific vesting plan must provide, with reasonable certainty, all of the following:
 - i. The boundaries of the development;
 - ii. Topographic and natural features affecting the site;
 - iii. The approximate location of proposed buildings, structures, and other improvements;
 - iv. The approximate dimensions, including height, of proposed buildings and other structures;
 - v. The approximate location of all existing and proposed infrastructure on the site, including water, sewer, streets, and pedestrian ways;
 - vi. The type or types of proposed land uses; and
 - vii. The density or intensity of development.
- (3) A variance, sketch, concept plan, or any other document that fails to describe with reasonable certainty the type and intensity of use for a specific lot or lots of property shall not constitute a Site-Specific Vesting Plan.
- (4) The following development approvals constitute a Site-Specific Vesting Plan:
 - i. A site plan associated with a conditional rezoning application;
 - ii. Subdivision preliminary plats;
 - iii. Site plans; and
 - iv. A site plan associated with a special use permit.

- (5) Development approvals identified by this Ordinance as Site-Specific Vesting Plans shall be granted a vested right to develop for a maximum period of two years from the date of the approval, provided the applicant has requested, in writing, that a vested right is sought, and provided the development subject to the approval complies with all applicable terms and conditions.
- (6) Site-Specific Vesting Plans meeting the definition of a Multi-Phase Development shall be vested in accordance with subsection (E) below.

(E) *Multi-phase development plan.*

- (1) A multi-phase development plan that occupies at least 25 acres of land area, is subject to a master plan that depicts the types and intensities of all uses as part of the approval and includes more than one phase shall be considered as a multi-phase development plan that is granted a vested right to develop for a period of seven years from the date of approval of the first site plan associated with the development.
- (2) Vesting shall commence upon approval of the site plan for the first phase of the development.
- (3) The vested right shall remain in effect provided the development does not expire and provided it complies with all the applicable terms and conditions of the approval.

(F) *Development agreement.* A development agreement shall be vested in accordance with the vesting term identified in the development agreement.

(G) *Voluntary annexation.*

- (1) Any petition for annexation filed with the Town shall contain a signed statement from the applicant indicating if vested rights on the properties subject to the petition have been established in accordance with G.S.160D-108.
- (2) A statement that declares that no zoning vested right has been established or the failure to provide a statement declaring whether or not vested rights have been established, shall result in a termination of any vested rights established prior to annexation.

§ 3.454 TERMINATION.

(A) *Generally.*

- (1) Vested rights established in accordance with this Ordinance shall run with the land.

- (2) In no instance shall vesting status extend beyond the maximum duration for the type of development application approval.
 - (3) In no instance shall the vesting status of a development approval continue after the development approval expires or if the development approval is revoked for failure to comply with the terms of the approval or of this Ordinance.
 - (4) In no instance shall the vesting status of a development approval continue after it is determined that the development approval was based upon intentional inaccurate information or material misrepresentations.
 - (5) In no instance shall vested rights continue if the Town Council finds, after a duly noticed public hearing, that natural or man-made hazards resulting from the development would result in a serious threat to public health, safety, or welfare if the development were to be continued or completed.
 - (6) In the event of commenced but uncompleted work associated with a development approval, vested rights shall expire within 24 months of the discontinuance of work. This 24-month period shall not include the time associated with work stoppage resulting from an appeal or litigation.
- (B) *Limitations.*
- (1) The establishment of a vested right does not preclude the Town's application of overlay zoning district requirements or other development regulations that do not affect the type of land use, its density, or intensity.
 - (2) A vested right shall not preclude the application of changes to building, fire, plumbing, electrical, or mechanical codes made after the development approval where a vested right was established.

21. NUISANCES

§ 3.500 PURPOSE.

(A) These standards are provided for the purpose of identifying structures and activities that may be a nuisance to the public health, safety, and welfare, and ensuring that such nuisances are abated in order to protect:

- (1) The quality of rural attractiveness and the aesthetic appearance of the Town;
- (2) Property values throughout the Town;
- (3) Livability and attractiveness of neighborhoods;
- (4) Tourism, festivals and other opportunities for economic development for the town;
- (5) The attractiveness of the Town's thoroughfares and commercial roads which present the primary, public visibility to visitors and passers-by of the Town; and
- (6) The comfort, happiness, and emotional stability of occupants of property in the vicinity of nuisances, as defined in this subchapter. (Ord. 0-2019-01, passed 6-10-2019)

(B) Anything that causes offensive odor or that causes injury or damage to the health or life of any other person or anything that interferes with the peaceful enjoyment of one's property is hereby declared a nuisance.

(C) Abandoned houses and buildings can cause a blight on a neighborhood; can cause entrapment or injury or become a breeding ground for mosquitos, insects, rats or other pests are deemed a public health nuisance. Bona fide farm buildings are exempt from this regulation.

§ 3.501 NUISANCE PROHIBITED.

It shall be unlawful for any person to create a nuisance on a lot owned or occupied by them or to allow a nuisance to remain on a lot owned or occupied by them.

§ 3.502 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED. Left without needed protection, upkeep or repair, left by the owner(s) and allowed to fall in to a state of disrepair, vacant and uninhabitable.

ABATE/ABATEMENT. To cause the violation on a property to cease by removal of nuisance materials, vehicles and the like.

AUTHORIZING OFFICIAL. The Zoning Administrator, or their assigns, designated to authorize the abatement of nuisances or removal of vehicles under the provisions of this subchapter.

BUILDING MATERIALS. Lumber, brick, stone carpet, plumbing materials, plaster, concrete, roofing, floor coverings, gutters or other materials or substances suitable for or commonly used in the construction or repair of houses, commercial buildings and other structures, driveways, fences, decks, landings, patios, porches or carports.

BUILDING RUBBISH. Rubbish from construction, remodeling, and repair operations on houses, commercial buildings, and other structures, including but not limited to stones, brick, plaster, lumber, concrete, and waste parts occasioned by installations and replacements.

CHRONIC VIOLATOR. As defined in G. S. 160A.200.1(d), any person who owns property whereupon, in the previous calendar year, the town gave notice of violation at least three times under any provision of this subchapter.

COMBUSTIBLE REFUSE. Refuse, capable of incineration or burning, such as garbage, paper, rags, boxes, and wood.

GARBAGE. Animal and vegetable refuse resulting from the handling, preparation, cooking, and consumption of food, including a minimum amount of liquid necessary incident thereto.

HARMFUL INSECTS. Mosquitoes, ticks, fleas and flies and other arthropods which can be living transporters and transmitters of a causative agent of a disease.

JUNK. Any furniture, appliances, machinery, equipment, building fixture, automotive parts, tires, or other similar items which is either in a wholly or partially rusted, wrecked, dismantled, or inoperative condition.

LITTER. Any discarded manmade materials, including, but not limited to, garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, or motor vehicle part, solid waste materials, industrial materials and hazardous waste, or discarded material in any form resulting from domestic, industrial, commercial, medical or agricultural operations.

NOXIOUS. Injurious to physical or mental health and capable of causing harm.

NOXIOUS VEGETATION. Plants that cause dermatitis through direct or indirect contact or plants that cause internal poisoning if eaten or ingested including but not limited to poison sumac, poison ivy or poison oak.

NUISANCE. Any condition that is dangerous or prejudicial to the public health or public safety.

ODOR. The property of a substance or that creates a distinctive and unpleasant smell. A noxious odor is one is injurious to physical or mental health and capable of causing physical harm, or negatively impacts the livability of surrounding properties or persons.

OPEN PLACE. A yard area, a vacant lot, a deck, landing, patio, porch or carport not totally enclosed by a roof, walls, screens or glass windows; or the parkway between the sidewalk and the street curb or pavement edge. The term does not include lands zoned for agriculture, wildlife sanctuary or research farm.

WEED. Any undesired, uncultivated plant.

WHITE GOODS. Residential appliances limited to washing machines, clothes dryers, stoves, ranges, ovens, refrigerators, freezers, dishwashers, and water heaters.

YARD WASTE. Grass, weeds, leaves, tree trimmings, plants, shrubbery pruning and such other similar materials which are generated in the maintenance of yards and gardens. (Ord. 0-2019-01, passed 6-10-2019)

§ 3.503 NUISANCES ENUMERATED.

Any of the following enumerated and described conditions occurring in an open place, or on public or private property is hereby found, deemed, and declared to constitute a detriment, danger and hazard to the health, safety, morals, and general welfare of the inhabitants of the town and is found, deemed, and declared to be public nuisances wherever the same may exist and the creation, maintenance, or failure to abate any nuisances is hereby declared unlawful. Every such nuisance shall be abated pursuant to the abatement procedures as provided in § 3.505 of this subchapter.

(A) Any accumulation of trash, garbage, food waste and other trash which is the result of the absence of, or overflowing of, or improperly closed trash or garbage containers, that attracts or is likely to attract mice and rats, flies and mosquitoes or other pests.

(B) An open or unsecured storage or collection place for chemicals, acids, oils, gasoline, flammable or combustible materials or flammable or combustible liquids, poisonous materials or other similar harmful or dangerous substances, gasses or vapors.

(C) An open place, collection, storage place or concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials collection.

(D) An open storage place for old worn out, broken or discarded machinery, car parts, junk, tire rims, furniture, stoves, refrigerators, appliances, cans and containers, household goods, plumbing or electrical fixtures, old rusty metal, fencing materials or other similar materials.

(E) Any accumulation of garbage, rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, mosquitoes, or vermin prejudicial to the public health.

(F) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(G) The open storage of any discarded ice box, furniture, refrigerator, stove, glass, building materials, building rubbish or similar items. The use of carports, open porches, decks, open garages and other outdoor areas that are visible from the street as a storage or collection place for boxes, appliances, furniture (not typical outdoor or yard furniture), junk, garbage, old worn out broken or discarded machinery and equipment, cans, containers, household goods or other similar condition that increase the likelihood of a fire; may conceal dangerous conditions; may be a breeding place or habitat for mice, rats or other pests; or, create an unattractive condition or visually blighted property.

(H) A collection place for lumber, bricks, blocks, nails, building hardware, roofing materials, scaffolding, masonry materials, electrical supplies or materials, plumbing supplies or materials, heating and air conditioning supplies or materials or any other type of old or unusable building supplies (especially those with nails, staples or sharp objects and edges) unless such conditions are temporary in nature and caused by a current construction project in progress pursuant to a lawfully issued building permit.

(I) Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the Code Administrator or his designee can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises.

(J) The placement, storage or use of upholstered sofas, couches, chairs or other indoor type furniture, appliances, seats removed from motor vehicles or other furniture not intended for outdoor use by the manufacturer, use on any open porch, carport, stoop, deck, veranda, terrace, patio or other outdoor area that is visible from nearby streets and sidewalks.

(K) A collection place, pool or pond of stagnant or foul water or persistent dampness caused by overflowing septic tanks, manmade dams, open ditches, overflowing pipes, foundation trenches or other impoundments of any kind.

(L) Barns or farm animal pens, pastures or enclosures for farm animals which are not kept sanitary and clean or otherwise become a collection place for animal waste and which because of the conditions associated therewith attract rats, mice, flies or other pests or emit foul odors that can be detected or noticed on adjacent properties or are otherwise not kept in a sanitary condition.

(M) Dog lots, pens, pet enclosures of all kinds, outdoor areas where dogs or other pets are chained or kept or areas where dogs and cats are permitted to roam which become a collection place for dog, cat or pet waste and excrement and which attract flies or other pests, emit foul odors which can be detected or noticed on adjacent property or are not kept in a sanitary condition.

(N) A collection place for sewage and sewage drainage or the seepage from septic tanks, broken or malfunctioning plumbing and sewer pipes or any other seepage of dangerous, hazardous or poisonous liquids.

(O) A collection place for tree limbs, dried brush, dead vegetation, stumps or other decayed wood and materials or other similar rubbish.

(P) Any discharge into or polluting of any stream, creek, river or other body of water or the discharge of any dangerous substance or any other material likely to harm the water or any vegetation, fish or wildlife in or along the water or the storage of such harmful materials and substances in a manner so that it is likely that such streams, creeks, rivers or other bodies of water will become polluted or adversely affected in any manner.

(Q) Any condition which blocks, hinders, or obstructs in any way the natural flow of branches, streams, creeks, surface waters, ditches, or drains, to the extent that the premises is not free from standing water.

(R) Any conditions or use of property, which results in the emission of pollutants and particles into the atmosphere or causes noxious odors, vapors and stenches to be discharged into the air.

(S) Nuisance vehicle: A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation which exceeds eight (8) inches in height ; or
- (3) In a condition allowing the collection of pools or ponds of water; or

- (4) A concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or
- (5) An area of confinement which cannot be operated from the inside, such as, but not limited to, trunks or hoods; or
- (6) So situated or located that there is a danger of it falling or turning over; or
- (7) A collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; or
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass;
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Council; and

(T) Any condition detrimental to the public health which violates the rules and regulations of the Nash County Health Department.

§ 3.504 VEGETATION.

(A) Any weeds or other vegetation having an overall height of more than 18 inches above the surrounding ground shall be considered a nuisance subject to the standards of this subchapter, provided that the following shall not be considered to be a part of this condition:

- (1) Land located on a bona fide farm or vegetation on a lot subject to present use value taxation;
- (2) Trees and ornamental shrubs;
- (3) Cultured plants;
- (4) Natural vegetation on undeveloped property that is not a threat to the character of surrounding properties in the sole opinion of the Zoning Administrator; and
- (5) Flowers and growing and producing vegetable plants.

(B) It shall be the duty of every person occupying, owning, or having control of property with an occupied dwelling or place of business located on a lot abutting on a street or highway that utilizes a portion of the unused street or highway right-of-way as a yard or any other use to maintain the portion of the lot containing the right-of-way in the same character and manner as the abutting use.

§ 3.505 NOTICE OF NUISANCE; ABATEMENT PROCEDURES.

(A) It shall be the duty of any owner, lessee or occupant of any lot or land to maintain said lot or land in such a condition that none of the nuisances enumerated in § 3.503 of this subchapter are allowed to exist or persist on public or private property, or in an open place.

(B) When any enumerated nuisance is reported, found, or alleged to exist on any property or open place, the following procedure(s) shall be followed:

- (1) The authorizing official shall notify the owner of the premises where the alleged nuisance is located by first class mail;
- (2) The letter must list conditions identified in the notice of potential violation as identified by code section;
- (3) The property owner must contact the Zoning Administrator or Town Clerk within ten days of the date of the initial letter to discuss the potential nuisance violation;
- (4) Failure to respond within ten days will result in a second notice issued by certified mail advising that the Town may assess civil penalties and administrative fees of \$100 per day for violation of the nuisance code provisions; and
- (5) The Town may also assess civil penalties and the administrative fee of \$250, per day, after the third and subsequent notice of violation of the nuisance code provisions occurring within 12 months of the first such notice of violation;
- (6) Unless the public nuisance is abated within 30 calendar days from the mailing of the second notice, the authorizing official will initiate the process to abate the conditions constituting a nuisance; and
- (7) The cost of abatement, including an administrative fee of \$175, also including the cost, if any, to reseed areas which were formerly declared a nuisance. (Ord. 0-2019-01, passed 6-10-2019)

§ 3.506 RIGHT TO ENTER PROPERTY; APPEAL.

(A) The authorizing official or lawful designee is hereby given full power and authority to enter upon the premises involved for the purposes of abating the nuisance found to exist.

(B) After the 30-day period specified in § 3.505 of this subchapter, the owner of the property where the nuisance exists may appeal the findings of the authorizing official by giving written notice of the appeal to the authorizing official. The appeal will stay the abatement of the nuisance by the

authorizing official until a final determination by the Board of Adjustment. In the event no appeal is taken, the authorizing official may proceed to abate the nuisance.

(C) The Board of Adjustment, in the event that an appeal is taken, may, after hearing all interested persons and reviewing the findings of the authorizing official, reverse the findings made pursuant to this chapter, but if the Board of Adjustment shall determine that the findings of the authorizing official made pursuant to this subchapter are correct, it shall declare the condition existing on the property to be a danger and hazard to the health, safety, morals, and general welfare of the inhabitants of the Town and a public nuisance and directing the authorizing official to cause the conditions to be abated.

(Ord. 0-2019-01, passed 6-10-2019)

§ 3.507 ABATEMENT BY TOWN.

If the person upon whom the notice provided for in this subchapter is served fails, neglects, or refuses to correct the nuisance cited pursuant to this subchapter within 30 days after receipt of such notice, or if no person can be found in the Town who either is or claims to be the owner of such lot or land or who either represents or claims to represent such owner, the authorizing official may cause such nuisance to be abated.

(Ord. 0-2019-01, passed 6-10-2019)

§ 3.508 RECOVERY OF TOWN'S COST OF ABATEMENT.

(A) The expense of the action to abate a nuisance shall be paid by the person in default. If the expense is not paid, it is a lien on the land or premises where the nuisance occurred.

(B) The expense of the action is also a lien on any other real property owned by the person in default within the Town limits or within one mile of the Town limits, except for the person's primary residence. A lien established pursuant to this division is inferior to all prior liens and shall be collected as a money judgment. This shall not apply if the person in default can show that the nuisance was created solely by the actions of another. (Ord. 0-2019-01, passed 6-10-2019)

§ 3.509 ANNUAL NOTICE TO CHRONIC VIOLATORS.

(A) Pursuant to G.S. 160A-200.1, the Town shall notify a chronic violator of this subchapter that, if the violator's property is found to be in violation of this chapter, the Town shall, without further notice in the calendar year, take action to remedy the violation, and the expense shall become a lien upon the property.

(B) This annual notice shall be sent registered or certified mail. When service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed

sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after the mailing. If service by regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises affected. (Ord. 0-2019-01, passed 6-10-2019)

§ 3.510 MANAGEMENT OF GRASS CLIPPINGS AND VEGETATIVE MATTER.

(A) In no case shall grass clippings, vegetative material, and/or vegetative debris be washed, swept, or blown off into surface waters, stormwater drains, ditches, conveyances, watercourses, water bodies, wetlands, sidewalks or streets. Any material that is accidentally so deposited shall be immediately removed to the maximum extent possible.

(B) Any person or company found in violation of said ordinance will first be issued a warning to immediately cease the violation by an authorized law enforcement officer. Any person or company found in violation of said ordinance a second time will be issued a civil citation in the amount of \$100 by an authorized law enforcement officer. Any person or company found in violation of said ordinance a third time will be issued a civil citation in the amount of \$250 by an authorized law enforcement officer. Due to the nature of such violations, a notice of violation is not required to be mailed to or issued to the violator and no additional time is required to be given. In addition to remedies provided herein, any violation of the terms of this section shall subject the violator to the penalties and remedies, as set forth in the code of ordinances.

(Ord. 0-2019-01, passed 6-10-2019)

§ 3.511 TIME LIMITS FOR ABATEMENT.

Pursuant to G.S. §§ 1.49 and 1.51, abatement of violations of this chapter is subject to the following time limits:

(A) Five years from the time that the facts constituting a violation become known to the Town Council, agent or employee of the town;

(B) Seven years from the time that a violation is visible from a public right-of-way or is in plain view from a place to which the public is invited; or

(C) These time limits do not apply to the remedy of conditions that are actually injurious or dangerous to the public health and safety. (Ord. 0-2019-01, passed 6-10-2019)

§ 3.512 PROVISIONS CUMULATIVE.

The procedure set forth in this chapter shall be in addition to any other remedies that may exist under law for the abatement of public nuisances, and this article shall not prevent the Town from bringing action for a civil penalty as set forth in § 3.403, Remedies and Penalties.

22. ABANDONED, JUNKED AND NEGLECTED MOTOR VEHICLES

§ 3.550 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED MOTOR VEHICLE. As authorized and defined in G.S. § 160A-303, is a vehicle that:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;
- (2) Is left on a public street or highway for longer than seven days;
- (3) Is left on property owned or operated by the town for longer than 24 hours; or
- (4) Is left on private property without the consent of the owner, occupant or lessee thereof for longer than 24 hours.

AUTHORIZING OFFICIAL. The Town Administrator/Clerk, or their assigns, designated to authorize the abatement of nuisances or removal of vehicles under the provisions of this subchapter.

CLASSIC CAR. A motor vehicle that is at least 20 years old and has been restored, is being restored, or operates in the manner in which it was originally intended.

DRIVEWAY. A vehicular access from a public or private street to a property or properties constructed of materials intended for vehicular traffic, such as asphalt, concrete, gravel or similar materials.

JUNKED MOTOR VEHICLE. As authorized and defined in G.S. § 160A-303(b)(2), a vehicle that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it was intended to move;
- (3) Is more than five years old and worth less than \$500;

- (4) Does not display a current license plate; or
- (5) Is not exempt from this subchapter as specified in § 3.565.

MOTOR VEHICLE. As defined in G.S. § 160A-303(b), all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

NEGLECTED MOTOR VEHICLE. A motor vehicle on public or private property that is determined and declared to be a public nuisance, and unlawful, including a vehicle:

- (1) That does not leave the property upon which it is situated for 60 consecutive days;
- (2) Not parked or stored within a substantially enclosed structure, such as a carport or garage; or is not covered by a UV protective covering that is intact and in good condition designed specifically for the motor vehicle; or
- (3) Not parked within a driveway or delineated parking area specifically designed for vehicular parking.

NUISANCE MOTOR VEHICLE. A motor vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitos, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor;
- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods and the like;
- (6) So situated or located that there is a danger of it falling or turning over;
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible material of any kind;
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or

(9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Council.
(Ord. 0-2019-01, passed 6-10-2019)

§ 3.551 ADMINISTRATION.

(A) The County Sheriff's Department shall be the authorizing official responsible for administering the removal and disposition of vehicles determined to be abandoned on the public streets and highways within the town and on property owned by the town.

(B) The Town Administrator/Clerk or designee shall be the authorizing official responsible for administering the removal and disposition of abandoned, nuisance, junked or neglected motor vehicles located on private property. The town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store and dispose of abandoned vehicles, nuisance vehicles, neglected motor vehicles, and junked motor vehicles in compliance with this subchapter and applicable state laws. Nothing in this subchapter shall be construed to limit the legal authority or powers of officers of the Police Department and Fire department in enforcing other laws or in otherwise carrying out their duties. (Ord. 0-2019-01, passed 6-10-2019)

§ 3.552 ABANDONED MOTOR VEHICLE.

(A) It shall be unlawful for the registered owner or person entitled to the possession of a motor vehicle to cause or allow such motor vehicle to be abandoned.

(B) Upon investigation, the proper authorizing official of the town may determine that a motor vehicle meets the definition of an abandoned motor vehicle and order the vehicle removed.
(Ord. 0-2019-01, passed 6-10-2019)

§ 3.553 NUISANCE MOTOR VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle or for the owner, lessee, or occupant upon real property upon which the vehicle is located to leave or allow the motor vehicle to remain on the property after it has been declared a nuisance motor vehicle.

(B) Upon investigation, the authorizing official may determine that a motor vehicle is a health and safety hazard meeting the definition of a nuisance motor vehicle, declare that the motor vehicle is a health or safety hazard, and order the motor vehicle removed.

(C) Abatement of a nuisance motor vehicle violation shall follow the procedures outlined in §§ 3.358 through 3.361 of this chapter.
(Ord. 0-2019-01, passed 6-10-2019)

§ 3.554 JUNKED MOTOR VEHICLE REGULATED; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the motor vehicle has been ordered removed.

(B) It shall be unlawful to have a junked motor vehicle on the premises of public or private property.

(C) Upon investigation, the authorizing official may order the removal of a junked motor vehicle after finding in writing that the aesthetic benefits of removing the motor vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood, or area appearance. The following among other relevant factors may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism or other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; or
- (5) Promotion of the comfort, happiness and emotional stability of area residents.

(D) Abatement of a junked motor vehicle violation shall follow the procedures outlined in §§ 3.358 through 3.361 of this chapter.
(Ord. 0-2019-01, passed 6-10-2019)

§ 3.555 NEGLECTED MOTOR VEHICLE REGULATED; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to the possession of a neglected motor vehicle, or for the owner, lessee or occupant of the real property upon which a neglected motor vehicle is located to leave or allow the vehicle to remain on the property after the motor vehicle has been ordered removed.

(B) It shall be unlawful to have a neglected motor vehicle on the premises of public or private property.

(C) Upon investigation, the authorizing official may order the removal of a neglected motor vehicle after finding in writing that the aesthetic benefits of removing the motor vehicle outweigh the burdens imposed on the private property. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood, or area appearance. The following among other relevant factors may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism or other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; or
- (5) Promotion of the comfort, happiness, and emotional stability of area residents.

(D) Abatement of a neglected vehicle violation shall follow the procedures outlined in §§ 3.505 through 3.508 of this chapter.
(Ord. 0-2019-01, passed 6-10-2019)

§ 3.556 REMOVAL; PRE-TOWING NOTICE REQUIREMENT.

(A) Except as set forth in § 3.558 of this subchapter, an abandoned, nuisance, junked, or neglected motor vehicle shall be towed only after notice to the registered owner or person entitled to possession of the motor vehicle. In the case of a nuisance, junked, or neglected motor vehicle, if the name and mailing address of the registered owner or person entitled to the possession of the vehicle or owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first-class mail. The person who mails the notice shall retain a written record to show the name and address to which mailed and the date mailed.

If such names and addresses cannot be ascertained or if the motor vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the motor vehicle a notice indicating that the motor vehicle will be removed by the town on a specified date, no sooner than seven days after the notice is affixed. The notice shall state that the motor vehicle will be removed by the town on a specified date, no sooner than ten days after the notice is affixed or mailed, unless the motor vehicle is moved by the owner or legal possessor prior to that time.

(B) With respect to abandoned motor vehicles on private property, nuisance, junked, or neglected motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the motor vehicle but chooses to appeal the determination that the motor vehicle is abandoned, a nuisance, or in the case of junked or neglected motor vehicle that the aesthetic benefits of removing the motor vehicle outweigh the burdens, such appeal shall be made to the Town

Council in writing, heard at the next regularly scheduled meeting of the Town Council, and further proceedings to remove the motor vehicle shall be stayed until the appeal is heard and decided. (Ord. 0-2019-01, passed 6-10-2019)

§ 3.557 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.

(A) The requirement that notice be given prior to the removal of an abandoned, nuisance, junked, or neglected motor vehicle may, as determined by the authorizing official, be omitted in circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records.

(B) Circumstances justifying the removal of motor vehicles without prior notice include:

(1) *Motor vehicles abandoned on the streets.* For motor vehicles left on public streets and highways, the Town Council hereby determines that immediate removal of such motor vehicles may be warranted when they are:

(a) Obstructing traffic; or

(b) Parked in violation of an ordinance prohibiting or restricting parking.

(2) *Other abandoned or nuisance motor vehicles.* With respect to abandoned or nuisance motor vehicles left on city-owned property other than streets and highways and on private property, such motor vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include motor vehicles blocking or obstructing ingress or egress to businesses and residences, motor vehicles parked in such a location or manner to pose a traffic hazard, and motor vehicles causing damage to public or private property.

(Ord. 0-2019-01, passed 6-10-2019)

§ 3.558 REMOVAL OF MOTOR VEHICLE; POST-TOWING NOTICE REQUIREMENTS.

(A) Any abandoned, nuisance, junked, or neglected motor vehicle which has been ordered removed may, as directed by the town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town. Whenever such a motor vehicle is removed, the town shall immediately notify the last known registered owner of the motor vehicle, such notice to include the following:

(1) The description of the removed motor vehicle;

(2) The location where the motor vehicle is stored;

- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the motor vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

(B) The town shall attempt to give notice to the motor vehicle owner by telephone, however whether or not the owner is reached by telephone, written notice, including the information set for in division (A)(1) through (5) of this section, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the motor vehicle owner or their agent.

(C) If the motor vehicle is registered in the state, notice shall be given within 24 hours. If the motor vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the removal of the motor vehicle.

(D) Whenever an abandoned, nuisance, junked, or neglected motor vehicle is removed and such motor vehicle has no valid registration or registration plates, the authorizing official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the motor vehicle and notify them of the information as set forth in division (A)(1) through (5) of this section.

(Ord. 0-2019-01, passed 6-10-2019)

§ 3.559 RIGHT TO HEARING BEFORE SALE OR FINAL DISPOSITION OF MOTOR VEHICLE.

After removal of an abandoned, nuisance, junked or neglected motor vehicle, the owner or any other person entitled to the possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the motor vehicle. A request for hearing must be filed in writing with the County Magistrate designated by the Chief District Court Judge to receive such hearing requests. The County Magistrate will set the hearing within 72 hours of the receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-222. (Ord. 0-2019-01, passed 6-10-2019)

§ 3.560 REDEMPTION OF VEHICLE DURING PROCEEDINGS.

At any stage of the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed motor vehicle by paying a towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed motor vehicle. Upon regaining possession of a motor vehicle, the owner or person entitled to the possession of the motor vehicle shall not allow or engage in further violation of this subchapter.

(Ord. 0-2019-01, passed 6-10-2019)

§ 3.561 SALE AND DISPOSITION OF UNCLAIMED MOTOR VEHICLE.

Any abandoned, nuisance, junked, or neglected motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the town or tow truck operator or towing business having custody of the motor vehicle. Disposition of such a motor vehicle shall be carried out in coordination with the town and in accordance with G.S. Ch. 44A, Art. 1. (Ord. 0-2019-01, passed 6-10-2019)

§ 3.562 CONDITIONS ON REMOVAL OF VEHICLE FROM PRIVATE PROPERTY.

As a general policy, the town will not remove a motor vehicle from private property if the owner, occupant or lessee of such property could have the motor vehicle removed under applicable state law procedures. In no case will a motor vehicle be removed by the town from private property without a written request of the owner, occupant, or lessee, except in those cases where a motor vehicle is a nuisance, junked, or neglected motor vehicle which has been ordered removed by the authorizing official. The town may require any person requesting the removal of an abandoned, nuisance, junked, or neglected motor vehicle from private property to indemnify the town against any loss, expense, or liability incurred because of the removal, storage, or sale thereof. (Ord. 0-2019-01, passed 6-10-2019)

§ 3.563 PROTECTION AGAINST LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance, junked, or neglected motor vehicle for disposing of such motor vehicle as provided for in this subchapter. (Ord. 0-2019-01, passed 6-10-2019)

§ 3.564 UNLAWFUL REMOVAL OF AN IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any motor vehicle which has been impounded pursuant to the provisions of the code unless and until all towing and impoundment fees which are due, or a bond-in-lieu of such fees, have been paid.

(Ord. 0-2019-01, passed 6-10-2019) Penalty, see § 3.999

§ 3.565 EXCEPTIONS.

Nothing in this subchapter shall apply to any motor vehicle:

(A) Which is located in a bona fide automobile graveyard or junkyard as defined in G.S. § 136-143, in accordance with the Junkyard Control Act, G.S. §§ 136.141 et seq.;

(B) Which is in an enclosed building;

(C) Which is on the premises of a business enterprise being operated in a lawful place and manner if the motor vehicle is necessary to the operation of the enterprise;

(D) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the town; or

(E) Meeting the definition of a classic car as defined in this subchapter. If a motor vehicle meeting the definition of a classic car is in the process of being restored to its original condition, the classic car must be covered with a UV protective cover designed specifically for the motor vehicle or within an enclosed structure when work on the motor vehicle is not active. Proof of active restoration efforts must be provided if requested by the authorizing official.

(Ord. 0-2019-01, passed 6-10-2019)

§ 3.566 PENALTY.

(A) *General.* Any one or all of the following procedures may be used to enforce the provisions of this chapter.

(1) *Injunction.* Any violation of this chapter or of any condition, order or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated or enjoined by other appropriate proceeding pursuant to state law.

(2) *Civil penalties.* Any person who violates any provisions of this chapter shall be subject to the assessment of a civil penalty under the procedures provided in division (B) below.

(3) *Denial of permit or certificate.* The Town Clerk or Zoning Administrator may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this chapter or of a condition or qualification of a permit, certificate or other authorization previously granted.

(4) *Conditional permit.* The Town Clerk or Zoning Administrator may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time or the posting of a compliance security approved by the County Attorney.

(5) *Revocation of permits.* In accordance with § 3.403(C) of this chapter, permits shall be revoked for any substantial departure from the approved applications, plans or specifications; refusal or failure to comply with the requirements of state or local laws, or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(6) *State and common law remedies.* In addition to other enforcement provisions contained in this section and §§ 3.400 through 3.406 of this chapter, the Town Council may exercise any and all enforcement powers granted to it by state law or common law. (Ord. passed 4-19-2018, § 30-7.4)

(B) *Civil penalties.*

(1) *Penalties.* Any person who violates any provisions of this chapter shall be subject to assessment of the maximum civil penalty allowed by law.

(2) *Notice.* No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with § 3.402 of this chapter. If, after receiving a notice of violation under § 3.402 of this chapter, the owner or other violator fails to take corrective action, a civil penalty may be imposed under this section and §§ 3.400 through 3.406 of this chapter in the form of a citation. The citation shall be served in the manner of a notice of violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within 15 days of the date of the notice.

(3) *Responsible parties.* The owner or occupant of any land, building, structure, sign or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates or maintains any condition that is in violation of the requirements of this chapter may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

(4) *Continuing violation.* For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

(5) *Demand for payment.* The Town Clerk or Zoning Administrator shall make written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

(6) *Non-payment.* If payment is not received or equitable settlement reached within 30 days, after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the general courts of justice for recovery of the civil penalty.

(Ord. passed 4-19-2018, § 30-7.5)

CHAPTER 4: RESERVED

On October 10, 2023, Chapter 4, Land Development Plan was removed from this Title IV Land Development and Usage Document and consolidated into its own document titled "Red Oak North Carolina Land Development Plan"

CHAPTER 5: SUBDIVISION REGULATIONS

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GENERAL PROVISIONS

§ 5.001 TITLE.

This chapter shall hereafter be known, cited and referred to as the Subdivision Regulations of the Town of Red Oak, North Carolina, as revised, except when also referred to as this “this chapter”. (Ord. passed 1-1-1981, § 10)

§ 5.002 AUTHORITY.

In pursuance of the authority conferred by G.S. Ch. 160Das amended. (Ord. passed 1-1-1981, § 11)

§ 5.003 POLICY.

(A) It is hereby declared to be the policy of the town to consider the subdivision of land and the subsequent development of the subdivided plat as subject to control of the town pursuant to the prevailing and current Land Development Plan in an effort to ensure that orderly, planned, and efficient growth is realized.

(B) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other hazards and land shall not be subdivided until proper provision has been made for drainage, water and sewage.

(C) Any proposed public improvements to be offered for dedication road access and improvements, by the developer shall conform to the recommendations of the prevailing Land Development Plan or other applicable studies which address said improvements. (Ord. passed 1-1-1981, § 12)

§ 5.004 PURPOSE.

This chapter is adopted by the Town Council for the following purposes:

- (A) Promote orderly growth and development in accordance to the current Land Development Plan, which will be compatible with the small town and rural character of the community;
 - (B) Provide for suitable residential and nonresidential developments with adequate roads and utilities and appropriate building sites;
 - (C) Provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding;
 - (D) Provide for the coordination of roads within subdivisions with existing or planned roads and with other public facilities;
 - (E) Provide for the dedication or reservation of rights-of-way or easements for road and utility purposes;
 - (F) Provide for the dedication or reservation of adequate spaces for public lands and buildings;
 - (G) Encourage and require design that is protective of environmental quality;
 - (H) Provide for the dedication or reservation of recreation, park, farmland and greenway areas;
 - (I) Provide proper land records for the convenience of the public and for better identification and permanent location of real property boundaries;
 - (J) To preserve the natural beauty and topography of the town and to ensure that development is consistent with indigenous natural and physical features; and
 - (K) To provide for open spaces through the most efficient design and layout of the land.
- (Ord. passed 1-1-1981, § 13)

§ 5.005 JURISDICTION.

This chapter, as provided in G.S. Ch. 160D shall govern each and every subdivision within the town except for those exceptions to the definitions of subdivision as described in this chapter. (Ord. passed 1-1-1981, § 14)

§ 5.006 THOROUGHFARE PLANS.

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the county or NCDOT, which the town has

approved that portion pertaining to thoroughfares within its jurisdiction such part of such thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in said plan except that the Town Council on recommendation of the Planning Board, may exempt the subdivider from complying with those aspects of a thoroughfare plan which have become outdated, to the extent permitted by law.

(Ord. passed 1-1-1981, § 15)

§ 5.007 INTERPRETATION OF CHAPTER.

(A) *Minimum requirements.* In the interpretation and application of this chapter, all provisions shall be considered to be minimum requirements and deemed neither to limit nor repeal any other powers granted under state statutes.

(B) *Greater restrictions govern.* These regulations shall be the minimum requirements for administration, enforcement, procedures, restrictions, standards, uses, variances and all other areas addressed by this chapter. If any federal or state law or any other existing ordinance or regulation allows lesser regulation, this chapter shall govern so that, in all cases, the more restrictive limitation or requirement shall govern. Whenever regulations imposed by this chapter are less restrictive than regulations imposed by any governmental authority through regulation, rule or restriction, the regulations imposed by that authority shall govern. Regardless of any other provision of this chapter, no land shall be developed in violation of any state or federal regulation.

(C) *Word interpretation.* Words not defined in this chapter shall be given their ordinary and common meaning.

(D) *Rules of interpretation.* For purposes of this chapter, the following rules of interpretation shall apply:

(1) *Tense.* Words used in the present tense include the future tense.

(2) *Singular and plural.* Words used in the singular number include the plural number, and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

(3) *Mandatory meaning.* The words “shall”, “will” and “must” are mandatory in nature implying an obligation or duty to comply with the particular provision.

(4) *Gender.* Words used in the male gender include the female gender.

(5) *Entity.* The word “person” includes a firm, joint venture, association, organization, partnership, corporation, trust and company, as well as an individual.

(6) *Certain synonyms.* The word “lot” includes the words “plat”, “parcel”, “trust”, or “site”; the word “building” includes the word “structure”; and the word “street” includes the words “road” and “highway”.

(7) *References.* Any reference to an subchapter or section shall mean an subchapter or section of this chapter, unless otherwise specified. (Ord. passed 1-1-1981, § 20)

§ 5.008 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. A detached subordinate structure operated and maintained under the same ownership and located on the same lot as the principal structure and is not used for residential occupancy.

ACCESS EASEMENT. An easement which grants the right to cross property.

ALLEY. A minor right-of-way privately- or publicly-owned, primarily for service access to the rear or side of properties which have principal frontage on some other street.

BEST MANAGEMENT PRACTICES (BMP). A structural or nonstructural management based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

BLOCK. A tract of land bordered by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of watercourses or boundary lines of municipalities.

BOARD OF ADJUSTMENT. A quasi-judicial body, appointed by the Town Council, that is given certain powers under the Zoning Code.

BOARD OF COUNTY COMMISSIONERS. The Board of County Commissioners of Nash County.

BOND. Any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the town.

BUFFER. An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The **BUFFER** is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams and rivers. The widths of buffer areas are established pursuant to the requirements of § 5.047 of this chapter.

BUILDING. Any structure that encloses a space used for sheltering any occupancy. Each portion of a building separated from other portions by a firewall shall be considered a separate building.

BUILDABLE LOT. One or more lots of record in one undivided ownership with sufficient total area, exclusive of easements, flood hazards, well and septic tank fields; sufficient total dimensions; and sufficient access to permit construction thereon of a principal building together with its required parking and buffer yards.

BUILDING INSPECTOR. The person designated by the county to enforce North Carolina Building Codes within the town and its territorial jurisdiction.

CERTIFICATE OF OCCUPANCY. A statement signed by the Town Clerk or Zoning Administrator setting forth that the building, structure or use complies with the Zoning Code and any applicable construction codes, and that the same may be used for the purposes stated herein.

CLUSTER DEVELOPMENT. The grouping of buildings in order to conserve land resources and provided for innovation in the design of the project including minimizing as single-family residential.

CONSTRUCTION PLAN. The maps or drawings accompanying a subdivision plat, depicting the specific location and design of improvements to be installed therein.

COLLECTOR ROAD. A road whose principal function is to carry traffic between cul-de-sac, local, and subcollector roads, and roads of higher classification, but which may also provide direct access to abutting properties.

COMMON AREA(S). All areas, including private roads, conveyed to an owners' association within a development or owned on a proportional undivided basis in a condominium development.

CORNER LOT. A lot abutting two or more roads at their intersection.

COUNTY. Nash County, North Carolina.

CUL-DE-SAC ROAD. A short local road having one end open to traffic and the other end permanently terminated by a vehicular turnaround.

DAY. Calendar days unless otherwise specified. A duration of days shall include the first and last days on which an activity is conducted, and all days in between, unless otherwise specified by state law.

DEVELOPER. A person engaging in development.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited, to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

DRAINAGE EASEMENT. An easement, which grants the right of water drainage to pass in open channels or enclosed structures.

EASEMENT. A grant of one or more of the property rights, by the property owner, to, or for use by, the public, a corporation, or other entities.

FLAG LOT. A lot, created by a subdivision, with less road frontage than is required by § 5.045(C)(5) of this chapter, and composed of a narrow flagpole strip extending from the road and much wider flag section lying immediately behind a lot or lots having the required road frontage for a conventional lot. In the case of a flag lot, the lot line at the end of the flag pole lying generally parallel to the road to which the flagpole connects shall be considered to be the front lot line for road setback purposes.

FLOOD HAZARD AREA. The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. As used in this chapter, the term refers to that area designated as subject to flood from the 100-year flood on the most current “Flood Insurance Rate Map” prepared by the Federal Emergency Management Agency.

FRONTAGE. All property abutting on one side of a street measured along the street line.

GRADE. The slope of a road, street or other public way specified in percentage terms.

IMPROVEMENT. See **LOT IMPROVEMENT.**

INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A septic tank, seepage tile sewage disposal system or any other approved sewage treatment device.

INDIVIDUAL WATER SYSTEM. The provision of a potable water system by means of an onsite well.

INTERIOR SETBACK. A setback from any property line not along a road.

LOT. A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership, or for development or both. The word **LOT** includes “plot”, “parcel” or “tract”.

LOT AREA. The total area circumscribed by boundaries of a lot except that when the legal instrument creating a lot shows the boundary of the lot extending into a public road or private right-of-way, then the lot boundary for purposes of computing the lot area shall be the road right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the road.

LOT CORNER. Any parcel of land having frontage on more than one street (road) which abuts an intersection of those streets (roads).

LOT DEPTH. The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

LOT, DOUBLE FRONTAGE. A continuous lot of the same depth as the width of a block, accessible from both rights-of-way upon which it fronts.

LOT IMPROVEMENT. Any building, structure, place, work of art, or other object, or improvement of the land in which said improvements is situated which contributes a physical betterment of real property or any part of such betterment.

LOT LINE. Any boundary of a parcel of land.

LOT LINE, FRONT. The boundary line of a lot running along a road right-of-way. If a lot has two property lines which are also road right-of-way lines abutting different roads, then the shorter of those two lines shall constitute the front lot line; if both lines are equal, the front lot line shall be determined by the property owner if the front property line has not been designated on a final plat (minimum building lines are construed to designate the front lot line).

LOT LINE, REAR. The rear lot line shall be the property line(s) which is (are) opposite the front property line. If no property line is deemed to be opposite the front property line and no minimum building line exists on the final plat to establish a rear lot line, then there shall be no rear lot line, however the rear yard setback shall be maintained from the point (apex) on the property's perimeter which is the furthest removed from the midpoint of the front line. The rear yard minimum building line shall be a line perpendicular to a straight line connecting said apex and the midpoint of the front lot line. **LOT LINE, SIDE.** A boundary line which is not defined as a front or rear lot line.

LOT OF RECORD. A lot, tract, or parcel, which has been recorded in the Office of the Register of Deeds of Nash County or a lot described by metes and bounds, the description of which has been recorded in the aforementioned office in compliance with the ordinance(s) in effect at the time of recordation.

LOT WIDTH. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

MAJOR SUBDIVISION. All subdivisions not classified as a minor subdivision including but not limited to subdivisions of six or more lots, or any size subdivision requiring any new street, access easement, or an addition to an existing street/road.

MINOR SUBDIVISION. Any subdivision containing not more than five or fewer lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements and not in conflict with any provisions or portion of the Comprehensive Plan and Zoning Code.

NONRESIDENTIAL SUBDIVISION. A subdivision having intended use other than residential, such as commercial, industrial or recreational.

OFFICIAL PLAN. Any plan officially adopted by the Town Council as a guide for the development of the town consisting of maps, charts and /or texts.

OPEN CARPORT. A roofed area principally for the shelter of not more than three automobiles, open on at least two sides and shall be attached to the main building.

ORDINANCE. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal thereof. The word ordinance shall include the terms subdivision regulations or regulations.

OWNER. A holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

PLANNING BOARD. A body appointed by the Town Council to perform the following duties:

- (1) Develop and recommend long range development plans and policies; and
- (2) Advise the Town Council in matters pertaining to current physical development and zoning for the town's planning jurisdiction.

PLAT. A surveyed map or plan of a parcel of land which is to be or has been subdivided.

PLAT, FINAL. The final map of all or a portion of a subdivision or site, showing the boundaries and location of lots, roads, easements and any other requirements of §§ 5.023 and 5.025 of this chapter, which is presented for town approval and subsequent recordation in the County Register of Deeds Office.

PLAT, PRELIMINARY. A map indicating the proposed layout of the subdivision or site showing lots, roads, water, sewer, storm drainage, and any other requirements of §§ 5.022 and 5.024 of this chapter, which is presented for preliminary approval.

PRIVATE ROAD. A vehicular travel way not dedicated or offered for dedication as a public road, but resembling a cul-de-sac or a local road by carrying traffic from a series of driveways to the public road system. Private roads must comply with the requirements of § 5.042 of this chapter.

PRIVATE SEWER. A system which provides for collection and/or treatment of wastewater from a development, or property, and which is not maintained with public funds.

PRIVATE WATER. A system which provides for the supply and/or distribution of potable water for use by a development, project, or owner, and which is not operated or maintained by a government organization or utility district.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking areas, lot improvement, or other facility for which the local government may, in some instances, ultimately assume for the maintenance or operation thereof, or which may affect an improvement for which the local government responsibility is established.

PUBLIC ROAD. A dedicated public right-of-way for vehicular traffic which has been accepted by NCDOT for maintenance; or is not yet accepted but in which the roadway design and construction have been approved under public standards for vehicular traffic alleys are specifically excluded.

PUBLIC SEWER. A system which provides for the collection and treatment of sanitary sewage from more than one property, and is owned and operated by a government organization or sanitary district.

PUBLIC WATER. A system which provides distribution of potable water for more than one property and is owned and operated by a government organization or utility district.

REAR SETBACK. A setback from an interior property line lying on the opposite side of the lot from the front road setback.

RESUBDIVISION. A change in a map of an approved or recorded subdivision plat if such change affects any street layout or such map or area reserved thereon for public use or if said resubdivision reduces any lot or other tract of land smaller than the area as originally depicted.

ROAD RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a travel way for vehicles and also available, with the consent of the appropriate governmental agency, for installation and

maintenance of sidewalks, traffic-control devices, traffic signs, road name signs, historical marker signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines and communication lines.

SAME OWNERSHIP. Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities or unincorporated associations, in which a stockholder, partner, or associate, or a member of his or her family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

SETBACK. The minimum required horizontal distance between a structure or activity and the property line or the road right-of-way line.

SIDE SETBACK. Any interior property line setback other than a rear setback.

SIGHT DISTANCE EASEMENT. An easement which grants to the entity responsible for road maintenance the right to maintain unobstructed view across property located at a road intersection.

SKETCH PLAN. A rough sketch of a proposed subdivision or site, showing roads, lots, and any other information of sufficient accuracy to be used for discussion of the road system and the proposed development pattern.

STORM DRAINAGE FACILITIES. The system of inlets, conduits, channel, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.

STREET. See ***PUBLIC ROAD.***

STREET, COLLECTOR. See ***COLLECTOR ROAD.***

STREET, CUL-DE-SAC. See ***CUL-DE-SAC ROAD.***

STREET, DEAD-END. A street or portion thereof with only one vehicular-traffic outlet.

STREET, MARGINAL ACCESS. A minor street which is parallel to and adjacent to major highways, and which provides access to abutting properties and protection from through traffic.

STREET, MINOR. Streets which have been designed primarily to afford access to abutting properties.

STREET, PRIVATE. See ***PRIVATE ROAD.***

STREET OR ROAD RIGHT-OF-WAY WIDTH. The distance between property lines measured at right angles to the center line of the street.

SUBDIVDER. Any person who subdivides land.

SUBDIVISION.

(1) All divisions of a tract or parcel of land into two or more lots, building sites or other division for the purpose, whether immediate or future, of sale or building development, and all division

of land involving the dedication of new streets or a change in existing streets; provided, however, that the following are not included within this definition and are not subject to any subdivision approval regulations in this chapter:

(a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this chapter;

(b) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;

(c) The public acquisition by purchase of strips of land for the widening or opening of streets;

(d) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards as prescribed herein; and

(e) The division of land for use as gravesites.

(2) Plats deemed to be an exception to the provisions of this chapter may be recorded, provided the owner desiring to record such plats shall obtain a certificate of exception from the Subdivision Review Officer or designated agent and shall present such certificate to the County Register of Deeds as proof that the exception condition is present.

(3) Exemption of a partition of land from the definition of subdivision shall not exempt any resulting lots, tracts or parcels from meeting the requirements necessary for the granting of Zoning, Building, or Health Department permits.

Certificate of Exception. I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon, which was conveyed to me (us) by deed recorded in Book____, Page____, and that said property qualifies as an exception to the provisions of the Red Oak Subdivision Regulations.

_____	_____
Owner	Date
_____	_____
Owner	Date
_____	_____
Subdivision Review Officer	Date
Town of Red Oak North Carolina	

THOROUGHFARE, MAJOR. Streets and highways primarily for through, fast or heavy traffic.

THOROUGHFARE PLAN. A plan adopted by either the county, NCDOT, or a designated area transportation organization and accepted by the Town Planning Board and Council as the plan for the

development of existing and proposed major roads that will adequately serve the future travel needs of an area in an efficient and cost effective manner.

TOWN COUNCIL. The Town Council of Red Oak, North Carolina.

TRACT. All continuous land and bodies of water in one ownership, or contiguous land and bodies of water in diverse ownership, being developed as a unit, although not necessarily all at one time.

UTILITY EASEMENT. An easement which grants to the utility providers the right to install and thereafter maintain any and all utilities including, but not limited to, water lines, sewer lines, septic tank drain fields, storm sewer lines, electrical power lines, telephone lines, natural gas lines and community antenna television systems.

WAIVER. Official permission from a designated permit-issuing authority, other than the Board of Adjustment, to depart from specified requirements of the ordinance.

WET DETENTION POND. A pond that has a permanent pool and which also collects storm water runoff, filters the water and releases it slowly over a period of days.
(Ord. passed 1-1-1981, § 21)

PROCEDURES FOR REVIEW AND APPROVAL OF SUBDIVISIONS

§ 5.020 GENERALLY.

Pursuant to G.S. § 160D-804, a final plat shall be prepared, approved and recorded pursuant to the provisions of this chapter whenever any subdivision of land takes place. No final plat of a subdivision within the jurisdiction of the town as established in this chapter shall be recorded by the County Register of Deeds until it has been approved by the Town Council or Subdivision Review Officer as provided in this chapter. To secure such approval, the subdivider shall follow the applicable procedures established in this subchapter.

(Ord. passed 1-1-1981, Article III, intro)

§ 5.021 SUBMISSION OF SKETCH PLAN.

(A) *Generally.*

(1) The developer may submit a sketch design plan prior to submitting the preliminary plat of either a minor or major subdivision. Sketch design plans are optional, but are encouraged where a tract or contiguous tracts is/are planned to be developed in phases.

(2) The purpose of the sketch plan is to show general road and lot layout, as well as, other pertinent factors to allow for review, discussion, and approval of the road system and

development pattern. This process would be beneficial for all parties when a second phase, after an initial minor subdivision, would result in the creation of road right-of-way to an interior reserved or residual section or multiple phases of a major subdivision are planned.

(B) *Submission procedure.* The subdivider shall submit to the Subdivision Review Officer or designated agent no less than 25 days prior to the regularly scheduled Planning Board meeting at which time the plan will be considered, eight copies of the proposed sketch plan prepared in accordance with the requirements listed in division (C) of this section. An application for subdivision review shall accompany the sketch plans.

(C) *Sketch plan contents.* The proposed sketch plan shall be prepared by a registered land surveyor or engineer licensed to render said service in the state and shall depict the following information:

- (1) The name and location of the proposed subdivision;
- (2) The date that the sketch plan was prepared or revised;
- (3) North arrow;
- (4) Vicinity map;
- (5) Scale (1"=100" if less than five acre lots);
- (6) Scale (1"=200" if all lots are five acres or more);
- (7) Total number of lots;
- (8) The names of adjacent property owners;
- (9) Adjoining property lines within 100 feet of the property;
- (10) Corporate limits;
- (11) Existing structures, wells and septic systems;
- (12) Zoning information, including setbacks;
- (13) Total acreage to be subdivided and acreage left in open spaces or for other uses;
- (14) Property boundaries and proposed lot lines;
- (15) Proposed road layout to meet NCDOT standards and proposed road construction standards;
- (16) Proposed road names;

- (17) Existing topography showing contour intervals of ten feet;
- (18) Existing public roads and accesses within 400 feet of the property;
- (19) Existing railroads and bridges;
- (20) Utility easements;
- (21) Floodplain, public water supply watershed and soil type information;
- (22) Watercourses, ponds, streams and the like;
- (23) Bar graph;
- (24) Name and address of owner or developer; and
- (25) Maps submitted shall not exceed a maximum size of 24" x 36".

(D) *Technical review.* Upon receipt of the requisite copies of the proposed sketch plan, the Subdivision Review Officer or designated agent shall schedule a meeting of the Technical Review Committee (TRC) to review the sketch plan. The Technical Review Committee shall consist of but not limited to NCDOT, Soil and Water Conservation, Health and Environmental. Following its review, the TRC shall, through the Subdivision Review Officer, forward its findings and recommendations to the Planning Board and the applicant at least five days prior to the Planning Board meeting. If the TRC determines that the sketch plan is incomplete, the Subdivision Review Officer shall notify the applicant of the deficiencies. Sketch plans shall not be forwarded to the Planning Board until all deficiencies have been corrected.

(E) *Planning Board review and approval.* The Planning Board shall review the sketch plan and the findings and recommendations of the TRC, and any other reports or recommendations pertaining to the plan and shall approve, approve with conditions, or disapprove the sketch plan.

(1) If the Planning Board grants the conditional approval of the sketch plan, the conditions and reasons thereof shall be stated in writing.

(2) If the Planning Board disapproves of the sketch plan, the reasons for disapproval shall be stated in writing and reference shall be made to the specific section(s) of this chapter with which the plan does not comply.

(3) If the Planning Board approves the sketch plan, the developer is authorized to proceed with the preparation of as preliminary plat.

(4) If the Planning Board fails to render a recommendation on the sketch plan within 60 days from the date that the plan is initially reviewed by the Planning Board, the developer may proceed with the preparation of a preliminary plat.

(5) In the event that the Planning Board disapproves or fails to render a decision within the above stated 60 days, the applicant may file an appeal in writing to the Town Council with a copy to the Subdivision Review Officer. The Town Council shall require a report from the Subdivision Review Officer and Planning Board while reviewing said appeal. (Ord. passed 1-1-1981, § 30)

§ 5.022 SUBMISSION OF MINOR PRELIMINARY PLAT.

(A) Procedures as expressed in this chapter are established in an effort to condense and simplify the review process for routine minor subdivisions with due regard to protection of the public interest.

(B) (1) As defined in § 5.008 of this chapter, a minor subdivision constitutes any subdivision of land which meets all of the following criteria:

(a) There is no street right-of-way dedication;

(b) Existing streets meet the standards of this chapter;

(c) There are no extensions of water and sewer lines or other utilities; and (d) There are five lots or less.

(2) No more than five lots may be subdivided from any one tract of land under the abbreviated procedure without a sketch plan. Any further division of the original tract shall be processed under the major subdivision section of this chapter.

(C) The process and requirements for procuring minor preliminary subdivision plat approval are as follows:

(1) The subdivider shall submit to the Subdivision Review Officer or designated agent at least eight waterproof ink prints made of material and of a size that will be acceptable to the County Register of Deeds Office for recording purposes. In addition, one original and seven photocopies of the town application for subdivision review shall accompany the plats.

(2) The Subdivision Review Officer or designated agent shall distribute a copy of the plat and application to a representative of Environmental Health, Soil and Water Conservation Service, NCDOT, and any other agency deemed appropriate and necessary by the Subdivision Review Officer or designated agent. Comments will be requested to be returned to the Subdivision Review Officer. If the Subdivision Review Officer or any of the technical review agencies determines that the preliminary plat is incomplete on items necessary to review the plat during time stage, the Subdivision Review Officer or designated agent shall notify the applicant

of the deficiencies. The review process will not be completed until all deficiencies have been corrected.

(3) The proposed minor preliminary plat shall be prepared by a registered land surveyor or engineer licensed to render said service in the state at a scale of no less than one inch to 100 feet and shall depict the following information:

- (a) The title of the subdivision, which shall not duplicate the name of any existing subdivision as recorded in the county registry;
- (b) The location of existing and platted property, buildings, streets, railroads, bridges, culverts, water courses, transmission lines, sewers, drain pipes, water mains, other public utility easements, and town boundary lines;
- (c) Boundaries of tracts shown with bearings, distances and closures;
- (d) Existing zoning classification of land to be subdivided and adjacent properties, if applicable;
- (e) Names of adjacent property owners or subdivisions;
- (f) Adjacent streets, street names and rights-of-way;
- (g) Locations of proposed utility and drainage easements;
- (h) Location of 100-year floodplain boundary and floodway, if applicable;
- (i) Contours at intervals not exceeding ten feet, except when required by the Subdivision Review Officer to help determine the feasibility of development potential in unusual circumstances two feet will be required;
- (j) Proposed areas for parks, school sites or public open spaces;
- (k) Proposed lot lines, lot, and block numbers and lot dimensions;
- (l) Proposed building setback lines;
- (m) Date, true north arrow and graphic scale;
- (n) Name of owner and surveyor or engineer who was charged with the responsibilities for the preparation of thereof;

(o) Data shall be provided relative to acreage in total tract to be subdivided or developed; acreage in parks or other public usage, other than streets or easements, minimum lot size and total number of lots; and

(p) A location map depicting the relationship between the proposed subdivision and the adjacent area.

(D) The Subdivision Review Officer or designated agent shall review the preliminary plat and comments from the technical review agencies and shall render the determination that said proposal meets all requirements of this chapter. Based upon those findings, the Subdivision Review Officer or designated agent shall either approve, disapprove or conditionally approve the proposed preliminary minor subdivision plat.

(E) During the review of the preliminary plat, if the Subdivision Review Officer (SRO) determines that there are issues or potential issues, which should be addressed by the Planning Board, the SRO may elect to present the preliminary plat and issues to the Planning Board at its next meeting for its review and advice. This procedure is intended as a means to resolving potential issues prior to the submission of the final plat for the benefit of all parties concerned.

(F) (1) During the review of either the preliminary or final plat, if the Subdivision Review Officer (SRO) finds that access to residual or other tracts to the rear of the proposed subdivision is necessary, the SRO and/or Planning Board may elect to require a private road right-of-way for future use to be platted in a location best suited to such factors as: location with respect to rear properties, sight distance, topography and drainage. Documentation of the extent of cooperation for future purchase arrangements between the necessary adjoining property owners will be reviewed. The SRO will require that block length requirements be used. The SRO may consult with appropriate members of the Technical Review Committee and the Planning Board on this issue.

(2) If a private road right-of-way access to tracts to the rear of the proposed subdivision is required, said right-of-way will be labeled and noted to be reserved for future development. This requirement will be the only exception to the requirements of § 5.042(B) of this chapter, for construction and maintenance of a roadway. The intent of this provision is to require the subdivider/developer of the rear tract(s) to build a public (paved) road when said tracts are proposed for development.

(G) A decision shall be rendered by the Subdivision Review Officer or designated agent within ten working days after receipt of all pertinent technical review findings. The decision or failure to render a decision by the Subdivision Review Officer may be appealed to the Planning Board by the developer. Failure of the Subdivision Review Officer to render a decision within said time shall constitute approval thereof.

(H) The Subdivision Review Officer may waive the requirements specified in this section when the smallest lot is more than two acres, no street right-of-way is involved, and no more than three lots are proposed for sale or building development. (Ord. passed 1-1-1981, § 31)

§ 5.023 SUBMISSION OF MINOR FINAL PLAT.

(A) In lieu of the procedural requirements established in this subchapter for preliminary plat for minor subdivisions, the developer may procure final approval for any subdivisions pursuant to the requirements expressed in this section.

(B) The process and requirements for procuring minor final subdivision plat approval are as follows:

(1) The subdivider shall submit to the Subdivision Review Officer or designated agent at least eight waterproof ink prints made of materials and of a size that will be acceptable to the County Register of Deeds Office for recording purposes. In addition, one original and seven photocopies of the town application for subdivision review shall accompany the plats.

(2) (a) If the proposed subdivision has not received the preliminary plat review and approval, the Subdivision Review Officer or designated agent shall distribute said plat to Environmental Health, Soil and Water Conservation, NCDOT, and other review agencies deemed appropriate based on the factors involved in the proposed subdivision.

(b) Comments will be requested to be returned to the Subdivision Review Officer. If the Subdivision Review Officer or any of the technical review agencies determines that the preliminary plat is incomplete on items necessary to review the plat during this stage, the Subdivision Review Officer or designated agent shall notify the applicant of the deficiencies. The review process will not be completed until all deficiencies have been corrected.

(3) If the proposed minor subdivision has already received preliminary approval or approval with conditions, the Subdivision Review Officer or designated agent shall distribute the copies of the plat and application to the review agencies deemed appropriate and necessary based on factor or conditions of the preliminary plat approvals.

(4) The proposed minor final plat shall be prepared by a registered land surveyor or engineer licensed to tender said service in the state at a scale of no less than one inch to 100 feet and shall depict the following information:

(a) Title of the subdivision, which shall not duplicate the name of any existing subdivision as recorded in the county registry;

(b) The names or state road numbers of all adjacent roadways;

(c) Lot lines, lot sizes and block numbers;

(d) Building setback lines;

(e) Location of 100-year floodplain boundary and floodway, if applicable;

(f) Reservations and easements to be dedicated to public uses or sites for other than residential use with notations expressing the purpose and limitation thereof;

(g) Sufficient data to readily ascertain and reproduce on the ground the location, bearing and length of every lot line, boundary line (with error of closure), block line, and building setback, whether curved or straight. This should include the inclines, centered angles, point of tangency, tangent distance and area chords of all curved property lines;

(h) All dimensions shall be to the nearest one-tenth of a foot and angles to the nearest minute;

(i) The names and locations of adjoining subdivisions and the owners thereof;

(j) All additional information required by G.S. §§ 39-32.3 and 47-30; and

(k) Name of subdivider and engineer of surveyor charged with the responsibility for the preparation thereof and his or her registration number and date of survey.

(C) The following certificates shall be placed on the minor final plat:

(1) *Certificate of ownership (for use with minor plats only).*

I (we) hereby certify that I am (we are) the owner(s) of the property described hereon, which was conveyed to me (us) by deed recorded in the Nash County Register of Deeds Office in Book ____, Page ____, and that I (we) hereby adopt this plan of subdivision with my (our) free consent. Further, I (we) hereby certify that the land as shown hereon is within the subdivision regulation jurisdiction of Red Oak, North Carolina.

Date

Owner (s)

Certificate of ownership and dedication (to be used with major plats)

I (we) hereby certify that I am (we are) the owner(s) of the property described hereon, which property is located within the subdivision regulation jurisdiction of Nash County, that I (we) hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as roads, right-of-ways, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I (we) will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Red Oak Town Council in the public interest.

Owner	Date
_____	_____
Owner	Date
_____	_____
(Notarized)	Date

(2) *Certificate of survey and accuracy.*

I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page _____, etc. (other), that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, Page _____; that the ratio of precision as calculated is 1:_____, that this plat was prepared in accordance with G.S. § 47-30, as amended.

Witness my original signature, registration number and seal this _____ day of _____, A.D., 2_____.

Surveyor

(seal or stamp)

Registration Number

(3) *Health Department certifications.*

One of the following two certifications shall be placed on all subdivision plats which include buildable lots that do not have public service available to them:

Certification of subdivision and soils report review by the Nash County Health Department

The Nash County Health Department has reviewed the plat and the soils report prepared by for _____ subdivision and finds that the soils report has been prepared in accordance with the criteria established by the Nash County Health Department and that the soils report indicates that the lots shown on the plat appear to be able to accommodate sewage disposal systems. Please note that the Nash County Health Department has reviewed the soil report of _____ only and this does not represent or constitute the evaluation or approval for issuance of an improvement permit for any lot in the subdivision. Final site approval for issuance of improvement permits or authorization for wastewater system construction is based on regulations in force at the time of permitting and is dependent on satisfactory completion of individual site evaluations by the Nash County Health Department following application for an improvement permit detailing a specific use and siting.

Nash County Health Director or
Authorized Representative

Date

Certificate of subdivision by the Nash County Health Department

I hereby certify that lots shown on this plat for _____ subdivision have been evaluated for space and soil requirements for sewage disposal and water supply systems when applicable, by the Nash County Health Department. Based on this review, an improvement permit has been issued for a specific use and siting. Any change in the intended use or siting, or site, or soil alteration, will subject the permit to revocation. No construction on any lot shall commence until the Nash County Health Department has also issued an authorization for wastewater system construction.

Nash County Health Director or
Authorized Representative

Date

(4) *Certificate of minor plat approval.*

I hereby certify that the minor subdivision plat as depicted hereon does not involve the creation of new roads or any change in existing public roads, is in compliance with the Red Oak Subdivision Regulations, and has been granted final approval by the Red Oak Subdivision Review Officer, subject to it being recorded in the Nash County Registry with in sixty (60) days of the date below.

Subdivision Review Officer

(5) *Nash County Review Officer certification.*

State of North Carolina

I, _____, Review Officer of Nash County, certify that the map or plat which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date

(D) The Subdivision Review Officer or designated agent shall review the final plat and technical review comments, if applicable, of the proposed minor subdivision and shall render the determination that said proposal does constitute a minor subdivision and meets all requirements relative thereto. Based upon those findings, the Subdivision Review Officer shall either approve, disapprove or conditionally approve the proposed final minor subdivision plat. The Town Council and the Planning Board shall be notified of the decision for informational purposes.

(E) During the review of the final plat, if the Subdivision Review Officer (SRO) determines that there are issues or potential issues, which should be addressed by the Planning Board, the SRO may elect to present the final plat and issues to the Planning Board at its next meeting for its review and advice.

(F) A decision shall be rendered by the Subdivision Review Officer within ten working days after receipt of all pertinent technical review comments on the proposed minor subdivision. The decision of the Subdivision Review Officer may be appealed to the Planning Board by the developer. Failure of the Subdivision Review Officer to render a decision within said time shall constitute approval thereof.

(G) The developer may request of the Subdivision Review Officer that the requirements specified in § 5.022 of this subchapter be waived when the smallest lot is more than two acres, no street right-of-way is involved, and no more than three lots are proposed for sale or building development. (Ord. passed 1-1-1981, § 32)

§ 5.024 SUBMISSION OF THE MAJOR PRELIMINARY PLAT.

(A) The process and requirements for procuring major preliminary plat approval for a major subdivision are as follows:

(1) (a) The developer may submit a sketch design plan prior to submitting the preliminary plat of either a minor or major subdivision. Sketch design plans are optional, but are encouraged where a tract or contiguous tracts is/are planned to be developed in phases.

(b) The purpose of the sketch plan is to show general road and lot layout, as well as, other pertinent factors to allow for review, discussion, and approval of the road system and development pattern. This process would be beneficial for all parties when a second phase, after an initial minor subdivision, would result in the creation of road right-of-way to an interior reserved or residual section or multiple phases of a major subdivision are planned.

(c) If the developer chooses to submit a sketch plan, the procedural requirements are located in § 5.021 of this subchapter.

(2) The subdivider shall submit to the Subdivision Review Officer or designated agent no less than 25 working days prior to the regularly scheduled Planning Board meeting at which time the plat will be considered at least ten waterproof prints made of material and of a size that will be acceptable to the Nash County Register of Deeds Office for recording purposes. In addition, an original and nine photocopies of the town application for subdivision review shall accompany the plats along with required fee.

(3) If the subdivider has submitted a sketch plan, the preliminary plat shall conform substantially to the approved sketch plan. If the submitted preliminary plat deviates in its overall design from the approved sketch, or if the applicant requests a waiver from any of the standards of this chapter, the Subdivision Review Officer shall schedule the preliminary plat to be reviewed by the Technical

Review Committee and Planning Board. Such review shall follow the same review and approval procedures set forth in § 5.021 of this subchapter for sketch plans.

(4) In the event that a subdivision is to be developed in stages, a preliminary plat is required for the entire development. A final plat may be submitted for each stage.

(5) The proposed major preliminary plat shall be prepared by a registered land surveyor or engineer licensed to render said service in the state at a scale of no less than one inch to 100 feet. If all lots are greater than five acres, one inch to 200 feet may be used. Said plat shall depict the following information:

(a) Title block containing location, type of plat, date, scale, bargraph, names and addresses of owner and surveyor or engineer charged with the responsibility for the preparation thereof, and the title of the subdivision, which shall not duplicate the name of any existing subdivisions as recorded in the county registry;

(b) The location of existing and platted property, buildings, streets, railroads, bridges, culverts, water courses, marshes, swamps, or wetland transmission lines, sewers, drain pipes, water mains, and other public utility easements, town boundary lines;

(c) Boundaries of tracts shown with bearings, distances and closures;

(d) Names of adjacent property owners or subdivision;

(e) Existing zoning classification of the land to be subdivided and adjacent properties, if applicable;

(f) Proposed streets, street names, rights-of-way, pavement widths, road profile and approximate grades; street names shall not duplicate existing street names in the county (see § 5.043 of this chapter);

(g) Location of proposed utility and drainage easements;

(h) The location, widths and purposes of other proposed rights-of-way or easements;

(i) Existing and proposed contours at intervals not exceeding two feet for the tract and 100 feet beyond property;

(j) The location of the 100-year floodplain and floodway and cross-section elevations, if applicable;

(k) Proposed uses for parks, school sites or other public open spaces;

(l) Proposed lot lines, lot and block numbers in sequence, and lot dimensions;

(m) Proposed building setback lines;

(n) True north arrow and orientation;

(o) Data shall be provided relative to acreage in total tract to be subdivided or developed, acreage in part or other public usage, other than streets or easements, minimum lot size, total number of lots, and lineal footage in streets;

(p) A location map depicting the relationship between the proposed subdivisions and the adjacent area;

(q) Plat book or deed book reference and tax map, block and parcel(s) number;

(r) Source of property boundaries signed or sealed by registered land surveyor, architect, landscape architect, or engineer;

(s) The name and location of any property or building on the National Register of Historic Places or county designated historic property;

(t) All additional information required if applicable, in G.S. §§ 39-32.3 and 47-30;

(u) Areas designated as common area or open space under control of an owner's association;

(v) Match marks on each sheet and appropriate references to other sheets of the subdivision, if more than one sheet required;

(w) Certificate of preliminary plat approval as shown below:

Certificate of preliminary plat approval

I hereby certify that the _____ was approved on the ____ day of _____, ____ as the preliminary plan of the subdivision as shown on this plat. Preliminary approval is valid for a period of 12 months from the above date or as established under the vested rights procedures, if applicable.

Red Oak Subdivision Review Officer

Date

(x)Registration and seal of land surveyor.

(6) Whenever the nature of the proposed development makes information or documents such as the following relevant, such documents or information, such as the following, shall be provided at the time of submission or upon request:

(a)Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person. Or, in the case of multiple owners, documentation that the one owner, acting as an agent for the others, has the power to do so;

(b)Certifications from the appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development and that all necessary easements have been provided. This item can be submitted after preliminary plat approval and prior to final plat on any stage of said development;

(c)Detailed descriptions of recreational facilities to be provided, if applicable;

(d)Time schedules for the completion of phases in staged development;

(e)The environmental impact of a development, including its effect on historically significant or ecologically fragile or important areas and its impact on pedestrian or traffic safety or congestion;

(f) Proposed deed restrictions or covenants to be imposed upon newly created lots;

(g)Documentation of submission of an erosion control plan, if disturbing greater than one acre. Documentation of approval will be required at time of final plat approval review; and

(h)Evidence of notification to U. S. Army Corps of Engineers, North Carolina Division

of Parks and Recreation, U. S. Fish and Wildlife, or North Carolina Division of Archives and History if earth disturbing activities are proposed in wetlands, environmentally sensitive areas such as endangered habitats, or historically significant sites, if applicable.

(B) (1) The Subdivision Review Officer or his or her designated agent shall distribute copies of the preliminary plat and application of the proposed major subdivision to various agencies for review. These agencies will include County Environmental Health, Soil and Water Conservation, North Carolina Department of Transportation, and any other agency deemed appropriate and necessary by the Subdivision Review Officer or designated agent.

(2) Comments will be requested to be returned to the Subdivision Review Officer. If the Subdivision Review Officer or any of the technical review agencies determines that the preliminary plat is incomplete in the necessary items to review the plat at this stage, the Subdivision Review Officer or designated agent shall notify the applicant of the deficiencies. The review process will not be completed until all deficiencies have been corrected and re-submitted.

(3) The Subdivision Review Officer will request a meeting of a representative from each of the review agencies to serve as the Technical Review Committee (TRC) to submit and discuss comments. The TRC will assist the Subdivision Review Officer to develop recommendations pertaining to the preliminary plat, which shall approve, approve with conditions, or disapprove the plat. The recommendation(s) shall be stated in writing with copies to the applicant and the Planning Board.

(C) The Subdivision Review Officer shall forward the preliminary plat along with recommendations on the major subdivision to the Planning Board for review and approval concurrently with any documents received from county or state agencies requested to review the sufficiency thereof.

(D) (1) After considering any input and/or recommendations received in connection with the proposed subdivision in addition to any comments which the subdivider may have, the Planning Board shall approve, disapprove or conditionally approve the proposed major subdivision preliminary plat. All decisions shall be stated and issued in writing with conditions, reasons, and references to specific section(s) of the regulations, depending on the type of decision, be included in said notice.

(2) If approval is granted, written confirmation shall be made on two copies of the preliminary plat. One copy of the approved preliminary plat shall be returned to the applicant. Approval of the preliminary plat is authorization for the applicant to proceed with the construction of the necessary improvements. Preliminary approval shall be valid for a period of 12 months from the date of approval of the plat by the Planning Board, unless a longer time period is established under the vested rights provisions in the Zoning Code. Preliminary plats whose approval has elapsed shall be resubmitted in accordance with provisions of this section.

(E) Failure of the Planning Board to render a decision within 60 days after the preliminary plat is received by the Planning Board shall require the Subdivision Review Officer to submit said plat to the Town Council for review and approval, approval with conditions, or disapproval, Town Council's decision shall be stated and issued in writing in accordance with divisions (D)(1) and (2) above. (Ord. passed 1-1-1981, § 33)

§ 5.025 SUBMISSION OF THE MAJOR FINAL PLAT.

(A) The process and requirements for procuring major final subdivision plat approval are as follows:

(1) Within 12 months after approval of the preliminary plat, the subdivider shall submit at least one stage of the final plat to the Subdivision Review Officer or designated agent. Otherwise, the preliminary plat shall become null and void, unless an extension of time is applied for and granted by the Planning Board.

(2) The final plat shall conform substantially to the approved preliminary plat. If the submitted final plat deviates in its overall design from the approved preliminary plat, or if the applicant requests a waiver from any of the standards of this regulation, the Subdivision Review Officer shall schedule the final plat to be reviewed by the Technical Review Committee and Planning Board. Such review shall follow the same review and approval procedures set forth in § 5.024 of this subchapter for preliminary plats.

(3) At least 25 days prior to the regularly scheduled Planning Board meeting at which the final plat is to be considered, the subdivider shall submit a final plat made of material and of a size that will be acceptable to the County Register of Deeds Office for recording purposes along with nine black or blue line paper prints, application, and required fee to the Subdivision Review Officer.

(4) The proposed major final plat shall be prepared by a registered land surveyor or engineer licensed to render said service in the state at a scale of no less than one inch to 100 feet. If all lots are greater than five acres, one inch to 200 feet may be used. Said plat shall depict the following information:

(a) Title block containing location, type of plat, date, scale, bar graph, names and addresses of owner and surveyor or engineer charged with the responsibility for the preparation thereof, and the title of the subdivision, which shall not duplicate the name of any existing subdivisions as recorded in the county registry;

(b) The names of all streets;

(c) Lot lines, lot sizes, lot and block numbers in sequence, and building setbacks lines;

(d) Existing property or tract lines of subdivided property; if changed, then label as old property lines and show as dashed lines; (e)

Building setback lines;

(f) Reservations, easements and alleys to be dedicated to public or private uses as noted, with notes explaining the limitations thereof;

(g) Sufficient data to readily determine and reproduce on the ground, the location, bearing and length of every street alignment, lot line, boundary line (with error of closure), block line, boundary line setback, whether curved or straight. This should include the radius, centered angles, point of tangency, tangent distance, and arcs and chords of all property lines;

(h) All dimensions shall be the nearest one-tenth of a foot and angles to the nearest minutes;

(i) Accurate location and description of all monuments and markers;

(j) The location of the 100-year floodplain and floodways, if applicable;

(k) The names and locations of adjoining subdivisions with plat book reference, and property owners;

(l) Appropriate match lines, if plat is drawn on more than one sheet;

(m) Zoning district(s) within the property and adjacent property;

(n) Plat book or deed book reference and tax map, block, and parcel(s) number;

(o) Vicinity map showing location of subdivision relative to surrounding area;

(p) Town limits, if any, on the tract;

(q) North arrow and orientation;

(r) Registration and seal of land surveyor;

(s) Name and location of any property or building on the National Register of Historic Places or county designated historic site;

(t) Railroad right-of-ways;

(u) Water courses, ponds, lakes or streams;

(v) Areas to be dedicated or reserved for the public or a local jurisdiction;

(w) Areas designated as common area or open space under control of an owners' association;

(x) Site calculations including acreage, in total tract and public open space (if any), total number of lots, linear feet of in roads, and area in newly dedicated right-of-way(s);

(y) Road/street address as assigned by the county for each new lot;

(z) Existing and proposed rights-of-way lines with total width dimension;

(aa) Location, dimension and type of all easements; and

(bb) All of the additional and applicable information required by G.S. §§ 39-32.3 and 47-30.

(5) Whenever the nature of the proposed development makes information or documents such as the following relevant, such documents or information, shall be provided at the time of submission or upon request:

(a) Documentation of approval by North Carolina Department of Environmental and Natural Resources of an erosion control plan, if disturbing greater than one acre;

(b) Legal documentation establishing homeowners' associations or other legal entities responsible for control over required common areas and facilities; and

(c) Bonds, letters of credit or other surety device for portions of improvements not completed at the time of submission of final plat review.

(B) The following certificates shall be placed on the major final plat:

(1) Certificate of ownership and dedication.

I (we) hereby certify that I am (we are) the owners(s) of the property described hereon, which property is located within the subdivision regulation jurisdiction of Town of Red Oak, that I (we) hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as roads, rights-of-ways, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I (we) will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Red Oak Town Council of Commissioners in the public interest.

Owner Date

Owner Date

(2) I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, Page _____, etc. (other) that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, Page _____; that the ratio of precision as calculated is 1:_____; that this plat was prepared in accordance with G.S. § 47-30, amended.

Witness my original signature, registration number and seal this _____day of _____, A.D., _____.

Supervisor

(seal or stamp)

Registration Number

(3) Health Department certifications.

One of the following two certifications shall be placed on all subdivision plats which include buildable lots that do not have public service available to them:

Certification of Subdivision and Soils Report Review by the Nash County Health Department.

The Nash County Health Department has reviewed the plat and the soils report prepared by for _____ subdivision and finds that the soils report has been prepared in accordance with the criteria established by the Nash County Health Department and that the soils report indicates that the lots shown on the plat appear to be able to accommodate sewage disposal systems. Please note that the Nash County Health Department has reviewed the soils report of _____ only and this does not represent or constitute the evaluation or approval for issuance of an improvement permit for any lot in the subdivision. Final site approval for issuance of improvement permits or authorization for wastewater system construction is based on regulations in force at the time of permitting and is dependent on satisfactory completion of individual site evaluations by the Nash County Health Department following application for an improvement permit detailing a specific use and siting.

Nash County Health Director or
Authorized Representative

Date

Certificate of subdivision by the Nash County Health Department

I hereby certify that lots shown on this plat for _____ subdivision have been evaluated for space and soil requirements for sewage disposal and water supply systems when applicable, by the Nash County Health Department. Based on this review, an improvement permit has been issued for a specific use and siting. Any change in the intended use or siting, or site, or soil alteration, will subject the permit to revocation. No construction on any lot shall commence until the Nash County Health Department has also issued an authorization for wastewater system construction.

Nash County Health Director or
Authorized Representative

Date

(4) Certificate of final plat approval - major subdivision.

I hereby certify that the subdivision depicted hereon has been granted final approval pursuant to the Red Oak Subdivision Regulations subject to it being recorded in the Office of Register of Deeds within sixty days of the date below.

Mayor

Date

I hereby certify that streets, utilities and other improvements have been installed in an acceptable manner and according to Red Oak required specifications in the subdivision depicted hereon or that a performance bond or other sufficient surety in the amount of \$_____ has been posted with Town of Red Oak to assure completion of required improvements.

Mayor

Date

(5) Division of Highways District Engineer certificate.

I hereby certify that streets as depicted hereon are/are not consistent with the requirements of the North Carolina Department of Transportation.

District Engineer

Date

(6) Nash County Review Officer certification.

State of North Carolina

I, _____, Review Officer of Nash County, certify that the map or plat which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date

(7) Certificate of purpose of plat (as required by G.S. § 47-30). The final plat shall contain one of the following statements, signed and sealed by the plat preparer:

- (a) This survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;
- (b) This survey is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;
- (c) Any one of the following:
 - 1. This survey is of an existing parcel or parcels of land and does not create a new road or change an existing road;
 - 2. This survey is of an existing building or other structure, or natural feature, such as a water course; or
 - 3. This survey is a control survey.
- (d) This survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision; or
- (e) The information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor’s professional ability as to provisions contained in (a) through (d) above.

Signed: _____
Surveyor Date:

SEAL

(8) Utilities certificate (if applicable).

I hereby certify that the _____ improvements have been installed in an acceptable manner and in accordance with the requirements of the Red Oak Subdivision Development Ordinance.

Signature of Authorized Agent

Date

(C) The Subdivision Review Officer (SRO) or designated agent shall review the final plat information and request reports or verification from appropriate Technical Review Committee agencies. The verifications will include sufficient information to determine that all proposed and required improvements have been installed. If the plat contains deviations or deficiencies, the applicant will be notified in order to make adjustments or corrections. If the required improvements are not complete, the applicant may choose to use the bond or other guarantees, in accordance to § 5.026 of this subchapter to satisfy the completion requirement. The SRO shall place the plat on the agenda of the Planning Board and prepare to make a recommendation on approval or disapproval.

(D) (1) The proposed major final plat shall be reviewed by the Planning Board for compliance with the approved preliminary plat. The Planning Board may appoint an engineer to certify the final plat against the subdivision's actual layout for correctness, charging the costs to the subdivider if the plat is found to be in error.

(2) If the major final plat is in compliance with the ordinance and the Planning Board has approved the amendment made from the approved preliminary plat, the Planning Board shall approve the final plat.

(3) Approval of the major final plat is authorization for the plat to be submitted to the Town Council for final action.

(4) Failure on the part of the Planning Board to act within 45 days shall constitute a favorable recommendation.

(E) The Town Council shall review the final plat along with the Planning Board's recommendations and the Subdivision Review Officer's report from the Technical Review Committee and on the completion of required improvements. Approval of said plat will not be given unless all required improvements are either completed or meet the Bonding Requirements of § 5.026 of this subchapter. Approval of the final plat shall authorize the Mayor to sign the certificate of final plat approval.

(F) Upon procuring approval of the final plat by the Town Council, the subdivider shall submit the plat to the County Register of Deeds for filing within 30 days or such action shall become null and void.

(Ord. passed 1-1-1981, § 34)

§ 5.026 BONDING REQUIREMENTS.

(A) *Improvement guarantees.* In the event that the required improvements have not been completed prior to the submission of the major final plat, the developer shall guarantee the completion of the required improvements in a subdivision by means of a bond with surety or other guarantees satisfactory to the Town Council in an amount equal to 150% of the estimated cost of the required improvements, whereby improvements may be made and utilities installed within a reasonable period of time as agreed upon by the developer and Town Council.

(B) *Administration.* Upon approval of the major final plat, the Planning Board shall forward its recommendations relative to the amount of the guarantee to the Town Council for final action. When the required improvements have been completed, the developer shall notify the Subdivision Review Officer (SRO). The Subdivision Review Officer or designated agency shall request comments relative to those improvements from the North Carolina Department of Transportation, or any other pertinent agency who will notify the (SRO) that the improvements have been installed to their satisfaction. The Planning Director shall request in writing to the Town Council to release the bond or funds from escrow.

(C) *Financial guarantees.* In lieu of the completion, installation, and dedication of all improvements prior to final plat approval, the town may enter into an agreement with the developer whereby the developer shall complete all required improvements. Once said agreement is signed by the developer and the security required herein is provided, the final plat may be approved if all other requirements of this regulation are met. To secure this agreement, the developer shall provide any or a combination of the following guarantees to cover the costs of the uncompleted improvements:

(1) *Surety performance bond(s).*

(a) The developer shall obtain a surety bond from a surety bonding company authorized to issue said bonds in the state.

(b) The bond shall be payable to the town and shall be in an amount equal to 150% of the entire estimated cost, as approved by the town, of installing all uncompleted improvements. Developers must submit a request for bonding including a detailed construction cost estimate upon submission of the final plat.

(c) The bond amount and term shall be as approved by the Town Council upon recommendation of the NCDOT and other consultants as deemed necessary.

(d) The Town Attorney shall review the submitted bond and make a recommendation regarding its sufficiency to the Town Council. The developer shall bear the cost of this expense to the town.

(2) *Cash or equivalent security.*

(a) The developer shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the town or in escrow with a financial institution. The amount of deposit shall be equal to 150% of the entire estimated cost, as approved by the town, of installing all uncompleted improvements.

(b) If cash or other instrument is deposited in escrow with a financial institution as provided above, then the developer shall file with the town an agreement between the financial institution and himself or herself guaranteeing the following:

1. That said escrow account shall be held in trust until released by the town and may not be used or pledged by the developer in any other matter during the term of the escrow; and

2. That in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification by the town, immediately pay the funds deemed necessary by the town to complete the improvements, up to the full balance of the escrow amount, or deliver to the town any other instruments fully endorsed or otherwise made payable in full to the town.

(c) All instruments shall be reviewed by the Town Attorney and a recommendation regarding their sufficiency made to the Town Council.

(D) *Duration of financial guarantees.*

(1) The duration of a financial guarantee shall be of a reasonable period to allow for completion and acceptance of improvements. In no case shall the duration of the financial guarantee for improvements exceed one year.

(2) All developments whose improvements are not completed and accepted 14 days prior to the expiration of the financial guarantee shall be considered to be in default. Said guarantee may be extended with the consent of the town, if such extension takes place prior to default.

(E) *Default.*

(1) Upon default, the surety bonding company or the financial institution holding the escrow account shall, if requested by the town, pay all or any portion of the bond or escrow fund to the town up to the amount deemed necessary by the town to complete the improvements. Upon payment, the town shall expend such funds or portion thereof to complete all or any portion of the required improvements. The town shall return any funds not spent in completing the improvements. Default on a project does not release the developer from liability and responsibility for completion of the improvements.

(2) The town may release a portion or all of any security posted as the improvements are completed and approved by the town. (Ord. passed 1-1-1981, § 35)

§ 5.027 RECORDATION OF FINAL PLATS.

(A) *Approval prior to filing.* Following adoption of this chapter by the Town Council, the Register of Deeds shall not thereafter file or record a plat of a subdivision located within the platting jurisdiction of the town without the approval of the subdivision by the Town Council as required in this chapter.

(B) *Plat approval contingent upon recordation.* Approval of a final plat is contingent upon the plat being recorded in the County Office of the Register of Deeds within 60 days after the approval date of the final plat. Failure to record the approved plat within the specified 60-day period shall render the plat null and void.

(C) *Dedication of final plats.*

(1) *Rights-of-way and easements.* The approval and recordation of a final plat does constitute an offer to dedicate but does not constitute dedication to and acceptance for maintenance responsibility by the town or the public of any public road, alley, or utility or drainage easement shown on such plat. Improvements within such rights-of-way or easements, such as utility lines, road paving, drainage facilities, or sidewalks may, however, be accepted for maintenance by the North Carolina Department of Transportation or by the private utility provider upon compliance with applicable NCDOT and private utility provider guidelines and standards.

(2) *Open space.*

(a) Land designed as public open space on a final plat shall be considered to be offered for dedication until such offer is officially accepted by the town. The offer may be accepted by the town through:

1. Express action by the Town Council;
2. Express action by an administrative officer designated by the Town Council; or
3. Conveyance of fee simple marketable title (unencumbered financially and environmentally) of the property to the town at the time of final plat recordation.

(b) Until such dedication has been accepted, land so offered may be used for open space purposes by the owner or by the owners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use.

(3) The developer shall be responsible for the maintenance of all facilities and improvements until an offer of dedication is accepted. (Ord. passed 1-1-1981, § 36)

§ 5.028 PERMITS AND CERTIFICATES OF OCCUPANCY.

Unless otherwise provided in this chapter, upon recordation of the final plat, the applicant shall be eligible to apply for building and any other permits required by other regulation, if the access easement are determined by the Subdivision Review Officer to be in a passable condition. No certificates of occupancy shall be issued until all improvements are complete and approved by NCDOT. (Ord. passed 1-1-1981, § 37)

§ 5.029 RESUBDIVISION PROCEDURES.

For any replatting or resubdivision of land, the same procedure, rules, and regulations shall apply as prescribed in this chapter for the original subdivision except that lot sizes may be varied on the original approved plat after recording, provided that no lot or tract of land shall be created or sold that is smaller

than the size shown on the approved plat; drainage, easements or rights-of-way shall not be changed; street alignment and block sizes shall not be changed; the property lines between the back of the lot shall not be changed; the rear portion of lots shall not be subdivided from the front part; and the character of the area shall be maintained. (Ord. passed 1-1-1981, § 38)

§ 5.030 VACATION OF PLATS AND RECOMBINATION OF LAND.

(A) Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.

(B) Such an instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument, which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

(C) Such an instrument shall be executed, acknowledged, or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.

(D) When lots have been sold, the plat may be vacated in the manner provided in divisions (A) through (C) of this section provided that all owners of the lots in such plat joining in the execution of such writing.
(Ord. passed 1-1-1981, § 39)

REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION AND MINIMUM STANDARDS OF DESIGN

§ 5.040 GENERALLY.

(A) *Generally.* Each subdivision shall contain the improvements specified in this subchapter, which shall be installed in accordance with the requirements of this chapter by the subdivider or guaranteed, by means of financing specifically outlined in § 5.026 of this chapter. Land if dedicated and reserved within each subdivision shall do so as specified in this subchapter. Each subdivision shall adhere to the minimum standards of design established by this subchapter.

(B) *Subdivision name.* The name of the subdivision shall not duplicate nor closely approximate, phonetically or otherwise, the name of an existing subdivision within the county, unless the proposed development lies adjacent to or in closely proximity to an existing development.

(C) *Conformance to plans.* All proposed subdivisions shall be designed to promote beneficial development of both the neighborhood and the community, and to comply with the intent of the policies

of the Land Development Plan, as well as other related town and county-approved plans. (Ord. passed 1-1-1981, § 40)

§ 5.041 SUITABILITY OF LAND.

Land, which has been determined by County Health Department or any other county or state agency with pertinent jurisdiction over such matters on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed, shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers. (Ord. passed 1-1-1981, § 41)

§ 5.042 DISCLOSURE OF ROAD STATUS.

(A) In an effort to promote the expansion of housing and reduce the development costs in the provision thereof, the design standards for streets within the subdivision regulation jurisdiction of the town shall comply with the minimum construction standards as required by the North Carolina Division of Highways or with private road designation standards as specified herein.

(B) Private road designation standards may be utilized if no more than ten interior lots are proposed for development. Expansion of the subdivision to more than ten lots shall necessitate conformity of all roads within the development with construction standards as imposed by the North Carolina Division of Highways inclusive of the installation of a paved surface in accordance therewith. It shall not be permissible to have both private roads and state-maintained roads within any proposed subdivision or connection to existing subdivision.

(1) *Minimum design and construction.* If the developer chooses to designate a street(s) as private roads, be it the minimum design standards for all private roads will be equivalent to the minimum NCDOT Construction Standards, except that private roads serving not more than ten lots may be stabilized with a minimum of four inches of crush run in lieu of paving. All cul-de-sacs shall have a minimum 45-foot travel surface radius. Block lengths and block design shall comply with the requirements of § 5.044 of this subchapter.

(2) *Connections to public roads.* All private roads, connecting with public roads, require an approved driveway application from the NCDOT.

(3) *Sidewalks.* In the event sidewalks are constructed, the minimum width shall be four feet.

(4) *Compliance with state statutes.* In the event that the private road designation is exercised, the developer shall comply with G.S. § 136-102.6 which provides for a disclosure statement from the developer to the purchaser establishing the status thereof (whether privately or state-maintained) of the road upon which the property has frontage. The disclosure statement shall additionally fully disclose the party or parties upon whom the responsibility for construction and maintenance of such roads shall set.

(5) *Private roads disclosure statement.* The following statement shall be placed on all subdivision plats, which include private roads: The maintenance of roads designated on this plat as private shall be the responsibility of property owners within this development having access to such roads. Private roads as shown hereon were not constructed to the minimum standards required to allow their inclusion for maintenance purposes, on the North Carolina highway system. Neither the town, county nor the North Carolina Department of Transportation will maintain a private road. (Ord. passed 1-1-1981, § 42)

§ 5.043 STREET DESIGN STANDARDS.

(A) *Conformance.* In any new subdivision, the street layout shall conform to the arrangement, width and location included on any official plans for the town. In areas for which such plans have not been completed, the streets shall be designated and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, and to the proposed use of land to be served by such streets.

(B) *Coordination.* The proposed street layout shall be made according to good land planning practices for the type of development proposed and shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or approximate projection of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding acreage tracts.

(C) *Public road design criteria.* Public roads shall be designed in accordance with the North Carolina Department of Transportation (NCDOT) Subdivision Roads Minimum Construction Standards.

(D) *Curb and gutter.* Where curbs and gutters are provided, the construction shall be in accordance to the design criteria of the current NCDOT standards.

(E) *Grades.* All grades are subject to the design and construction criteria of the most current NCDOT road standards.

(F) *Intersecting road angle and offset.* All intersecting road angles and offsets are subject to the design and construction criteria of the most current NCDOT road standards.

(G) *Sight distance easements.* Triangular sight distance easements shall be shown in dashed lines at all road intersections and so noted on the subdivision plat. These easements will remain free of all structures, trees, shrubbery, and signs, except utility poles, fire hydrants, and traffic-control signs. The location and extent of sight distance easements will be determined by the NCDOT.

(H) *Maximum cul-de-sac length.* The maximum distance from an intersecting through road to the end of a cul-de-sac shall be 1,200 feet, except where, upon the recommendation of the Planning Board and the approval of the Board of Commissioners, existing conditions warrant a modification of this requirement.

(I) *Temporary turnarounds.* Roads stubbed to adjoining property or phase lines may be required to have a temporary turnaround at the end of the road which will be sufficient to permit service vehicles to turn around.

(J) *Reserve strips.* Reserve strips adjoining road rights-of-way for the purposes of preventing access to adjacent property shall not be permitted under any condition.

(K) *Half streets.* The dedication of half streets at the perimeter of a new subdivision is prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street must be furnished by the subdivider and adjacent property owner. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed development.

(L) *Alleys.* Alleys shall be required in all blocks along the rear line of business property. Alleys may also be required in multiple family residential or industrial blocks if, in the opinion of the Planning Board, alleys are needed to service these areas. All permanent dead end alleys shall be provided with a turnaround. No alley shall have access from a major street or highway but shall have its access points confined to minor streets.

(M) *Road names.* Roads which are obviously in alignment with existing roads shall generally bear the name of the existing road. Road names shall not duplicate or closely approximate phonetically the names of existing roads in the county and shall be verified with Nash County E-911 or Planning Department. Road suffixes and addresses shall conform to the standards established by the county.

(N) *Road name and traffic-control signs.* Road name and traffic-control signs which meet county and NCDOT specifications shall be placed at all road intersections. The developer shall purchase all road signs through the county according to a fee schedule established by the Board of Commissioners. The developer shall be responsible for installing all traffic control signs. The maintenance of signs on private roads, drives, or lanes shall be the responsibility of the owner or of an owners' association, as applicable.

(O) *Marginal access street.* Where a tract of land to be subdivided adjoins a federal or state highway, the subdivider may be required to provide a marginal access street parallel to the highway or reverse frontage on an interior street for the lots to be developed adjacent to the highway. If reverse frontage is required, then the subdivider shall be required to provide an easement ten feet wide parallel and adjacent to the right-of-way of the highway. Such easement shall be restricted to the planting of trees or shrubs for screening purposes and shall be in addition to all other easements required by this chapter. (P) *Road and utility construction.*

(1) *Plans.* Construction plans for road facilities shall be submitted to the NCDOT before preliminary approval. Construction plans for all water and sanitary sewer facilities shall be submitted to the appropriate utility provider before preliminary plat approval. For each subdivision section, the road and utility construction plans shall include all improvements lying within or adjacent to that section as well as all water and sanitary sewer lines lying outside that section and being required to serve that section.

(2) *No construction without plan approval.* No road improvements shall be constructed until the road construction plans have been reviewed and approved by the NCDOT. No utility improvements shall be constructed until the utility construction plans have been reviewed and approved by the appropriate utility provider.

(3) *Inspection.* Work performed pursuant to approved road and utility construction plans shall be inspected and approved by the NCDOT and the appropriate utility provider.

(4) *Wet detention ponds and soil erosion and sedimentation control devices installation.* Any approved wet detention pond(s) and soil erosion and sedimentation control device(s) may be installed prior to approval of road and utility construction.

(5) *Public water and sewer construction requirements.* Water and sewer lines, connections, and equipment shall be constructed in accordance with state and local regulations and to the specifications of the utility provider.

(Q) *Access to adjoining property.* Where, upon the recommendation of the Planning Board and the approval of the Town Council, it is desirable to provide for road access to adjoining property, proposed roads shall be extended and, if appropriate, constructed to the boundary of such property. (Ord. passed 1-1-1981, § 43)

§ 5.044 BLOCK STANDARDS.

(A) *Length.* Intersecting streets shall be laid out at such intervals that block lengths are not more than 1,200 feet nor less than 400 feet, except where, in the opinion of the Planning Board, existing conditions justify a modification of this requirement.

(B) *Width.* Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic or nonresidential uses.

(C) *Pedestrian ways.* Pedestrian ways or crosswalks, not less than ten feet in width, shall be provided near the center and entirely across any block 1,200 feet or more in length or at the end of cul-de-sacs, where deemed essential, in the opinion of the Planning Board, to provide adequate pedestrian circulation or access to schools, shopping areas, churches, parks, playgrounds, transportation or other similar facilities.

(Ord. passed 1-1-1981, § 44)

§ 5.045 LOT STANDARDS.

(A) *Lot sizes and locations.* Lot sizes, shapes and locations shall be made with due regard to topographic conditions, contemplated use, and the surrounding area. Every lot shall have sufficient area, dimensions, and road access to permit a principal building to be erected thereon in compliance with all zoning and other requirements of this chapter.

(B) *Uninhabitable land.* Land subject to flooding and land deemed by the Planning Board to be uninhabitable for other reasons shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land as may be set aside for such uses as will not be endangered by periodic or occasional inundation, or will not produce unsatisfactory living conditions.

(C) *Access requirements.* Every lot shall front or abut on a dedicated publicly maintained or private street meeting the requirements set forth in the Zoning Code and this chapter. No unusable lots shall be created, except for special purpose lots outlined in the Zoning Code. The following exceptions may be approved:

(1) Lots and units located in developments with owners' associations or in group developments in which permanent access is guaranteed by means of approved private roads and/or drives designed in accordance with the requirements of § 5.042 of this subchapter.

(2) Lots served by an access easements meeting the following criteria and approved by the Planning Board through the major subdivision process:

(a) An access easement shall serve three or less residential lots;

(b) The minimum easement width shall be 45 feet and shall connect to a public road;

(c) There shall be, within the access easement, a minimum passable travelway of at least 18 feet in width;

(d) The minimum separation between the proposed access easement and any other access easement on the same tract shall be 150 feet;

(e) The location of the easement must be recorded on the plat;

(f) The access easement shall permit ingress, egress, and regress and necessary utilities required to serve the lot(s);

(g) A notation shall be placed on the face of the plat which states that no additional lots, including resubdivision of the lots served by the access easement, shall be permitted unless the access easement is upgraded by the property owner(s) to a private road or public road status and meets or exceeds town private road standards or the NCDOT public road specifications, whichever is applicable;

(h) The subdivision shall be approved by the Planning Board in accordance with the major subdivision review and approval process, except that the preparation of a preliminary plat is not required; and

(i) The access easement will not be permitted, if in the Planning Board's judgement, a public or private road would best serve the proposed subdivision.

(3) Lots of record provided there is recorded access easement of at least 18 feet in width and the use is limited to only one single-family dwelling and its unhabitable accessory structures.

(4) Private roads in accordance with § 5.042 of this subchapter.

(5) Flag lots meeting the following requirements:

(a) A flag lot shall contain only one single-family dwelling and its uninhabited accessory structures;

(b) The maximum flagpole length shall be 600 feet;

(c) The minimum flagpole width shall be 45 feet;

(d) The maximum lot size in areas with public sewer shall be one acre. The maximum lot size without public sewer shall be three acres. (Note: the flagpole portion of the lots is not used to calculate area, width, depth, coverage, and setbacks of the lot or to provide off-street parking);

(e) The minimum separation between the flagpole portion of the lot and that of another flag lot shall be 150 feet;

(f) Where public sewer is available, occupied buildings on the flag lot shall have a gravity service line, or the sewer pump requirements shall be noted on the plat; and

(g) Use of a single driveway to serve a flag lot and an adjoining conventional lot is permitted and encouraged. The preferred location for the driveway is on the flagpole portion of the flag lot, with the conventional lot granted an access easement over the flagpole.

(6) In no instance shall a single-family residential subdivision of six or more residential building lots be configured to permit a lot to have ingress or egress from an existing street located outside the subdivision's boundary. All lots located within single-family residential subdivision of six or more lots shall gain ingress and egress from a public or private street located within the interior boundary of the subdivision. In the case of phased subdivisions, all lots shall gain ingress and egress from an internal subdivision street configured to provide access to the larger street network outside the development.

AMENDED 6.10.24 (ZOTA1-24)

(D) *Lots on roads with capacity deficiencies.* Subdivisions shall not be approved that propose individual residential lots with direct vehicular access to roads that have, in the opinion of the NCDOT and the Technical Review Committee, capacity deficiencies that warrant the prohibition of the platting of lots with direct vehicular access. Whenever a proposed subdivision abuts any principal arterial, minor arterial, major collector, or minor collector (as delineated on the latest adopted thoroughfare plan), the Planning Board may prohibit the platting of lots with direct vehicular access to such roads. The Planning Board's decision to require alternative access shall be based upon the need to provide safe access to proposed lots, reduce interference with the existing traffic pattern and flow, and provide buffering of the proposed lots from adverse effects from traffic noise.

(E) *Minimum size and width.* The minimum size and width of residential lots shall conform to the requirements of the Zoning Code. If the lot lies within the boundaries of the Tar River water supply watershed and does not have access to public sewage disposal, it shall meet the requirements established by the state.

AMENDED 6.10.24 (ZOTA 1-24)

(F) *Water and sewage disposal.*

(1) Every subdivision lot intended for building purposes shall be served by a water supply system and a sewage disposal system that is adequate to accommodate the reasonable needs of the proposed use of the lot and complies with all applicable health regulations. Adequacy of water supply shall include the provision of a potable water supply at a minimum pressure suitable for serving all uses permitted within the lot or subdivision served by the water supply system. Nash County or the potable water service provider shall be responsible for investigation and remedy of any concerns expressed by residents or landowners following permitting or construction of potable water lines or associated water pressure.

(2) Where public water and sewer facilities are not available and individual water supplies or individual sewage disposal systems are planned, the subdivider, at his or her own expense, shall have the site investigated under the supervision of the County Health Department or other person approved by the County Health Department to determine whether or not such individual facilities are feasible and shall present proof to the Subdivision Review Officer and Planning Board that appropriate soil tests have been conducted and each lot in the subdivision not served by public water or sewage disposal systems has been approved by the County Health Department for individual water supplies and/or sewage disposal systems. The subdivider shall also furnish proof to the Subdivision Review Officer that the individual water supply system will provide at least the minimum amount of water pressure necessary for operation of the use. In cases where a water supply system provides potable water service to two or more separate lots, the subdivider shall furnish proof to the Subdivision Review Officer that the water supply system is configured to provide the minimum amount of pressure necessary for the simultaneous normal operation of all uses connected to the system.

(3) Should public water and sewer facilities be available and each lot served by same, the minimum lot size shall meet the minimum requirements as set forth in the Zoning Code.

(4) Where subdivision or building lots are created immediately adjacent to agricultural land, either currently or potentially used as such, which are not proposed to be served by public water at the time of the initial recordation of the plat, said lots shall be required to have a buffer area adjacent to the adjoining agricultural land where no wells can be placed. Said lots shall display the buffer area and the plat shall contain a special notation that states that wells cannot be located within said buffer area.

AMENDED 6.10.24 (ZOTA1-24)

(G) *Minimum building area.* Every lot shall have at least 40% of its total area, or 3,000 square feet, whichever is less, of contiguous buildable area of a shape sufficient to hold a principal building. Said area shall lie at or be filled to an elevation at least one foot above the 100-year flood elevation. (Note: the flood damage prevention ordinance or federal wetlands regulations will prohibit or restrict fill placement in certain locations.)

(H) *Corner lots.* Corner lots for residential use shall have an extra lot width of 20 feet in addition the minimum side setback to permit adequate building setback from side streets. Refer to Zoning Code dimensional requirements for each district.

(I) *Double frontage lots.* Double frontage lots shall be avoided, except where required to separate residential development from through traffic. These shall have two road setbacks, but no rear yard setback.

(J) *Side lots.* Side lot lines shall be substantially at right angles or radial to street lines. No intersecting lot lines shall have an angle of less than 60 degrees with the exception being lots in division (K) of this section.

(K) *Lot lines and drainage.* Lot boundaries shall coincide with natural and pre-existing man-made drainageways to the extent practicable to avoid lots that can be built upon only by altering such drainageways.

(Ord. passed 1-1-1981, § 45; Ord. passed 5-1-2002)

§ 5.046 UTILITY AND DRAINAGE EASEMENTS.

(A) *Utility easement.*

(1) Easements shall be provided for electrical, telephone, natural gas, cable television, water and sewer utilities where necessary to serve every platted lot. The developer and the utility provider(s) shall agree on the location and the width of the easements. Any easements for subsurface sewage disposal systems shall be delineated on the final plat and described by bearings and distances.

(2) The developer shall transfer to the applicable utility provider the necessary ownership or easement rights to enable the utility provider to operate and maintain the utility facilities. In addition, the developer shall dedicate sufficient easement rights to accommodate the extension of utility service

to adjacent or nearby properties whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments.

(B) *Water course.* Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose of drainage. Parallel streets may be required in connection therewith.

(C) *Park area.* Lakes, ponds, creeks and similar areas will be accepted for maintenance only if sufficient land is dedicated as a public recreation area or park, or if such area constitutes a necessary part of the drainage control system. The acceptance of such dedicated areas must be approved by the Planning Board before the Town Council will consider accepting it.

(D) *Stormwater management.*

(1) An adequate drainage system, including necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges and the like, shall be provided for the proper drainage of all surface water. Banks of ditches shall be immediately seeded upon grading and installation of utilities and the ditch itself shall be improved with appropriate vegetative cover to retard erosion.

(2) The storm drainage system shall follow existing topography as nearly as practical, shall divert storm water away from surface waters, and shall incorporate storm water Best Management Practices to minimize adverse water quality impacts.

(3) Proposed subdivision in flood hazard areas shall comply with the flood damage prevention ordinance.

(E) *Street lighting.* Provisions for street lighting should also be incorporated in the subdivided utility plans.

(F) *Underground and utilities.* The town does not obligate itself in assuming any costs incurred in developing underground utilities but encourage developers to investigate the advantages of locating utility lines underground.

(Ord. passed 1-1-1981, § 46)

§ 5.047 BUFFER AREAS.

(A) *Railroads and highways.* In residential districts, a buffer strip, at least 50 feet in depth in addition to the normal lot depth required, shall be provided adjacent to all railroads and limited access highways. This strip shall be a part of the platted lots, but shall have the following restrictions lettered on the face of the plat: "This strip is reserved for the planting of trees or shrubs by the owner; the building of structures hereon is prohibited".

(B) *Perennial waters.* A minimum 50-foot vegetative buffer is required along all perennial waters indicated in the most recent version of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies.

(C) *Adjoining agricultural land.* A minimum 50-foot buffer area is required on any lot subdivided, which is adjacent to land currently or potentially used for agriculture uses and proposes to use a well as its water supply. Said lot and plat shall display this buffer area and the plat shall contain special notation that wells are not to be located in this area. (Ord. passed 1-1-1981, § 47; Ord. passed 5-1-2002)

§ 5.048 SITES FOR PUBLIC FACILITIES.

To ensure orderly development of the town in accordance with the general principles set forth in its most current Land Development Plan, the subdivider shall give due consideration to the reservation of suitable sites for open spaces for parks, schools, fire stations and/or playgrounds for a period of six months from the date of approval of the preliminary plat. (Ord. passed 1-1-1981, § 48)

§ 5.049 PLACEMENT OF MONUMENTS.

The Standards of Practice for Land Surveying in North Carolina, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, shall apply when installing monuments. Monuments and other surveying and mapping requirements, as specified in G.S. §§ 39-32 and 47-30, shall also apply. (Ord. passed 1-1-1981, § 49)

ADMINISTRATION AND ENFORCEMENT

§ 5.060 MODIFICATIONS.

The standards and requirements of this chapter may be modified by the Planning Board, subject to the approval of the Town Council, under § 5.061 of this subchapter in the case of a Planned Unit Development, or other development not having traditional design, which in the judgement of the Planning Board provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan. The Planning Board shall consider the recommendations of the Technical Review Committee (§ 5.023 of this chapter) and may impose such conditions necessary to ensure adequate design and development. This section applies to residential development and to nonresidential development (as defined in § 5.008 of this chapter) where special design and development considerations require modification from traditional standards for residential development. Nonresidential lots shall be recorded as such, clearly noting on the recorded plat either nonresidential; commercial, nonresidential; industrial; nonresidential; or recreational use designation. (Ord. passed 1-1-1981, § 60)

§ 5.061 WAIVERS TO STANDARDS.

(A) *Approval authority.* The Town Council may approve waivers to standards in this chapter except with respect to the requirements established in other related ordinances or those established by other agencies.

(B) *Grounds for waivers.* The Town Council may waive standards in this chapter after receiving a written report from the Planning Board and find one of the following circumstances:

(1) *Physical hardship.* Where because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions this chapter would cause unusual and unnecessary hardship on the subdivider.

(2) *Equal or better performance.* Where in its opinion a waiver will result in equal or better performance in furtherance of the purposes of this chapter.

(3) *Unintentional error.* Where through an unintentional error by the applicant, his or her agent, or the reviewing staff, there is a minor violation of a standard in this chapter where such violation is not prejudicial to the value or development potential of the subdivision or adjoining properties.

(C) The Town Council may grant a waiver to the standards provided it can be made without conflicting with the overall intent of the ordinances. Any waiver thus authorized is required to be entered in writing in the minutes of the Town Council along with the reasoning on which the waiver was justified.

(D) *Conditions.* In granting waivers, the Town Council may require such conditions as will secure, insofar as practicable, the purposes of the standards or requirements waived. (Ord. passed 1-1-1981, § 61)

§ 5.062 ENFORCEMENT.

(A) *Violations.* Any of the following shall be a violation of this chapter and shall be subject to the enforcement remedies and penalties provided by this section, § 5.999 of this chapter and by state law.

(1) *Subdivide in violation.* A subdivide in violation means to subdivide land in violation of this chapter or transfer or sell land by reference to, exhibition of, or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this chapter and recorded in the Office of the Register of Deeds. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this chapter.

(2) *Violation by act or omission.* A violation by act or omission means to violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the Town Council, Planning Board, or its authorized agents upon any required permit, certificate or other

form of authorization for the use, development or other activity upon land or improvements thereon.

(3) *Continue a violation.* Each day's violation of any provision of this chapter is a separate and distinct offense.

(B) *Intent.* It is the intention of this chapter, unless otherwise provided, that all questions arising in connection with the enforcement of this chapter shall be presented first to the Subdivision Review Officer or designated agent and that such questions shall be presented to the Board of Adjustment only on appeal from the Subdivision Review Officer's decision. An appeal from the decision of the Board of Adjustment shall be by proceedings in the nature of certiorari to the Superior Court as provided by law and must be filed with the County Clerk of Court within the 30 day-appeal period described in the Zoning Code. It is further the intention of this chapter that the duties of the Town Council in connection with this chapter shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof.

(C) *Procedures.* When the Subdivision Review Officer or designated agent finds a violation of this chapter or receives a complaint alleging a violation of this chapter, it shall be his or her duty to notify the owner of the land of the violation. The owner or occupant shall immediately remedy the violation. The Planning Board shall also be notified.

(1) *Notice of violation.* If the owner of the land in violation fails to take prompt corrective action, the Subdivision Review Officer or designated agent shall give the owner or written notice, by certified or registered mail, to his or her last known address or by personal service or by posting notice of the violation conspicuously on the property:

- (a) Identify the land involved in the subdivide in violation;
- (b) The nature of the violation and citation of the section of this chapter violated; and (c)

The measures necessary to remedy the violation.

(2) *Appeal.* Any owner who has received a notice of violation may appeal in writing the decision of the Subdivision Review Officer to the Board of Adjustment within 30 days following the date of the notice of violation. The Board of Adjustment shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the notice of violation.

(3) *Order of corrective action.* If upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or is in violation of this chapter, the Board of Adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance.

(4) *Failure to comply with an order.* If the owner of a property fails to comply with a notice of violation from which no appeal has been taken, or an order of corrective action following an appeal, the owner or shall be subject to such remedies and penalties as may be provided for by state law and § 5.999 of this chapter. If the owner fails to comply with the

remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction. (Ord. passed 1-1-1981, § 62)

§ 5.063 SEVERABILITY.

(A) *Invalidation.* Should any section, sentence, clause, phrase, or word of this chapter be held invalid or unconstitutional by a court of competent jurisdiction of either the state or the United States, such decision shall not affect, impair, or invalidate the validity of the remaining parts of this chapter which can be given effect without the invalid provision.

(B) *Prejudicial application.* If any section, sentence, clause, phase or word of this chapter be held invalid or unconstitutional in its application to a particular case, such decision shall not affect or prejudice its application to other cases.

(C) *Lawful presumption.* There shall be a conclusive presumption when a Subdivision Review Officer or board authorizes regulatory action, that such administrator or board would not have authorized such action except in the belief that such action was lawful.

(D) *Higher standards.* Wherever the provisions of any other law, ordinance or regulation impose higher standards than are required by the provisions of this chapter, the provisions of such law, ordinance or regulations shall govern. (Ord. passed 1-1-1981, § 63)

§ 5.064 AMENDMENT PROCEDURE.

This chapter may be amended from time to time by the Town Council but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. The Planning Board shall have 45 days within which to submit its recommendation. Failure of the Board to submit its recommendation within this time period shall constitute a favorable recommendation. A public hearing shall be held by the Town Council before adoption of any proposed amendment to this chapter. A notice of such public hearing shall be provided in accordance to G.S. § 160D-601.(Ord. passed 1-1-1981, § 64)

§ 5.065 ABROGATION.

It is not intended that this chapter repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(Ord. passed 1-1-1981, § 65)

§ 5.066 ADOPTION AND EFFECTIVE DATE.

(A) *Adoption.* This chapter was originally adopted by the Town Council, as the Subdivision Regulations of Town of Red Oak, North Carolina, on January 1, 1981. This chapter as herein revised was hereby enacted on May 1, 2002.

(B) *Effective date.* This chapter as herein revised shall become effective on the date enacted.

(C) *Inconsistency.* Any portion of the previous chapter which are inconsistent with the provisions of the revised chapter are hereby repealed to the extent of the inconsistency. (Ord. passed 1-1-1981, § 66)

§ 5.067 ADMINISTRATOR.

The administrator, know as the Subdivision Review Officer, shall also serve as the Town's Zoning Administrator. The Subdivision Review Officer, with the consent of the Planning Board, can from time to time designate an agent to serve as the Subdivision Regulation Officer. The Town Council shall be notified and consent to the designation of an agent. (Ord. passed 1-1-1981, § 67)

AMENDED 6.10.24 (ZOTA 4-24)

§ 5.999 PENALTY.

(A) *Generally.* Any one or more of the following procedures may be used to enforce the provisions of this chapter:

(1) *Injunction.* Any violation of this chapter or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

(2) *Civil penalties.* Any person who violates any provisions of this chapter shall be subject to the assessment of a civil penalty under the procedures provided in division (B) of this section.

(3) *Denial of permit or certificate.* The Town Clerk or Zoning Administrator may withhold or deny any permit, certificate of occupancy or other form of authorization on any land in which there is an uncorrected violation of a provision of this chapter or of a condition or certificate or other authorization previously granted.

(4) *Conditional permit.* The Town Clerk or Zoning Administrator may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by the Town Attorney.

(5) *Criminal penalties.* Any violation of this chapter shall be a misdemeanor or infraction as provided by G.S. § 14-4.

(6) *State and common law remedies.* In addition to other enforcement provisions contained in this chapter, the Town Council may exercise any and all enforcement powers granted to it by state law or common law.

(B) *Civil penalties.*

(1) *Penalties.* Any person who violates any provisions of this chapter shall be subject to assessment of the maximum civil penalty allowed by law.

(2) *Notice.* No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with § 5.062(C) of this chapter. If after receiving a notice of violation under § 5.062(C) of this chapter, the owner fails to take corrective action, a civil penalty may be imposed under this section in the form of a citation. The citation shall be served in the manner of a notice of violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within 15 days of the date of the notice.

(3) *Responsible parties.* The owner of any land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this chapter may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

(4) *Continuing violation.* For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

(5) *Demand for payment.* The Subdivision Review Officer or designated agent shall make written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

(6) *Nonpayment.* If payment is not received or equitable settlement reached within 30 days,

after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for the recovery of the civil penalty. Provided however, if the civil penalty is not paid within the time prescribed, the Subdivision Review Officer may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to G.S. § 14-4.

(Ord. passed 1-1-1981, § 62)

