CHAPTER 152: ZONING CODE

Section

Article I: General Provisions

152.001 Short title

152.002 Authority

152.003 Jurisdiction

152.004 Effective date

152.005 Relationship to existing Zoning Code and Subdivision Regulations

152.006 Relationship to Land Use Plan

152.007 No use or sale of land except in conformity with chapter provisions

152.008 Fees

152.009 Severability

152.010 Miscellaneous

152.011 - 152.015 Reserved

152.016 Definitions

Article II: Administrative Mechanism

152.017 Board of Commissioners as governing body

152.018 The Planning Board

152.019 The Board of Adjustment

152.020 Meetings of the Board of Adjustment

152.021 Quorum

152.022 Voting

152.023 Board of Adjustment Officers

152.024 Powers and duties of the Board of Adjustment

152.025 Duties of the Town Manager

152.026 Duties of the Town Attorney

152.027 Technical Review Committee

152.028 - 150.030 Reserved

Article III: Permits and Plats

Part I: General, Special, and Conditional Use Permits

152.031 Permit required

152.032 No occupancy, use, or sale of lots until requirements fulfilled

152.033 Who may submit permit applications

152.034 Applications to be complete

Part I: General, Special, and Conditional Use Permits (Cont'd)

152.035 Staff consultation

152.036 General use permit

152.037 Authorizing use or occupancy before completion of development under general use permit

152.038 Special and conditional use permits

152.039 Recommendations on special use permits

152.040 Board of Commissioners action on special use permits

152.041 Board of Adjustment action on conditional use permits

152.042 Additional requirements on special use and conditional use permits

152.043 Authorizing use, occupancy, or sale before completion of development under special use or conditional use permits

152.044 Completing development in phases

152.045 Expiration of permits

152.046 Effect of permit on successors and assigns

152.047 Amendments to and modifications of permits

152.048 Reconsideration of Board action

152.049 Maintenance of common areas, improvements, and facilities

152.050 Mobile home parks

152.051 - 152.052 reserved

Part II: Subdivisions

152.053 Regulation of subdivisions

152.054 No subdivision without plat approval

152.055 Minor subdivision approval

152.056 Major subdivision approval process

152.057 Endorsements on major subdivision plats

152.058 Authorizing use, occupancy, or sale of lots before completion of development

152.059 Plat approval not acceptance of dedication offers

Part III: Zoning Vested Rights

152.060 Vested rights

152.061 Establishment of a zoning vested right

152.062 Approval procedure

152.063 Duration

152.064 Termination

152.065 Voluntary annexation

152.066 Limitations

152.067 Repealer

152.068 Effective date

152.069 - 152.071 reserved

Article IV: Appeals, Variances, Interpretations

152.072 Appeals

152.073 Variances

152.074 Interpretations

152.075 Board action on appeals and variances

152.076 - 152.081 reserved

Article V: Procedures for Public Hearing

152.082 Hearing required on appeals, applications and amendments

152.083 Notice of hearing

152.084 Modification of application at hearing

152.085 Record

152.086 Written decision

152.087 - 152.091 Reserved

Article VI: Enforcement and Review

152.093 Complaints regarding violations

152.094 Persons liable

152.095 Procedures upon discovery violations

152.096 Penalties and remedies for violations

152.097 Permit revocation

152.098 Citation

152.099 Judicial review

152.100 - 152.103 reserved

Article VII: Nonconforming Situations

152.104 Continuation of nonconforming situations and completion of nonconforming projects

152.105 Nonconforming lots

152.106 Extension or enlargement of nonconforming situations

152.107 Repair maintenance and reconstruction

152.108 Change in use of property where a nonconforming situation exists

152.109 Abandonment and discontinuance of nonconforming situations

152.110 Completion of nonconforming projects

152.111 - 152.116 Reserved

Article VIII: Zoning Districts and Zoning Map

152.117 Residential districts established

152.118 Transitional districts established

152.119 Commercial districts established

152.120 Manufacturing districts

152.121 Special districts established

Article VIII: Zoning Districts and Zoning Map (Cont'd)

152.122 The zoning map

152.123 - 152.128 Reserved

152.129 Permitted uses

152.130 Use of designations G, C, S

152.131 Permitted uses and specific exclusions

152.132 Combination uses

152.133 Accessory uses, structures and buildings

152.134 Uses not requiring permits

Part II: Supplementary Use and District Regulations

152.135 Commercial Amusement Special Use District

152.136 Entranceway Overlay District

152.137 Planned Unit Development

152.138 Planned Residential Developments

152.139 Conservation subdivisions

152.140 (Reserved)

152.141 Planned Commercial Development

152.142 Bed and breakfast inns and homestays

152.143 Home occupations

152.144 Residential and security fences

152.145 Requirements for mobile homes

152.146 Accessory apartments in existing dwellings

152.1461 Dish antennas or earth stations

152.1462 Sexually oriented business and adult cabarets

152.1463 Open-air sales

152.1464 Care facilities

152.1465 Telecommunication towers

Part III: Floodways and Floodplains

152.147 Statutory authorization, findings of facts, purpose and objectives

152.148 General floodplain provisions

152.149 Administration of flood provisions

152.150 Provisions for flood hazard reduction

152.151 Subdivisions with special flood hazard areas

152.152 - 152.161 reserved

Part IV: Density and Dimensional Regulations

152.162 Density and dimensional regulations

152.163 - 152.168 Reserved

Article IX: Recreational Facilities and Open Space

152.169 Miniparks required

152.170 Miniparks: purpose and standards

152.171 Usable open space

152.172 Ownership and maintenance of recreational areas and required open space

152.173 Dedication of open space

152.174 Flexibility in administration authorized

152.175 - 152.180 Reserved

Article X: Development Standards

Part I: Streets and Sidewalks

152.181 Street classification

152.182 Access to lots

152.183 Access to arterial streets

152.184 Entrances to streets

152.185 Coordination with surrounding streets

152.186 Relationship of streets to topography

152.187 Street width, sidewalk, and drainage requirements in subdivisions

152.188 General layout of streets

152.189 Street intersection

152.190 Public streets and private roads in subdivisions

152.191 Road and sidewalk requirements in unsubdivided developments

152.192 Attention to handicapped in street and sidewalk construction

152.193 Street names and house numbers

152.194 - 152.219 Reserved

Part II: Utilities

152.220 Utility ownership and easement rights

152.221 Lots served by governmentally owned water or sewer lines

152.222 Sewage disposal facilities required

152.223 Determining compliance with Section 152.222

152.224 Water supply system required

152.225 Determining compliance with Section 152.224

152.226 Lighting requirements

152.227 Excessive illumination

152.228 Electric power

152.229 Telephone service

152.230 Underground utilities

152.231 Utilities to be consistent with internal and external development

152.232 As-built drawings required

152.233 Fire hydrants

152.234 Sites for and screening of dumpsters

152.235 - 152.245 Reserved

Part IV: Erosion and Stormwater Control

152.246 Natural drainage system utilized to the extent feasible

152.247 Development must drain properly

152.248 Storm water management

152.249 Sedimentation and erosion control

152.250 - 152.253 Reserved

Article XI: Signs

152.254 Purposes, Application, effect and provisions

152.255 Definitions

152.256 Computation of sign area

152.257 Permit required

152.258 Design, construction, and maintenance

152.259 Exempt signs

152.260 Prohibited signs

152.261 Signs existing on effective date

152.262 Nonconforming signs

152.263 Reference to sign table

152.264 Maximum allowable sign area by zoning district

152.265 - 152.267 reserved

Article XII: Parking

152.268 Number of parking spaces required

152.269 Parking spaces dimension

152.270 Required widths of parking area aisles and driveways

152.271 General design requirements

152.272 Vehicle accommodation area surfaces

152.273 Joint use of required parking spaces

152.274 Satellite parking

152.275 - 152.279 Reserved

Article XIII: Amendments

152.280 Amendments in general

152.281 Initiation of amendments

152.282 Planning Board consideration of proposed amendments

152.283 Hearing required

152.284 Board of Commissioners action on amendments

152.285 Ultimate issue before Board of Commissioners on amendments

152.286 - 152.289 Reserved

Article XIV: Development Procedures

152.290 Written application

152.291 Development site plans

152.292 Graphic materials required for plans

152.293 Existing natural, man-made, and legal features

152.294 Proposed changes in existing features or new features

152.295 Documents and written information in addition to plans

152.296 Number of copies of plans and documents

152.297 - 152.299 Reserved

Article XV: Landscape Regulations

Part I: General Regulations

152.300 Purpose of landscaping

152.301 Definitions

152.302 Plan approval

152.303 Installation

152.304 Applicability

152.305 Alternate methods of compliance

152.306 Information required on landscape plans

Part II: Screening and Buffers

152.307 Burden of provision of a buffer

152.308 Land use classifications for buffers

152.309 Types of buffers

152.310 Table of buffer requirements

Part III: Streetscape

152.311 Streetscape along thoroughfare

Part IV: Vehicle Accommodation Areas

152.312 Vehicle accommodation areas

Part V: Supplementary Landscape Regulations

152.313 Retrofitting

152.314 Supplemental design guidelines

152.315 Plant material list

152.316 Maintenance

152.317 Landscape performance and maintenance bond

152.318 Enforcement

Part VI: Appearance Standards for Central Business District

152.319 Purpose

152.320 Awnings and canopies

152.321 Appearances of buildings

Appendix A: Specifications for street design and construction

1. Design speed, sigh distance, centerline radius
2. Cut and fill slopes
3. Sigh distances at intersections
4. Intersections radius at street
5. Clearing and grubbing
6. Grading and compaction
7. Street base

8. Street surfaces

9. Street cross sections

10. Curb and gutter

11. Sidewalks

12. Wheelchair ramps

13. Storm water runoff control

14. Sedimentation control

ARTICLE I: GENERAL PROVISIONS

§ 152.001 SHORT TITLE.

This chapter shall be known and may be cited as the Zebulon Land Use Ordinance.

(Ord. passed 9-8-92)

§ 152.002 AUTHORITY.

This chapter is adopted pursuant to the authority contained in G.S. Chapter 160A, Article 19.

(Ord. passed 9-8-92)

§ 152.003 JURISDICTION.

This chapter shall be effective throughout the planning jurisdiction of the Town which comprises the area within the city limits and the area referred to as the extra-territorial jurisdiction as granted by G.S. Chapter 160A, Article 19. Such planning jurisdiction may be modified from time to time in accordance with G.S. Chapter 160A, Article 19, § 360.

(Ord. passed 9-8-92)

§ 152.004 EFFECTIVE DATE.

The provisions in this chapter were adopted and became effective September 8, 1992.

(Ord. passed 9-8-92)

§ 152.005 RELATIONSHIP TO EXISTING ZONING CODE AND SUBDIVISION REGULATIONS.

(A) To the extent that the provisions of this chapter are the same in substance as the previously adopted provisions that they replace in the Zoning Code and Subdivision Regulations, 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 nonconforming situation under the previously adopted ordinance does not achieve lawful nonconforming status under this chapter merely by the repeal of the zoning ordinance.

(B) This chapter in part carries forward by re-enactment some of the provisions of the Zoning Ordinance for the Town of Zebulon, adopted on May 6, 1985 and subsequently amended and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All ordinances which conflict or are inconsistent with this chapter are repealed and superseded to the extent necessary to give this chapter full force and effect.

(Ord. passed 9-8-92; Am. Ord. ZA-1993-01, passed 8-2-93)

§ 152.006 RELATIONSHIP TO LAND USE PLAN.

It is the intention of the Board of Commissioners that this chapter implement the planning policies adopted by the Board for the Town and its extra-territorial jurisdiction, as reflected in the land use plan and other planning documents. While the Board of Commissioners reaffirms its commitment that this chapter and any amendment to it be in conformity with adopted planning policies, the Board hereby expresses its intent that neither this chapter or any amendment to it be challenged on the basis of non conformity with any planning document.

(Ord. passed 9-8-92)

§ 152.007 NO USE OR SALE OF LAND EXCEPT IN CONFORMITY WITH CHAPTER PROVISIONS.

(A) Subject to the provisions of Article VII of this chapter, no person may use, occupy, or sell any land or buildings under his or her control except in accordance with all of the applicable provisions of this chapter.

(B) For purposes of this section, the ***USE*** or ***OCCUPANCY*** of a building or land relates to anything and everything that is done to, on, or in that building or land.

(Ord. passed 9-8-92)

§ 152.008 FEES.

(A) 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, conditional or special use permits, subdivision plat approval, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be as established by resolution of the Board of Commissioners.

(B) Fees established in accordance with division (A) shall be paid upon submission of a signed application or notice of appeal.

(Ord. passed 9-8-92)

§ 152.009 SEVERABILITY.

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

(Ord. passed 9-8-92)

§ 152.010 MISCELLANEOUS.

(A) As used in this chapter, words importing the masculine gender include the feminine and neuter.

(B) Words used in the singular in this chapter include the plural and words used in the plural include the singular.

(Ord. passed 9-8-92)

§ 152.011 through 152.015 RESERVED

§ 152.016 DEFINITIONS.

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

CERTIFY. Whenever this chapter requires that some agency certify the existence of some fact or circumstance to the Town, the Town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification.

ACCESSORY USE, BUILDING, OR STRUCTURE. A use, building or structure on the same lot with, or of a nature customarily incidental or subordinate to, and of a character related to the principal use or structure.

ADULT CABARET. Any place featuring topless dancers, go-go dancers, strippers, male or female impersonators, or entertainers displaying “specific anatomical areas” as defined by G.S. 14-202.10 as such statute may be amended from time to time, or other similar entertainers.

ADULT DAY CARE CENTER. A building or structure and associated outdoor area where care, protection and supervision are provided for a fee, on a regular schedule at least twice a week to more than six aging adults at one time, including relatives of the care providers.

ADULT DAY CARE HOME. A private residence where care, protection and supervision are provided for a fee, at least twice a week to no more than six aging adults at one time, including relatives of the care provider.

AMUSEMENT CENTER. An establishment providing commercial games to be played by individuals or groups of individuals for fee. Amusement centers include, but are not limited to pool and billiard halls, bingo halls, electronic game parlors, etc.

ANTENNA. Equipment designed to transmit or receive electronic signals.

APPLICANT. The person(s) who are responsible for the selling, displaying, and/or collections of fees for the goods or merchandise for sale or display.

AUTOMATIC TELLER MACHINE, FREESTANDING. A machine or device through which a customer can conduct certain banking transactions and which is not located on the same lot as the bank or financial institution with which such machine is associated. The purpose of this definition is to distinguish between teller machines operated as accessory uses to banks located in principal buildings where customers can choose to do their banking wither inside the building or at the teller machine, and teller machines that are totally separate from bank buildings and therefore generate additional traffic.

BAR. See ***EATING AND DRINKING ESTABLISHMENT***.

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year. Also known as the 100 year flood.

BED AND BREAKFAST HOMESTAY. A private owner-occupied residence with no more than three guest rooms providing transient accommodations for no more than five consecutive days at a dally rental rate.

BED AND BREAKFAST INN. An establishment operating under commercial license with no less than four guest rooms accommodating individual guests for no more than 14 consecutive days at daily rates.

BOARD OF COMMISSIONERS. The Board of Commissioners of the Town.

BUILDING, ACCESSORY. A minor building that is located on the same lot as principal building and that is used incidentally to a principal building or that houses a principal use.

BUILDING, PRINCIPAL. The primary building on a lot or a building that houses a principal use.

BUILDING. A structure designed to be used as a place of occupancy, storage or shelter.

CHILD CARE HOME. A home for not more than nine orphaned, abandoned, dependent, abused, or neglected children, together with not more than two adults who supervise such children, all of whom live together as a single housekeeping unit.

CHILD CARE INSTITUTION. An institutional facility housing more than nine orphaned, abandoned, dependent, abused, or neglected children.

CIRCULATION AREA. That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas comprise the circulation area.

COMBINATION USE. A use consisting of a combination on one lot of two or more principal uses separately in the Table of Permissible Uses (§ 152.129).

CONDITIONAL 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 as well as any additional requirements imposed by that Board.

CONVENIENCE STORE. A one story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items. It is designed to attract and depends upon a large volume of stop and go traffic.

DAY CARE CENTER. Any child care arrangement that provides day care on a regular basis for more than four hours per day for more than five children of preschool age.

DEVELOPER. A person who is responsible for any undertaking that requires a general use permit, special use permit, conditional use permit, or sign permit.

DEVELOPMENT. That which is to be done pursuant to a general use permit, special use permit, conditional use permit, or sign permit.

DIMENSIONAL NONCONFORMITY. A nonconforming 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.

DRIVEWAY. That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

DWELLING UNIT. An enclosure containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.

EATING AND DRINKING ESTABLISHMENT. An establishment primarily devoted to after hours service of alcoholic beverages and food.

EXPENDITURE. A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures.

EXTRATERRITORIAL PLANNING JURISDICTION. That portion of the Town's planning area that lies outside the corporate limits.

FAMILY. One or more persons living together as a single housekeeping unit.

FAMILY CARE HOME. A dwelling with support and supervisory personnel that provides room and board, personal care and rehabilitation services in a family environment for not more than six resident handicapped persons. Such persons may have temporary or permanent physical, emotional or mental disabilities, including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional

disturbances, and orthopedic impairments. Persons within any of the following categories shall not be eligible for admission to a family care home:

(1) Mentally ill persons who are dangerous to others as defined in G.S. 122-58.2(1)(b); and

(2) Persons who are not defined in G.S. 168-21(1) as handicapped persons, excluding supervisory personnel for the handicapped.

FLEA MARKET. A market held in an open area or a structure where groups of individual sellers offer goods for sale to the public. It may be temporary or permanent.

FLOODPLAIN. Any land area susceptible to be inundated by water from the base flood. As used in this chapter, the term refers to that area designated as subject to flooding from the base flood on the "Flood Boundary and Floodway Map" prepared by the Federal Emergency Management Authority.

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. As used in this chapter, the term refers to that area designated as floodway on the "Flood Boundary and Floodway Map" prepared by the Federal Emergency Management Authority.

GENERAL USE PERMIT. A permit issued by the land use administrator that authorizes the recipient to make use of property in accordance with the requirements of this chapter.

GROSS FLOOR AREA. The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

GROUP CARE HOME. A group care home is a dwelling with support and supervisory personnel operated by an organization exempt from federal income tax pursuant to 26 USC section 501, which provides room and board, personnel care and habitation services in a family environment for nor more than six battered individuals, homeless individuals, abused children, pregnant teenagers, or runaway children. These facilities shall not house the mentally ill, alcoholics, drug addicts, or ex-offenders in transition between release from incarceration and return to freedom.

HABITABLE FLOOR. Any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or any combination thereof. A floor used only for storage 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, or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, eleven of whom live together as a single housekeeping unit.

HANDICAPPED PERSON. A person with a temporary or permanent physical, emotional, or mental disability, including but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and

orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)b.

HANDICAPPED, AGED OR INFIRM HOME. A residence with a single dwelling unit for at least six but not more than nine persons who are physically or mentally handicapped, aged or infirm, together with not more than two persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

HANDICAPPED, AGED OR INFIRM INSTITUTION. An institutional facility housing and providing care or assistance for more than nine persons who are physically or mentally handicapped or infirm. Persons residing in such homes, including the aged or disabled, principally need residential care rather than medical treatment.

HEIGHT. The vertical distance from the average of the finished ground level to the highest finished roof surface of a flat roof, or to the tallest peak between the eaves and ridges of all other roof types.

HOME OCCUPATION. A commercial activity that: is conducted by a person on the same lot, in a residential district where such person resides, and is not so insubstantial or incidental or is not so commonly associated with the residential use as to be regarded as an accessory use but that can be conducted without any significantly adverse impact on the surrounding neighborhood.

IMPERVIOUS SURFACE. Any man-made surface covering land which does not allow that land to be significantly penetrated by water; including, but not limited to, roof tops, walkways, driveways and parking areas compacted by vehicular movement.

INTERMEDIATE CARE HOME. A facility maintained for the purpose of providing accommodations for not more than seven occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

INTERMEDIATE CARE INSTITUTION. An institutional facility maintained for the purpose of providing accommodations for more than seven persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

KENNEL. A commercial operation that: provides food and shelter and care of animals for purposes not primarily related to medical care, or engages in the breeding or animals for sale.

LAND USE ADMINISTRATOR. The Town Manager or his agent charged with administering the provisions of this chapter.

LOT AREA. The total area circumscribed by the boundaries of a lot, except that: when the legal instrument creating a lot shows the boundary of the lot extending into a public street right of way, then the lot boundary for purposes of computing the lot area shall be the street

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 street, and in a residential district, when a private road that serves more than three dwelling units is located along any lot boundary, then the lot boundary for purpose of computing the lot area shall be the inside boundary of the traveled portion of that road.

LOT. A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

MAY. Is permissive.

MOBILE HOME, CLASS A. A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

(1) The home has a length not exceeding four times its width.

(2) The pitch of the home's roof has a minimum vertical rise of one foot for each five feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction.

(3) The exterior siding consists of wood, hardboard, or aluminum comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;

(4) A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home; and

(5) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

MOBILE HOME, CLASS B. A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but does not satisfy the criteria necessary to qualify the house as a Class A mobile home.

MOBILE HOME, CLASS C. Any mobile home that does not meet the definitional criteria of a Class A or Class B mobile home.

MOBILE HOME PARK. A residential use in which more than one mobile home is located on one or more lots as a unit development.

MODULAR HOME. A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code applicable to site built homes, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

NIGHT CLUB. A public or private establishment open primarily at night providing food, drinks and entertainment.

NONCONFORMING LOT. A lot existing at the effective date of this chapter that does not meet the minimum area requirement of the district in which the lot is located.

NONCONFORMING 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.

NONCONFORMING 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.

NONCONFORMING USE. A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. The term also refers to the activity that constitutes the use.

NURSING CARE HOME. A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than available in a hospital to not more than nine persons.

NURSING CARE INSTITUTION. An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than a hospital to more than nine persons.

NURSING HOME. A facility maintained for the purposes of providing nursing or convalescent care for three or more persons unrelated to the licenses. A nursing home is a home for chronic or convalescent patients, who on admission, are not as a rule, acutely ill and who do not usually require specialized medical facilities.

PARKING AREA AISLE. A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

PARKING SPACE. A portion of the vehicle accommodation area set aside for the parking of one vehicle.

PERSON. An individual, vendor, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.

PLANNED COMMERCIAL DEVELOPMENT. A development constructed on a tract of at least three acres under single ownership, planned and developed as an integral unit, consisting of at least five commercial outlets. Not withstanding the above, any commercial development comprised of one or more outlets with a floor area of greater than 60,000 square feet, for the purpose of this chapter, shall also be classified as a planned commercial development. For purposes of this definition, a shopping center is a planned commercial development.

PLANNED RESIDENTIAL DEVELOPMENT. A development constructed on a tract of at least five acres under single ownership, planned and developed as an integral unit, and consisting of single-family detached residences combined with two family residences.

RESIDENCE, DUPLEX. A two family residential use in which the dwelling units share a common wall, and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

RESIDENCE, MULTI-FAMILY. A residential use consisting of a building containing three or more dwelling units.

RESIDENCE, MULTI-FAMILY APARTMENTS. A multi-family residential use other than a multi-family conversion or a multi-family townhouse.

RESIDENCE, MULTI-FAMILY CONVERSION. A multi-family residence containing not more than four dwelling units and results from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of this provision and that was, originally designed, constructed and occupied as a single family residence.

RESIDENCE, MULTI-FAMILY TOWNHOUSES. A multi-family residential use in which each dwelling unit shares a common wall with at least one other dwelling unit and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

RESIDENCE, PRIMARY WITH ACCESSORY APARTMENT. A residential use having the external appearance of a single family residence but in which there is located a second dwelling unit that comprises not more than 25% of the gross floor area of the building nor more than a total of 750 square feet.

RESIDENCE, SINGLE FAMILY DETACHED, MORE THAN ONE DWELLING UNIT PER LOT. A residential use consisting of two or more single family detached dwellings on a single lot.

RESIDENCE, SINGLE FAMILY DETACHED, ONE DWELLING UNIT PER LOT. A residential use consisting of a single detached building containing one dwelling unit and located on a lot containing no other dwelling units.

RESIDENCE, TWO FAMILY. A residential use consisting of a building containing two dwelling units. If two dwelling units share a common wall, even the wall of an attached garage or porch, the dwelling units shall be considered to be located in one building.

RESIDENCE, TWO FAMILY APARTMENT. A two family residential use other than a duplex, two family conversion, or primary residence with accessory apartment.

RESIDENCE, TWO-FAMILY CONVERSION. A two-family residence resulting from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single family residence.

REST HOME. See ***FAMILY CARE HOME*** but for seven or more people.

RESTAURANT. An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

ROAD. All private ways used to provide motor vehicle access to two or more lots or two or more distinct areas or buildings in unsubdivided developments.

SERVICE STATIONS.

(1) ***TYPE I.*** An automobile service station which in addition to the retail dispensing of vehicular fuels offers retail or wholesale dispensing of fuels for farm equipment, heating oil, or natural gas and offers to perform, as an accessory use, automotive maintenance, service or repair including but not limited to the sale and installation of lubricants, tires, batteries, and similar accessories for automotive vehicles by owner representatives. May also allow as an option customer dispensing of motor fuels at certain pump islands.

(2) ***TYPE II.*** An automobile service station in which the dispensing of vehicular fuels and automotive maintenance including but not limited to wash, wax and polishing is performed primarily by individual patrons.

(3) ***TYPE III.*** A Type II automobile service station which offers or includes, as an accessory use the retail sale of merchandise or services not related to the maintenance, service or repair of automotive vehicles.

SEXUALLY ORIENTED BUSINESS. Any place defined as an “adult establishment” as defined by G.S. 14-202.10 as such statute may be amended time to time, including adult cabarets, and except the definitions of “massage business” shall not include any establishment or business where massage is practiced that is a health culb, exercise studio, hospital, physical therapy business or other similar health related business. ***SEXUALLY ORIENTED BUSINESS*** specifically includes, however, any massage business where massages are rendered by any person exhibiting specific anatomical areas and/or where massages are performed on any client's specific anatomical areas. ***SPECIFIC ANATOMICAL AREAS*** are those defined by G.S. 14- 202.10 as such statute may be amended from time to time.

SHALL. Is mandatory.

SPECIAL EVENTS. Circuses, fairs, carnivals, festivals, or other types of events that run for longer than one day but not longer than two weeks, are intended to or likely to attract substantial crowds, and are unlike the customary or usual activities generally associated with the property where the event is located.

SPECIAL USE PERMIT. A permit issued by the Board of Commissioners that authorizes the recipient to make use of property in accordance with the requirements imposed by the Board of Commissioners.

STRUCTURE. Anything constructed or erected.

SUBDIVISION, ARCHITECTURALLY INTEGRATED. A subdivision in which approval is obtained not only for the division of land into lots but also for a configuration of principal buildings to be located on such lots. The plans for an architecturally integrated subdivision shall show the dimensions, height, and location of all such buildings to the extent necessary to comply with the purpose and intent of architecturally integrated subdivisions as set forth in § 152.139.

SUBDIVISION, MAJOR. Any subdivision other than a minor subdivision.

SUBDIVISION, MINOR. A subdivision that does not involve any of the following:

(1) The creation of more than a total of three lots.

(2) The extension of public water or sewer system.

(3) The creation of new public streets.

(4) The installation of drainage improvements through one or more lots to serve one or more other lots.

SUBDIVISION. The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development and including all divisions of land involving the dedication of a new street or a change in existing street. Notwithstanding the above, the following shall not be included within this definition nor be subject to the regulations of this chapter applicable strictly to subdivisions:

(1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this chapter.

(2) The division of land into parcels greater than ten acres where no street right of way dedication is involved.

(3) The public acquisition by purchase of strips or land for widening or opening strips, or for utility easements.

(4) 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 minimum standards set forth in this chapter.

TOWN. The Town of Zebulon.

USE. The activity or function that actually takes place or is intended to take place on a lot.

VARIANCE. A grant of permission by the Board of Adjustment that authorizes the recipient to do that which, according to the strict letter of this chapter, he could not otherwise legally do.

VEHICLE ACCOMMODATION AREA. That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading areas.

VETERINARY HOSPITAL. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

WHOLESALE SALES. On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

(Ord. passed 9-8-92; amended by public hearing held 8-14-95; Am. Ord. ZA-1996-04, passed 10-7-96; Am. Ord. ZA-2000-17, passed 11-6-00)

ARTICLE II: ADMINISTRATIVE MECHANISM

§ 152.017 BOARD OF COMMISSIONERS AS GOVERNING BODY.

(A) The governing body is the Board of Commissioners of the Town. The state has delegated to the governing body the responsibility for adopting land use plans and controls. The governing body also appoints the officers and laymen involved in formulating and implementing such plans and controls. When carrying out these responsibilities, the governing body acts in its legislative capacity and seeks to protect the health, safety, morals, and general welfare of all of the citizens of the community. In addition, the state has authorized the governing body to act upon applications for certain kinds of permits, and when it grants or denies such permits the governing body acts as an administrative agency and makes quasi-judicial decisions. When it acts as an administrative agency, the governing body is subject to the rules of procedure and evidence which govern the making of such decisions. As a consequence, the amount of discretion which is vested in the governing body and the considerations upon which it may properly base its decisions under this land use code depend upon whether it is acting in a legislative or administrative capacity.

(B) The governing body has the following powers and duties in addition to any others it may now have, be given, or confer upon itself. The governing body may do the following:

(1) Adopt, amend, supplement, or repeal plans and policies for the development of the community.

(2) Adopt, amend, supplement, or repeal the text of any provisions or regulations of this chapter or the boundaries of the use districts established on the official zoning map.

(3) Hold public hearings and grant or deny petitions for special use permits as provided in § 152.038 of this chapter.

(4) Establish a reasonable schedule of fees, charges, and expenses with respect to matters under this chapter as provided in § 152.007 of this chapter.

(Ord. passed 9-8-92)

§ 152.018 THE PLANNING BOARD.

(A) In addition to any other powers and duties the Planning Board may now have or hereafter be given, the Planning Board shall have the following powers and duties.

(1) Review proposed amendments to the zoning ordinance or zoning map and prepare recommendations thereon for the governing body as provided in Article XIII of this chapter.

(2) Review petitions for special use permits and prepare recommendations thereon for the governing body as provided in § 152.039 of this chapter.

(3) Review the relationship between the comprehensive plan and this land use code, at least annually or more often if necessary or requested by the governing body and recommend to the governing body any amendments that are required to ensure that this land use code is in accordance with the comprehensive plan.

(B) All recommendations of the Planning Board shall include the Board's recommended course of action or policy, the reasons for adopting such course of action or policy, and a summary of or a citation to the evidence, testimony, studies, or other authority, if any, upon which the Board based its recommendation.

(Ord. passed 9-8-92)

§ 152.019 THE BOARD OF ADJUSTMENT.

(A) There shall be a Board of Adjustment consisting of five regular members and two alternates. Four regular members and one alternate, appointed by the Board of Commissioners of the Town, shall reside within the corporate limits. One regular member and one alternate member, appointed by the Wake County Board of Commissioners, shall reside within the Town's extra territorial jurisdiction. If despite good faith efforts, enough residents of the extra territorial planning area cannot be found to fill the seats reserved for residents of such area, then the Wake County Board of Commissioners may appoint other residents of the county (including residents of the Town) to fill these seats. If the county Board of Commissioners fails to make these appointments within 90 days after receiving a resolution from the Board of Commissioners of the Town requesting that they be made, the Board of Commissioners of the Town may make them.

(B) Board of Adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed.

(C) No person, either appointed or re-appointed by the Board of Commissioners, may serve more than three consecutive terms on the Board of Adjustment. A person who has served three consecutive terms shall still be eligible for appointment to a different board or commission, or for reappointment to the same board or commission after a lapse in service of at least one year. For those members currently serving on the Board of Adjustment or members newly appointed to fill an unexpired term, if the term they are currently serving is more than one-half expired, that appointee will still be eligible to serve three complete terms.

(D) Regular members of the Board of Adjustment may be removed by the Board of Commissioners at any time for failure to attend three consecutive meetings or for failure to attend 70% or more of the meetings within any 12 month period or for any other good cause related to performance of duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures. Upon request of the member proposed for removal, the Board of Commissioners may hold a hearing on the removal before it becomes effective.

(E) If a regular or alternate in-Town member moves outside the Town, or if an extra-territorial area regular or alternate moves outside the planning jurisdiction, that shall constitute a resignation from the board, effective upon the date a replacement is appointed.

(F) Extra-territorial planning area members may vote on all matters coming before the Board.

(G) The in-Town alternate may sit only in lieu of a regular in-Town member and the extra-territorial area alternate may sit only in lieu of the regular extra-territorial member. When so seated, alternates shall have the same powers and duties as the regular members.

(Ord. passed 9-8-92; Am. Ord. ZA-1999-09, passed 5-3-99)

§ 152.020 MEETINGS OF THE BOARD OF ADJUSTMENT.

(A) The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can take action on matters before it.

(B) The Board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in Article III, Article IV, and Article V of this chapter.

(C) All meetings of the Board shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

(Ord. passed 9-8-92)

§ 152.021 QUORUM.

(A) A quorum for the Board of Adjustment shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats). A quorum is necessary for the Board to take action.

(B) A member who has withdrawn from the meeting without being excused as provided in § 152.022 shall be counted as present for purposes of determining whether a quorum is present.

(Ord. passed 9-8-92)

§ 152.022 VOTING.

(A) Concurring vote of four-fifths of the regular membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision, or determination of the

administrator or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance (including the issuance of conditional use permits) or to grant any variance. All other actions of the board shall be taken by majority vote.

(B) Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with division (C) or has been allowed to withdraw from the meeting in accordance with division (D)

(C) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:

(1) If the member has a direct financial interest in the outcome of the matter at issue;

(2) If the matter at issue involves the member's own official conduct;

(3) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or,

(4) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgement in the public interest.

(D) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(E) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

(F) A roll call vote shall be taken upon the request of any member.

(Ord. passed 9-8-92)

§ 152.023 BOARD OF ADJUSTMENT OFFICERS.

The chairman and vice chairman of the Board of Adjustment shall be elected by the Board of Adjustment from among its members for a term of one year at the first meeting of the Board following the beginning of the fiscal year.

(Ord. passed 9-8-92)

§ 152.024 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT.

(A) The Board of Adjustment shall hear and decide:

(1) Appeals from any order, decision, requirement, or interpretation made by the land use administrator, Article IV of this chapter.

(2) Applications for conditional use permits.

(3) Applications for variances.

(4) Questions involving interpretations of the zoning map, included disputed district boundary lines and lot lines.

(5) Any other matter the Board is required to act upon by any other Town ordinance.

(B) The Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this chapter.

(Ord. passed 9-8-92)

§ 152.025 DUTIES OF THE TOWN MANAGER.

Except as otherwise specifically provided, primary responsibility for administering and enforcing this chapter lies with the Town Manager. He or she may assign these responsibilities to one or more individuals. The person or persons to whom these functions are assigned shall be referred to in this chapter as the land use administrator(s) or the administrator(s). In addition to any other duties specifically assigned by this chapter, the Town Manager or land use administrator shall do the following:

(A) Advise applicants for development on the merits of proposed applications as well as procedures, rights, and obligations under this chapter.

(B) Make interpretations on the provisions of this chapter, and appeal to the Board of Adjustment whenever he/she is unable to make certain determinations.

(C) Investigate violations of this chapter and participate in the initiation of criminal or civil proceedings against violations as provided in Article VI of this chapter.

(D) Facilitate the coordinated implementation, enforcement, and periodic review of this chapter by keeping the governing body and its officers and agencies informed of matters involving this chapter.

(Ord. passed 9-8-92)

§ 152.026 DUTIES OF THE TOWN ATTORNEY.

(A) The Town Attorney shall exercise his independent professional judgement whenever required or requested under this chapter to advise the governing body, its officers and agencies with respect to a legal question. He shall advise against any proposed acts or recommendations which in his professional judgement would be unlawful, and his advice shall be made a part of the record of the proceeding.

(B) The Town Attorney shall have the following powers and duties in addition to any others he may now have or hereafter be given. The Town Attorney shall do the following.

(1) Act in concert with the land use administrator to give notification of violations of this chapter and initiate or cause to be initiated appropriate civil or criminal proceedings against violations.

(2) Review formal petitions for amendments and recommend whether they are sufficient.

(3) Participate in hearings before the governing body.

(4) Advise and assist the Board of Adjustment during the holding of hearings on appeals, variances, and conditional uses.

(Ord. passed 9-8-92)

§ 152.027 TECHNICAL REVIEW COMMITTEE.

(A) The Technical Review Committee will have the following duties:

(1) Review of major subdivision plats for adherence to the guidelines as outlined in Chapter 152.

(2) Review of non-residential site plans to assure adherence to all applicable Town Ordinances.

(3) Review of any other issue deemed appropriate by the Planning Director.

(B) The committee will consist of the following persons or their appointed representatives:

(1) Town Manager;

(2) Planning Director (who shall act as Chair);

(3) Police Chief;

(4) Fire Chief;

(5) Public Works Director;

(6) Finance Director;

(7) Parks and Recreation Director;

(8) Appropriate representatives from any other public utility;

(9) Other persons whose attendance would be beneficial to the review process as determined by the Chair.

(C) The Technical Review Committee shall meet frequently enough to discuss any plats, plans or related issues submitted to it for review.

(Ord. ZA-1999-17, passed 5-3-99)

§§ 152.028 through 152.030 RESERVED

ARTICLE III: PERMITS AND PLATS PART I: GENERAL, SPECIAL, AND CONDITIONAL USE PERMITS

§ 152.031 PERMIT REQUIRED.

(A) Unless otherwise specifically provided, the use made of property may not be substantially changed, substantial clearing, grading, or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one of the following permits:

(1) A general use permit issued by the land use administrator;

(2) A special use permit issued by the Board of Commissioners; or

(3) A conditional use permit issued by the Board of Adjustment.

(B) All permits are issued under this chapter only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this chapter if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in Article X of this chapter, all development shall occur strictly in accordance with such approved plans and applications.

(Ord. passed 9-8-92)

§ 152.032 NO OCCUPANCY, USE, OR SALE OF LOTS UNTIL REQUIREMENTS FULFILLED.

Issuance of a general, special, or conditional use permit authorizes the recipient to commence the activity resulting in a change in use of land or, subject to obtaining a building permit, to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or to make necessary improvements to a subdivision. However, except as otherwise provided, no building may be occupied, and in case of subdivisions, no lots may be sold until all of the requirements of this chapter and all additional requirements imposed pursuant to the issuance of a conditional use or special use permit have been complied with.

(Ord. passed 9-8-92)

§ 152.033 WHO MAY SUBMIT PERMIT APPLICATIONS.

Applications for general, special, or conditional use or sign permits or minor subdivision plat approval will be accepted only from persons having the legal authority to take action in accordance with the permit or the minor subdivision plat approval. This may include owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this chapter, or

the agents of such persons who may make applications in the name of such owners, lessees, or contract vendees.

(Ord. passed 9-8-92)

§ 152.034 APPLICATIONS TO BE COMPLETE.

(A) All applications for general, special, or conditional use or sign permits must be complete before the permit-issuing authority is required to consider the application.

(B) Subject to division (C) immediately below, an application is complete when it contains all the information necessary for the permit issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this chapter.

(C) In this chapter, detailed or technical design requirements and construction specifications relating to various types of improvements such as streets, sidewalks, etc., are set forth. However, it is not necessary that these detailed or technical design drawings be provided to determine compliance, so long as sufficient information is contained in the plans to allow the permit issuing authority to evaluate the application in the light of the substantive requirements set forth in this chapter. Provided that no final construction occur until such detailed requirements are provided.

(Ord. passed 9-8-92)

§ 152.035 STAFF CONSULTATION.

(A) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this chapter, consultations between developers and agents or officers of the governing body charged with the enforcement of this chapter is encouraged or required as provided in this section, both before and during the development process.

(Ord. passed 9-8-92)

§ 152.036 GENERAL USE PERMIT.

(A) A completed application form for a general use permit shall be submitted to the land use administrator by filing a copy of the application with the administrator.

(B) The administrator shall issue the general use permit unless he finds, after reviewing the application and consulting with the applicant as provided in § 152.035, that:

(1) The required permit is not within his jurisdiction according to the Table of Permitted 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 (not including those requirements which a

variance has been granted or those the applicant is not required to comply with under the circumstances specified in Article VII of this chapter.

(Ord. passed 9-8-92)

§ 152.037 AUTHORIZING USE OR OCCUPANCY BEFORE COMPLETION OF DEVELOPMENT UNDER GENERAL USE PERMIT.

In cases when, because of weather conditions or other factors beyond the control of the general use permit recipient (exclusive of financial hardship), it would be unreasonable to require the general use permit recipient to comply with all of the requirements of this chapter prior to commencing the intended use of the property or occupying any buildings, the administrator may authorize the commencement of the intended use or the occupancy of buildings, insofar as the requirements of this chapter are concerned, if the permit recipient provides a performance bond or other security satisfactory to the administrator to ensure that all of the requirements of this chapter will be fulfilled within a reasonable period determined by the administrator, not to exceed 12 months.

(Ord. passed 9-8-92)

§ 152.038 SPECIAL AND CONDITIONAL USE PERMITS.

(A) An application for a special use permit shall be submitted to the Board of Commissioners by filing a copy of the application with the land use administrator.

(B) An application for a conditional use permit shall be submitted to the Board of Adjustment by filing a copy of the application with the land use administrator.

(C) The Board of Commissioners or the Board of Adjustment, respectively, shall not order the land use administrator to issue a permit unless it first conducts a public hearing in the manner provided in Article V of this chapter and may 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 endanger the public health, safety, or welfare;

(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 use plan, thoroughfare plan, or other plan officially adopted by the Board of Commissioners.

(Ord. passed 9-8-92)

§ 152.039 RECOMMENDATIONS ON SPECIAL USE PERMITS.

(A) Before the Board of Commissioners issues or denies a request for a special use permit, the application may be referred to the Planning Board for action in accordance with this section. At the request of the Planning Board, the Board of Commissioners may

continue the public hearing to allow the Planning Board more time to consider or reconsider the application.

(B) When presented to the Planning Board, the application shall be accompanied by a report setting the planning staff's proposed findings concerning the application's compliance with all the requirements of this chapter. If the planning staff report proposes a finding or conclusion that the application fails to comply with any requirement of this chapter, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

(C) The Planning Board shall consider the application and the attached staff report within 40 days after it has been referred to it, and may, in its discretion, hear from the applicant or members of the public.

(D) After reviewing the application, the Planning Board shall report to the Board of Commissioners with a recommendation setting its proposed findings and reasons thereof.

(E) In response to the Planning Board's recommendations, the applicant may modify his application prior to submission to the Board of Commissioners.

(Ord. passed 9-8-92)

§ 152.040 BOARD OF COMMISSIONERS ACTION ON SPECIAL USE PERMITS.

(A) After observing the applicable procedures for consideration of application for special use permit, the Board of Commissioners may, by simple majority, act on a motion to grant or deny the application.

(B) If the motion passes to grant the special use permit, the Board of Commissioners need not make further findings. If a motion passes to deny the special use permit, then specific findings shall be made, based upon the evidence submitted, in writing as to which of the requirements set forth in § 152.038 have not been met.

(Ord. passed 9-8-92)

§ 152.041 BOARD OF ADJUSTMENT ACTION ON CONDITIONAL USE PERMITS.

(A) After observing the applicable procedures for consideration of application for conditional use permit, the Board of Adjustment may, by a vote of four-fifths, act on a motion to grant or deny the application.

(B) If the motion passes to grant the conditional use permit, the Board of Adjustment need not make further findings. If a motion passes to deny the conditional use permit, then specific findings shall be made, based upon the evidence submitted, in writing as to which of the requirements set forth in § 152.038 have not been met.

(Ord. passed 9-8-92)

§ 152.042 ADDITIONAL REQUIREMENTS ON SPECIAL USE AND CONDITIONAL USE PERMITS.

(A) Subject to division (B), in granting a special or conditional use permit, the Board of Commissioners or the Board of Adjustment may attach such reasonable conditions in addition to those specified in this chapter.

(B) The permit issuing board may not attach additional conditions that modify or alter the specific requirements set forth in this ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

(C) Without limiting the foregoing, the permit issuing board may attach to a permit a condition limiting the permit to a specified duration.

(Ord. passed 9-8-92)

§ 152.043 AUTHORIZING USE, OCCUPANCY, OR SALE BEFORE COMPLETION OF DEVELOPMENT UNDER SPECIAL USE OR CONDITIONAL USE PERMITS.

(A) In cases when, because of weather conditions or other factors beyond the control of the special use or conditional use recipient, exclusive of financial hardship, it would be unreasonable to require the permit recipient to comply with all of the requirements of this chapter before commencing the intended use of the property or occupying any buildings, the permit issuing board may authorize the commencement of the intended use or the occupancy of buildings if the permit recipient provides a performance bond or other security satisfactory to the board to ensure that all of theses requirements will be fulfilled within a reasonable period not to exceed 15 months.

(B) When the Board imposes additional requirements upon the permit recipient in accordance with § 152.042 or when the developer proposes in the plans submitted to install amenities beyond those required by this chapter, the Board may authorize the permittee to commence the intended use of the property or to occupy any building before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed, and it concludes that compliance will be ensured as the result of any one or more of the following:

(1) A performance bond or other security satisfactory to the Board is furnished.

(2) A condition is imposed establishing an automatic expiration date on the permit, thereby, ensuring that the permit recipient's compliance will be reviewed when the application for renewal is made.

(3) The nature of the requirements or amenities is such that sufficient assurance of compliance is given in Article V of this chapter.

(Ord. passed 9-8-92)

§ 152.044 COMPLETING DEVELOPMENT IN PHASES.

(A) If a development is constructed in phases or stages in accordance with this section, then, subject to division (C), the provisions of all other articles and sections of this chapter shall apply to each phase as if it were the entire development.

(B) As a prerequisite to taking advantage of the provisions of this section, the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this chapter will be satisfied with respect to each phase or stage. The Board of Commissioners will be the approving authority, either by establishing ordinance or policy, or by delegating this responsibility to one or more of its officers or agencies.

(C) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development, then, as part of the application for development approval, the developer shall submit a proposed schedule for completion of such improvements.

(Ord. passed 9-8-92)

§ 152.045 EXPIRATION OF PERMITS.

(A) General use, special use, and conditional use and sign permits shall expire automatically, unless a zoning right has been vested where applicable, if, within one year after the issuance of such permits:

(1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or,

(2) Less than ten percent of the total cost of all construction, erection, alteration, excavation, and demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development (see § 152.044) this requirement shall apply only to the first phase.

(B) The permit issuing authority may extend for a period up to six months the date when a permit would otherwise expire pursuant to division (A) if it concludes that the permit has not yet expired, the permit recipient has proceeded with due diligence and in good faith, and condition have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to six months upon the same findings. All such extensions may be granted without resort to formal processes and fees required for new permits.

(C) Notwithstanding any of the provisions of Article VII of this chapter, this section shall be applicable to permits issued prior to the date this section becomes effective.

(Ord. passed 9-8-92)

§ 152.046 EFFECT OF PERMIT ON SUCCESSORS AND ASSIGNS.

General use, special use, and conditional use permits authorize permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then no person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit.

(Ord. passed 9-8-92)

§ 152.047 AMENDMENTS TO AND MODIFICATIONS OF PERMITS.

(A) Insignificant deviations from the permit (including approved plans) issued by the Board of Commissioners, the Board of Adjustment, or the Land Use Administrator are permissible and the administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(B) The land use administrator shall determine whether amendments to and modifications of permits are insignificant.

(C) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Commissioners or the Board of Adjustment, new conditions may be imposed in accordance with § 152.042, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

(D) A developer requesting approval of changes shall submit a written request for such approval to the land use administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

(Ord. passed 9-8-92)

§ 152.048 RECONSIDERATION OF BOARD ACTION.

Whenever the Board of Commissioners disapproves a special use permit application, or the Board of Adjustment disapproves an application for a conditional use permit or a variance, on any basis, such action can only be reconsidered by the respective Board no earlier than 6 months after the original decision and only if the applicant clearly demonstrates, in personal appearance or written petition, that:

(A) Circumstance affecting the property that is the subject of the application have substantially changed; or,

(B) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the land use administrator.

(Ord. passed 9-8-92)

§ 152.049 MAINTENANCE OF COMMON AREAS, IMPROVEMENTS, AND FACILITIES.

The recipient of any zoning, special use, conditional use, or sign permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this chapter or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. Without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

(Ord. passed 9-8-92)

§ 152.050 MOBILE HOME PARKS.

(A) *Preliminary plan requirements.* The preliminary plan shall be drawn to a scale of not less than one inch equals 200 feet and shall show the following on one or more sheets.

(1) All of the information required by the County Board of Health for a final plan submitted to them regardless of whether or not the plan must be submitted to them.

(2) The name of the mobile home park, the names and addresses of the owner and the designer of the park.

(3) Date, approximate north arrow, and scale.

(4) The boundary line of the tract with accurate linear and angular dimensions drawn to scale and the area of the park in square feet or acres.

(5) For parks over five acres, a topographic map showing existing and proposed contours of one foot referred to sea level datum.

(6) A location map at a scale of no less than one inch equals 1,000 feet, showing the location of the mobile home park.

(7) The locations of existing and platted property lines, streets, buildings, water courses, railroads, bridges, water mains, sewers, culverts, drainpipes, and any utility easements, both on the land to be developed into a mobile home park and on land immediately adjoining. The names of adjoining subdivisions or the names of recorded owners of adjoining parcels of unsubdivided land.

(8) The proposed names of streets, the location of recreation areas, parks, and open spaces.

(9) The type of road surfacing within the park area, the pavement design standards, natural and proposed road grades, and design engineering data for all corners and curves.

(10) Proposed storm drainage for each manufactured home space and for the entire mobile home park including all proposed grading and sewer installations which may be deemed necessary to ensure proper drainage and the elimination of ponding.

(11) Location and number of garbage receptacles.

(12) A detailed plan for all electrical installations prepared to meet the North Carolina State Building Code, Volume IV.

(13) If inspection by the County Health Department is required, a written statement from the County Health Department that a preliminary plan was submitted to them and that according to their initial inspection the site was deemed to be suitable for mobile home court use.

(14) The proposed location and type of buffers surrounding the mobile home park.

(15) Location, intensity, and type of park lighting.

(16) Any other information related to the mobile home park which the Town Manager, Planning Board, or governing body deems necessary in reviewing the request.

(B) *Planning Board review.* Upon receiving the petition for the special use permit, the Town Manager shall forthwith transmit the petition to the Planning Board for review. The Planning Board shall review the petition at or before its next regularly scheduled meeting which follows at least seven days after the Town Manager receives the special use petition. The Planning Board shall be given 40 days after its first consideration to review the petition. The Board of Commissioners shall not hold a hearing on the petition until it has received a written Planning Board recommendation or the required time has elapsed.

(C) *Decision concerning a special use permit.* The governing body shall not grant a special use permit for a mobile home park unless it determines that:

(1) The proposed development is a mobile home park as defined in § 152.016;

(2) The Town Manager certifies that the application and plans are in compliance with divisions (A) and (E) of this section, or the petitioner states faces at the hearing which prove the plans are in compliance, or the special use permit is issued conditionally on compliance with these divisions;

(3) The standards in this chapter have been satisfied to the extent they are applicable;

(4) A written recommendation from the Planning Board has been received or the time for receiving such recommendations has elapsed. If the governing body denies the petition, it shall make specific findings concerning which conditions have not been met.

(D) *Final plan requirements.* Before a certificate of occupancy is issued, a final plan containing the following information shall be submitted to the Town Manager. The final plan shall be drawn to a scale of not less than one inch equals 200 feet and shall contain the following.

(1) A site plan of the park as built drawn accurately and to scale.

(2) The name of the mobile home park, the names and addresses of the owner and designer of the park.

(3) Date, approximate north arrow, and scale.

(4) The boundary line of the tract with accurate linear and angular dimensions drawn to scale.

(5) A statement from the County Health Department that any necessary improvement permits have been issued.

(E) *Standards for mobile home parks.*

(1) All manufactured homes will be located on individual manufactured home spaces. Spaces served by municipal or community water and sewer systems shall be at least 8,000 square feet of ground area. Minimum space size for manufactured homes using septic tanks shall be as determined by the County Sanitarian, but in no case less than 10,000 square feet whether or not a municipal or community water supply is available.

(2) Every manufactured home space will be at least 75 feet wide and clearly delineated. There will be at least 15 feet clearance between manufactured homes from every in-park alignment and 25 feet adjacent to entrance streets. No manufactured home will be located less than 15 feet from any building within the park, no closer than 15 feet from any exterior boundary line of the park and no closer than 15 feet to the edge of any interior street right-of-way.

(3) No manufactured home space will have unobstructed access to public streets and highways except through an interior drive.

(4) Any mobile home park with more than four spaces will have a visual buffer (such as neatly trimmed shrubbery) six feet in height surrounding the park.

(5) Combination usage of travel-type trailers and conventional manufactured homes shall not be allowed. The developer may provide vacant spaces for travel-type trailer spaces on a semi-permanent basis (not more than 60 days during one calendar year), as long as they meet all state, county, and municipal regulations, and can be served with sanitary facilities and are kept in a separate area from the permanent residents.

(6) Each manufactured home shall be required by the park director to install tiedown apparatus for each unit. These tiedowns shall be in accordance with the manufactured home manufacturer's instructions if the tiedown system is designed by a registered architect or engineer. If no set of instructions is available or if the system has not been designed by a licensed architect or engineer, then it shall be designed in accordance with the North Carolina Department of Insurance manufactured home regulations.

(7) Any structural additions to manufactured homes other than those which are built as part of the unit and designed to extend from it shall be erected only after a building permit shall have been obtained and approved, and such additions shall conform to the building code

of the governing unit, where applicable, or shall meet the standards of special regulatory amendments adopted with respect to such additions. The building permit shall specify whether each structural addition may remain permanently, must be removed when the manufactured home is removed on a permanent or semi-permanent basis, or must be removed within specified length of time after the manufactured home is removed from the park or site. Structural alterations existing at the time of passage of this chapter shall be removed within 30 days after the manufactured home which they serve is moved unless attached to another manufactured home on the same site within that period.

(8) In each mobile home park, the permittee or duly authorized attendant or caretaker shall be in charge at all times to keep the mobile home park, its facilities, and equipment in a clean, orderly, safe, sanitary condition.

(9) Existing mobile home parks which provide manufactured home spaces having a width or area less than that herein above described, may continue to operate with spaces of existing width and area, but in no event shall any such nonconforming mobile home park be allowed to expand unless such extensions meets the requirement of this chapter. Any such nonconforming park area shall be required to properly conform whenever the park area is over one-half void of permanent manufactured homes on available sites.

(10) Permitted uses in mobile home parks shall be as follows.

(a) Manufactured homes.

(b) Structural additions, if the requirements of subdivision (11) above are met.

(c) Administrative office to serve park.

(d) Coin-operated laundries to serve park only if the laundry is attached to municipal sewer facilities.

(e) Private recreational facilities.

(11) The mobile home park shall be located in an area and on soil that is not susceptible to flooding. The park shall be adequately graded so as to prevent any water accumulation on the premises. All ditch banks shall be sloped and seeded in order to ensure proper run-off and an adequate drainage pattern to avoid erosion and the formation of gullies

(12) Lighting shall be designed to produce a minimum of 0.1 footcandle at street level throughout the system. Potentially hazardous locations, such as major street intersections and steps or stepped ramps shall be individually illuminated with a minimum of 0.3 footcandle.

(13) Mobile home parks which are not required to receive approval from the County Health Department shall nevertheless meet all substantive requirements of their regulations.

(14) A storage building sufficient for the entire park shall be provided for the storage of boats, motorcycles, and similar items.

(`76 Code, § 18-121) (Ord., passed 10-15-81; Am. Ord. 1987-13, passed 6-15-87)

Statutory reference:

Manufactured housing and mobile homes, see G.S. § 143-143.8 et seq.

§§ 152.051 through 152.052 RESERVED

PART II: SUBDIVISIONS

§ 152.053 REGULATION OF SUBDIVISIONS.

(A) Minor subdivisions. Minor subdivisions require a one-step administrative approval process. Physical improvements may not begin until final plat approval by the Land Use Administrator and the Plat Review Officer. Developers of minor subdivisions should also refer to § 152.055 for additional regulations.

(B) Major subdivisions. Major subdivisions are subject to a two-step approval process, requiring both preliminary and final plat approvals. Physical improvements to the land to be subdivided may not commence except with a special use permit issued by the Board of Commissioners in accordance with § 152.038 and other applicable sections contained herein. Developers of major subdivisions should also refer to § 152.056 for additional regulations.

(C) Any subdivision containing Special Flood Hazard Areas must comply with § 152.151.

(D) Any subdivision containing watershed resources must comply with § 152.121(B).

(Ord. passed 9-8-92; Am. Ord. ZA-1999-04, passed 5-3-99; Am. Ord. ZA-2000-01, passed 2-7- 00)

§ 152.054 NO SUBDIVISION WITHOUT PLAT APPROVAL.

(A) No person may subdivide his land except in accordance with all of the provisions of this chapter. In particular, no person may subdivide his land unless and until final plat of the subdivision has been approved in accordance with the provisions of this Part and recorded in the Wake County Registry.

(B) The Wake County Register of Deeds may not record a plat of any subdivision within the Town's planning jurisdiction unless the plat has been approved in accordance with provisions of this chapter.

(Ord. passed 9-8-92)

§ 152.055 MINOR SUBDIVISION APPROVAL.

(A) The land use administrator shall approve or disapprove minor subdivision final plats in accordance with the provisions of this section.

(B) The applicant for minor subdivision plat approval, before complying with division (C) immediately below, shall submit a sketch plan to the land use administrator for a determination of whether the approval process authorized by this section can be utilized. The

land use administrator may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all lots previously subdivided from that tract of land within the previous five years.

(C) Applicants for minor subdivision approval shall submit to the land use administrator a copy of the plat conforming to the requirements set forth in division (D) of this section (as well as two prints of such plat), except that a minor subdivision plat shall contain the following certificates in lieu of those required in § 152.056:

(1) *Certificate of Ownership*:

I hereby certify that I am the owner of the property described hereon, which property is within the subdivision regulation jurisdiction of the Town of Zebulon, and that I freely adopt this plan of subdivision.

_____ _____

Owner Date

(2) *Certificate of Approval*:

I hereby certify that the minor subdivision shown on this plat does not involve the creation of new public streets or any change in existing public streets, that the subdivision shown is in all respects in compliance with Chapter 152 of the Land Use Ordinance of the Town of Zebulon, and that therefore this plat has been approved by the Land Use Administrator of the Town of Zebulon, subject to its being recorded in the Office of the Register of Deeds of Wake County within 60 days of the date below.

_____ _____

Date Land Use Adm.

(3) A certificate of survey and accuracy in the form stated in § 152.056.

(4) State of North Carolina

County of Wake

I, _____, Review Officer of the Town of Zebulon, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

_____

Review Officer Date

(D) Not more than a total of three lots may be created out of one tract using the minor subdivision plat approval process, regardless of whether the lots are created at one time or over an extended period of time.

(Ord. passed 9-8-92; Am. Ord. ZA-1999-05, passed 5-3-99)

§ 152.056 MAJOR SUBDIVISION APPROVAL PROCESS.

(A) The governing body shall approve or disapprove major subdivision final plat in accordance with the provisions of this section.

(B) The applicant for major subdivision plat approval shall submit 20 copies of the preliminary plat to the Land Use Administrator for review by the Technical Review Committee. Comments made by the Technical Review Committee will then be forwarded to the Planning Board and Board of Commissioners.

(C) The administrator shall submit copies of the preliminary plat to the Planning Board for review and recommendation at its next regular meeting following the transmittal of the plat by the developer, and having allowed sufficient time for the administrator to review and prepare a staff report on compliance with the provisions of this section.

(D) In addition to the appropriate endorsements as provided herein, the following information shall be contained on all plats:

(1) The name of the subdivision, which shall not duplicate the name of any existing subdivision as recorded in the Wake County Registry;

(2) The name of the subdivision owner or owners;

(3) The township, county, and state where the subdivision is located;

(4) The name of the surveyor and his/her registration number and the date of the survey;

(5) The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph;

(6) An accurately positioned north arrow coordinated with any bearings shown on the plat. Indication shall be made as to whether the north index is true, magnetic, North Carolina grid, or is referenced to old deed or plat bearings;

(7) The azimuth or courses and distances as surveyed of every line shall be shown. Distances shall be in feet and fractions thereof.

(8) All plat lines shall be by horizontal measurements. All information shown on the plat shall be correctly plotted to the scale shown. Enlargement of portions of plat are acceptable in the interest of clarity, where shown inserts on the same sheet. Where North Carolina grid is used the grid factor shall be shown on the face of the plat and a designation as to whether horizontal ground distances or grid distances were used.

(9) Where a boundary is formed by a curved line, the following data must be given: actual survey data from the point of curvature to the point of tangency shall be shown as standard curve data or as a traverse of bearings and distances around the curve. If standard curve data is used the bearing and distance of the long chord (from point of curvature to point of tangency) must be shown on the face of the plat.

(10) Where a subdivision of land is set out on the plat, all streets and lots shall be carefully plotted with dimension lines indicating widths and all other information pertinent to reestablishing all lines in the field. This shall include bearings and distances sufficient to form a continuous closure of the entire perimeter.

(11) Where control corners have been established in compliance with the General Statutes of North Carolina, the location and pertinent information as required in the reference statute shall be plotted on the plat. All other corners which are marked by monument or natural object shall be so identified on all plats, and all corners of adjacent owners in the boundary lines of the subject tract which are marked by monument or natural object must be show with a distance from one or more of the subject tract's corners.

(12) The names of adjacent landowners along with lot, block or parcel identifier and subdivision designations or other legal reference where applicable, shall be shown where they could be determined by the surveyor.

(13) All visible and apparent rights-of-way, watercourse, utilities, roadways, and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown.

(14) Where the plat is the result of a survey, one or more corners shall, by a system of azimuths or courses and distances, be accurately tied to and coordinated with a monument of some United States or State Agency survey system, such as National Geodetic Survey system, where such monument is within 2,000 feet of said corner. Where the North Carolina Grid System coordinates of said monument are on file in the North Carolina Department of Natural Resources and Community Development, the coordinates of the referenced corner shall be computed and shown in X (easting) and Y (northing) ordinates on the map. In the absence of Grid Control, other appropriate natural monuments or landmarks shall be used.

(15) A vicinity map shall appear on the face of the plat.

(16) Any other information that may be required by the land use administrator.

(17) Any land area or parcel depicted on a plat that contains any amount of floodway, floodway fringe or area of shallow flooding must clearly denote such with an asterisk (or other similar symbol) within the boundaries of that parcel on the preliminary and final plat. Furthermore a note must then be included on the plat stating the nature of the special identification and noting the potential risk of flooding as well as informing the reader that any structure erected or constructed on said parcels will require elevation certification and foundation zoning inspections.

(18) Identify any feature, natural or manmade, such as wetlands, watercourses, topography, easements, rights-of-way, water bodies, flood hazard areas, water impoundments, watershed or drainageway buffers that might in any way effect the suitability of that land for development.

(E) The Planning Board may recommend approval, conditional approval, or disapproval of the preliminary plat within 40 days after its first consideration of the plat.

(F) If the Planning Board recommends disapproval of the preliminary plat, the developer may make the recommended changes and submit a revised plat, or appeal the planning board's recommendations to the Board of Commissioners.

(G) After receiving the Planning Board's recommendations, or within 40 days after the submission of the preliminary plat, the Board of Commissioners may approve or disapprove the preliminary plat. If the Board disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing.

(H) Upon approval of the preliminary plat, the subdivider may proceed with the preparation of the final plat and installation of or arrangement for required improvements specified in this chapter. Prior to approval of a final plat, the subdivider shall have installed the specified improvements or guaranteed their installation as provided herein. No final plat will be accepted by the Board of Commissioners unless accompanied by written notice by the Town Clerk acknowledging compliance with the improvement and guarantee standards of this chapter. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at the time. Such portion shall conform to all requirements of this chapter.

(I) The final plat shall be submitted directly to the Board of Commissioners and shall not be reviewed by the Planning Board unless specifically requested by the Board of Commissioners.

(Ord. passed 9-8-92; Am. Ord. ZA-1993-01, passed 8-2-93; Am. Ord. ZA-2000-02, passed 2-7- 00)

§ 152.057 ENDORSEMENTS ON MAJOR SUBDIVISION PLATS.

All major subdivision plat shall contain the endorsements listed below:

(A) *Certificate of Approval*:

I hereby certify that the subdivision shown hereon has been found to comply with the Subdivision Regulations of the Town of Zebulon, North Carolina, and that this plat has been approved by the Board of Commissioners of the Town of Zebulon for recording in the office of the Register of Deeds of Wake County.

_____

Mayor

Zebulon, North Carolina

(B) *Certificate of Ownership and Dedication*:

I hereby certify that I am the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of the Town of Zebulon, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, open space, and easements, except those specifically indicated as private, and that I will maintain all such areas until offer of dedication is accepted by the

appropriate public authority. All property show on this plat as dedicated for a public uses shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Board of Commissioners of the Town of Zebulon in the public interest.

_____ _____

Date Owner

_____

(notarized)

(C) *Certificate of Survey and Accuracy*:

I hereby certify that this map (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) a deed description recorded in Book ___, Page __, of the Wake County Register of Deeds; that the error of closure as calculated by latitudes and departures is 1:_; that the boundaries not surveyed are shown as broken lines plotted from information found in Book __, Page __, and that this map was prepared in accordance with G.S. § 47-30 as amended. Witness my original signature, registration number and seal this _day of ____, 19_.

(D) State of North Carolina

County of Wake

I, _____, Review Officer of the Town of Zebulon, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

_____

Review Officer Date

(Ord. passed 9-8-92; Am. Ord. ZA-1999-06, passed 5-3-99)

§ 152.058 AUTHORIZING USE, OCCUPANCY, OR SALE OF LOTS BEFORE COMPLETION OF DEVELOPMENT.

The Board of Commissioners may authorize final plat approval and the sale of lots before all the requirements of this chapter are fulfilled if the subdivider provides a performance bond or other security satisfactory to the Board to ensure that all of these requirements will be fulfilled within not more than 12 months after final plat approval.

(Ord. passed 9-8-92)

§ 152.059 PLAT APPROVAL NOT ACCEPTANCE OF DEDICATION OFFERS.

Approval of a plat does not constitute acceptance by the Town of the offer of dedication of any streets, sidewalks, parks, or other public facilities show on a plat. However, the Town

may accept any such offer of dedication by resolution of the Board of Commissioners or by actually exercising control over maintaining such facilities.

(Ord. passed 9-8-92)

PART: III ZONING VESTED RIGHTS

§ 152.060 VESTED RIGHTS.

(A) The purpose of this section is to implement the provisions of G.S. § 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of site specific development plan.

(B) Vested rights may be established upon approval by the permit issuing authority designated under this chapter for purposes of obtaining one of the following zoning or land use permits which constitutes site specific development:

(1) Special use permit; and

(2) Conditional use permit.

(C) Notwithstanding the foregoing, neither a variance, a sketch plan, a site plan for a mobile home in a non-mobile home district, nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels or property shall constitute a site specific development plan.

(Ord. passed 9-8-92)

§ 152.061 ESTABLISHMENT OF A ZONING VESTED RIGHT.

(A) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the Board of Commissioners for special use permits and the Board of Adjustment for conditional use permit of a site specific development plan, following notice and public hearing to obtain the applicable permit.

(B) The approving authority may approve the site specific development plan unless it finds that the plan will not meet the conditions outlined in § 152.038.

(C) A site specific development plan shall be deemed approved upon the effective date of the granting of the special or conditional use permit.

(D) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to site specific development plan upon the expiration or termination of the vested right in accordance with this section.

(E) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

(Ord. passed 9-8-92)

§ 152.062 APPROVAL PROCEDURE.

(A) In order for a zoning vested right to be established upon approval of site specific development plan, the applicant must indicate at the time of the application of a special or conditional use permit that a zoning vested right is being sought.

(B) Each map, site plan, plat or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S. § 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."

(C) Following the establishment of such vested right, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original.

(D) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with the applicable terms and conditions of the approval or the zoning ordinance.

(Ord. passed 9-8-92)

§ 152.063 DURATION.

(A) A zoning right that has been vested as provided in this section shall remain vested for a period of two years and unambiguously provided otherwise pursuant to division (B) immediately below. This vesting shall not be extended by any amendments or modifications to a site specific plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

(B) Notwithstanding the provisions of division (A), the permit issuing authority may provide that rights shall be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size of the development, the level of investment, the need for a desirability of the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the permit issuing authority at the time the site specific development plan is approved.

(C) If the applicant fails to seek zoning vested rights at the time of application for special use or conditional use permit, he may separately apply for zoning vested right on site specific development and may receive approval after due notification and public hearing as provided in Article V.

(D) Upon issuance of a building permit, the expiration provisions of G.S. § 160A-418 and the revocation provisions of G.S. § 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

(Ord. passed 9-8-92)

§ 152.064 TERMINATION.

A zoning right that has been vested as provided in this section shall terminate:

(A) At the end of the applicable vesting period with respect to buildings and uses for which no valid build permit applications have been filed;

(B) With written consent of the affected landowner;

(C) Upon findings by the Board of Commissioners, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;

(D) Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the Town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;

(E) Upon findings by the governing body, by ordinance after notice and hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the permit issuing body of the site specific development plan; or

(F) Upon enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the permit issuing body may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

(Ord. passed 9-8-92)

§ 152.065 VOLUNTARY ANNEXATION.

A petition for annexation filed with the Town under G.S. §§ 160A-31 or 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. §§ 160A-385.1 or 160A-344.1. A statement that declares that no zoning right has been established under G.S. §§ 160A-385.1 or 160A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

(Ord. passed 9-8-92)

§ 152.066 LIMITATIONS.

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. § 160A-385.1.

(Ord. passed 9-8-92)

§ 152.067 REPEALER.

In the event that G.S. § 160A-385.1 is repealed, this chapter shall be deemed repealed and the provisions hereof no longer effective.

(Ord. passed 9-8-92)

§ 152.068 EFFECTIVE DATE.

This section shall be effective July 1, 1992 and shall only apply to site specific development plans approved on or after that date.

(Ord. passed 9-8-92)

§§ 152.069 through 152.071 RESERVED

ARTICLE IV APPEALS, VARIANCES, INTERPRETATIONS

§ 152.072 APPEALS.

(A) An appeal from any final order or decision of the land use administrator may be taken to the Board of Adjustment by any person aggrieved. An appeal is taken by filing with the administrator and the Board of Adjustment a written notice of appeal specifying the grounds therefor. A notice of appeal shall be considered filed with the administrator and the board of adjustment when delivered to the Town Clerk.

(B) An appeal made 30 days after the date of the decision or order appealed from will be considered invalid.

(C) Whenever an appeal is filed, the administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record relating to the action appealed from.

(D) An appeal stays all actions by the administrator seeking enforcement of or compliance with the order or decision appealed from, unless the administrator certifies to the Board of Adjustment that, because of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the Board of Adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the administrator.

(E) The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board shall have all powers of the officer from whom the appeal is taken.

(Ord. passed 9-8-92)

§ 152.073 VARIANCES.

(A) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the administrator in the Town Hall. Applications shall be handled in the same manner as applications for conditional use permits in conformity with the provisions of §§ 152.033 and 152.034.

(B) A variance may be granted by the Board of Adjustment if it concludes that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting this variance, the spirit of the ordinance will be observed, public health, safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds that:

(1) If the applicant complies strictly with the provisions of the ordinance, he can make no reasonable use of his property;

(2) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;

(3) The hardship relates to the applicant's land, rather than personal circumstances;

(4) The hardship is unique, or nearly so, rather than one shared by many surrounding properties;

(5) The hardship is not the result of the applicant's own actions, and,

(6) The variance will neither result in the extension of a nonconforming situation in violation of Article VII nor authorize the initiation of a nonconforming use of land.

(C) In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

(D) A variance may be issued for an indefinite duration or for a specified duration only.

(E) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirements of this chapter.

(Ord. passed 9-8-92)

§ 152.074 INTERPRETATIONS.

(A) The Board of Adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the land use administrator, they shall be handled as provided in § 152.072.

(B) An application for a map interpretation shall be submitted to the Board of Adjustment by filing a copy with the administrator in the Town Hall. The application shall contain sufficient information to enable the Board to make the necessary interpretation.

(C) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines.

(2) Boundaries indicated as approximately following lot lines, Town limits or extraterritorial boundary lines, shall be construed as following such lines, limits, or boundaries.

(3) Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement, using the scale of the Official Zoning Map.

(4) Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

(D) Interpretations of floodway and floodplain boundary lines may be made by the administrator as provided in § 152.149.

(Ord. passed 9-8-92)

§ 152.075 BOARD ACTION ON APPEALS AND VARIANCES.

(A) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the four-fifths vote necessary for adoption, the then a motion to uphold the decision appealed from shall be in order.

(B) Before granting a variance, the Board must take a separate vote and vote affirmatively (by a four-fifths majority) as provided in § 152.022, on each of the six required findings stated in § 152.073 (B). Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in § 152.073(B) shall include a statement of the specific reasons or findings of fact supporting such motion.

(C) A motion to deny a variance may be made on the basis that any one or more of the six criteria set forth in § 152.073(B) are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or

findings of fact that support it. This motion is adopted as the Board's decision if support by more than one fifth of the Board's membership (excluding vacant seats).

(Ord. passed 9-8-92)

§§ 152.076 through 152.081 RESERVED

ARTICLE V PROCEDURES FOR PUBLIC HEARING

§ 152.082 HEARING REQUIRED ON APPEALS, APPLICATIONS AND AMENDMENTS.

(A) Before making a decision on an appeal, application for variance, special use permit, conditional use permit, petition to revoke a permit, or petition to amend the Official Zoning Map or the land use ordinance, the Board of Commissioners or the Board of Adjustment, respectively, shall hold a hearing on the appeal, application, or petition. When the hearing is to be conducted by the Board of Commissioners, the planning board may sit jointly at the hearing.

(B) Subject to division (C), the hearing shall be open to the public and all persons interested in the outcome of the appeal, application, or petition shall be given an opportunity to present evidence and arguments and ask questions of persons who testify. The Order of testimony or presentations shall be as follows:

(1) Proponents of the appeal, application, or petition, including any one in a representative capacity.

(2) Opponents of the appeal, application, or petition, including any one in a representative capacity.

(3) Anyone else who wishes to speak for or against the appeal, application, or petition, or wishes to give other relevant testimony or evidence as it relates to the hearing.

(4) Anyone who wishes to ask questions of anyone else who give testimony or presented evidence.

(C) The Board of Commissioners or the Board of Adjustment may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay.

(D) The Hearing Board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more will elapse between hearing dates.

(Ord. passed 9-8-92; Am. Ord. ZA-1993-01, passed 8-2-93)

§ 152.083 NOTICE OF HEARING.

(A) The administrator shall give notice of any hearing required by § 152.082 (A) as follows:

(1) Notice shall be given to the appellant, applicant or petitioner and any other person who makes written requests for such notice by mailing such persons a written notice not later than ten days before the hearing.

(2) When the hearing involves a minor map amendment as defined in § 152.280(B) notice shall be given to neighboring property owners by mailing a written notice not later than 20 days before the hearing to those persons who have listed for taxation real property any portions of which is located within 150 feet of the lot that is the subject of the application, appeal, or petition. Notice shall also be given by prominently posting signs in the vicinity of the property that is the subject of the proposed action. Such signs shall be posted not less than seven days prior to the hearing.

(3) Notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In compounding such period, the day of publication is not to be included but the day of the hearing shall be included.

(4) The notice required by this section shall state the date, time, and place of the hearing, reasonably describe the nature of the appeal, application, or petitioner including, if applicable, a brief description of the that is the subject, and summary of the action requested or proposed.

(B) Any defect or omission in notice other than that required by the General Statutes shall not impair the validity of the public hearing in regard to a petition or an amendment.

(Ord. passed 9-8-92; Am. Ord. ZA-1993-01, passed 8-2-93; Am. Ord. ZA-1999-08, passed 5-3- 99)

§ 152.084 MODIFICATION OF APPLICATION AT HEARING.

(A) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Commissioners or Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.

(B) Unless such modifications are so substantial or extensive that the board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the administrator.

(Ord. passed 9-8-92)

§ 152.085 RECORD.

A tape recording shall be made of all hearings required by this Article, and such recording shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.

(Ord. passed 9-8-92)

§ 152.086 WRITTEN DECISION.

(A) Any decision made by the Board of Commissioners or Board of Adjustment regarding an appeal, variance, issuance or revocation of a permit shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for copy.

(B) In addition to a statement of the Board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board's findings and conclusions, as well as supporting reasons or facts, whenever this chapter requires the same as a prerequisite to taking action.

(Ord. passed 9-8-92)

§§ 152.087 through 152.091 RESERVED

ARTICLE VI ENFORCEMENT AND REVIEW

§ 152.093 COMPLAINTS REGARDING VIOLATIONS.

Whenever the administrator receives a written, signed complaint alleging a violation of this chapter, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

(Ord. passed 9-8-92)

§ 152.094 PERSONS LIABLE.

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this chapter may be held responsible for the violation and suffer the penalties and be subject to remedies herein provided.

(Ord. passed 9-8-92)

§ 152.095 PROCEDURES UPON DISCOVERY OF VIOLATIONS.

(A) (1) If the administrator finds any provision of this chapter is being violated, he shall send a written notice to the person responsible for such violation. The letter will include:

(a) A picture of the violation if applicable.

(b) The ordinance that has been violated.

(c) The allotted time given to abate the violation.

(2) Allotted time to rectify violation from the date of notification are as follows:

(a) Trash /rubbish: 7 days.

(b) High grass/weeds: 7 days.

(c) Junked, nuisance or abandoned cars: 15 days.

(3) All other violations will be given abatement deadlines at the discretion of the land use administrator.

(B) The final written notice (written notice may be the final notice) shall state what action the administrator intends to make if the violation is not corrected within the allotted time. The final written notice shall advise that the administrator's decision or order may be appealed to the Board of Adjustments in accordance with § 152.072.

(C) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety, or welfare, the administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in § 152.096.

(D) Failure to comply with the violation notification will result in authorization of the proper town department to correct the violation and/or fine the violator exacting punitive remedy as provided by law.

The owner of the property on which the violation exists will be responsible for compensation of cost incurred by the town.

(Ord. passed 9-8-92; Am. Ord. ZA-2000-10, passed 5-1-00)

§ 152.096 PENALTIES AND REMEDIES FOR VIOLATIONS.

(A) Violations of the provisions of this chapter or failure to comply with any of its requirement, including violations of any conditions and safeguards established in connection with grants of variances or special use or conditional use permits, shall constitute a misdemeanor, punishable by a fine and/or maximum imprisonment as follows:

Use Violations	$100	30 days
Compliance Violation	$200	60 days
Nuisance Violation	$300	90 days
Public Health & Safety	$400	120 days

(B) For purposes of this section a

(1) use violation is a violation involving use that is expressly prohibited or not listed as a permissible use in the zoning district in which it is located.

(2) compliance violation is a violation involving a failure to comply with development standards or standards associated with the use of property in the zoning district in which it is located.

(3) nuisance violation is a violation involving an activity which is judged to be a public nuisance.

(4) public health and safety violation involves any activity which clearly endangers the public health and/or safety.

(C) Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special use or conditional use permits, shall also subject the offender to a civil penalty of $50. If the offender fails to pay this penalty within 30 days after being cited for a violation, the penalty may be recovered by the Town in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with § 152.095 and did not take an appeal to the Board of Adjustment within the prescribed time.

(D) This chapter may also be enforce by any appropriate equitable action.

(E) Each day that any violation continues after notification by the administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

(F) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this chapter.

(G) Failure to comply with the violation notification will result in authorization of the proper town department to correct the violation and/or fine the violator exacting punitive remedy as provided by law. The owner of the property on which the violation exists will be responsible for compensation of cost incurred by the town.

(Ord. passed 9-8-92; Am. Ord. ZA-1993-01, passed 8-2-93; Am. Ord. ZA-2000-11, passed 5-1- 00)

§ 152.097 PERMIT REVOCATION.

(A) A permit issued under any of the provisions in this chapter may be revoked by the permit-issuing authority in accordance with the provisions of this section if the permit recipient fails to develop or maintain the property in accordance with plans submitted, the requirements of this chapter, or any additional requirements lawfully imposed by the permit issuing board.

(B) Before a conditional use or special use permit may be revoked, all of the notice and public hearing and other requirements under Article V shall be complied with. The notice shall inform the permit recipient of the alleged grounds for revocation.

(1) The burden of presenting evidence sufficient to authorize the permit- issuing authority to conclude that a permit should be revoked for any of the reasons set forth in division (A) shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.

(2) A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

(C) Before a general use or sign permit may be revoked, the administrator shall give the permit recipient ten days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the administrator shall provide to the permittee a written statement of the decision and the reasons therefor.

(D) No person may continue to make use of land or buildings in the manner authorized by any permit after that permit has been revoked.

(Ord. passed 9-8-92)

§ 152.098 CITATION.

In addition to the remedies cited for criminal violations of the zoning ordinance, the provisions of this chapter shall be enforceable through the issuance of a citation by the land use administrator.

(A) Citations are in the form of a civil penalty and are separate offenses as set out below.

OFFENSE	***FINE***	***TIME PERIOD***
Warning	$0	First occurrence
First	$50	Violation not corrected after 14 days
Second	$75	Violation not corrected within 10 days following issuance of warning citation
Third & Subsequent	$100	Initial violation not corrected within each subsequent 10 days

(B) It is the intent of the Board of Commissioners that this section be used only in cases where the violator has refused any and all cooperation with the land use administrator and exhibits contempt or disregard for the ordinance.

(Ord. passed 9-8-92)

§ 152.099 JUDICIAL REVIEW.

(A) Every decision of the Board of Commissioners granting or denying a special use permit and every final decision of the Board of Adjustment shall be subject to review by the Superior Court of Wake County by proceedings in the nature of certiorari.

(B) The petition for the writ of certiorari must be filed with the Clerk of Superior Court within 30 days after the later of the following occurrences:

(1) A written copy of the Board's decision has been filed in the office of the Town Clerk; and,

(2) A written copy of the Board's decision has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

(C) A copy of the writ of certiorari shall be served upon the Town.

(Ord. passed 9-8-92)

§§ 152.100 through 152.103 RESERVED

ARTICLE VII NONCONFORMING SITUATIONS

§ 152.104 CONTINUATION OF NONCONFORMING SITUATIONS AND COMPLETION OF NONCONFORMING PROJECTS.

(A) Unless otherwise specifically provided in this chapter and subject to the restrictions and qualifications set forth in §§ 152.105 through 152.110, nonconforming situations that were otherwise lawful on the effective date of this chapter may be continued.

(B) Nonconforming projects may be completed only in accordance with the provisions of § 152.110.

(Ord. passed 9-8-92)

§ 152.105 NONCONFORMING LOTS.

(A) When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in § 152.162, then the lot may be used as proposed as if it were conforming. However, no use that requires a greater lot size than the established minimum lot size for a particular zone is permissible on a nonconforming lot.

(B) When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements cannot reasonably be complied with, then the entity 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) These deviations are necessitated by the size or shape of the nonconforming lot; and.

(3) The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health and safety.

(C) For purposes of division (B), compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

(D) This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A change in use of a developed nonconforming lot may be accomplished in accordance with § 152.108.

(E) Subject to the following sentence, if, on the date this section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section. This division shall not apply to a nonconforming lot if majority of the developed lots located on either side of the street where such lot is located and within 500 feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

(Ord. passed 9-8-92)

§ 152.106 EXTENSION OR ENLARGEMENT OF NONCONFORMING SITUATIONS.

(A) Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

(1) An increase in the total amount of space devoted to a nonconforming use; or,

(2) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking requirements.

(B) Subject to division (D), a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by the chapter, was manifestly designed or arranged to accommodate such use. However, subject to § 152.110, a nonconforming use may not be extended to additional buildings or to land outside the original building.

(C) Subject to § 152.110, a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if ten percent or more of the earth products had already been removed.

(D) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this section occur.

(E) Notwithstanding division (A), any structure used for single family residential purposes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. This division is subject to the limitations stated in § 152.109.

(F) Notwithstanding division (A), whenever: there exists a lot with one or more structures on it, and a change in use that does not involve any enlargement of a structure is proposed for such lot, and the parking or loading requirements of Article XII, that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with § 152.274 if: parking requirements cannot be satisfied on the lot with respect to which the permit is required; and such satellite parking is reasonably available. If such satellite parking is not reasonably available at the time the general use, special use or conditional use permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be continuing condition of the permit.

(Ord. passed 9-8-92)

§ 152.107 REPAIR MAINTENANCE AND RECONSTRUCTION.

(A) Minor repairs to and routine maintenance of property where nonconforming situations exists are permitted and encouraged. Major renovation, may be done only in accordance with a general use permit issued pursuant to this section.

(B) If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed 50% of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a general use permit issued pursuant to this section. This division does not apply to structures used for single-family residential purposes, which structures may be

reconstructed pursuant to a general use permit just as they may be enlarged or replaced as provided in § 152.106(E).

(C) For purposes of division (A) and (B):

(1) ***MAJOR RENOVATION*** shall mean any work estimated to cost more than 25% of the appraised valuation of the structure to be renovated.

(2) The ***COST*** of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.

(3) The ***COST*** of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of divisions (A) and (B) by doing such work incrementally.

(4) The ***APPRAISED VALUATION*** shall mean the appraised valuation for property tax purposes, updated as necessary by the Wake County Tax Assessor.

(D) The administrator shall issue permit authorized by this section if he finds that, in completing the renovation, repair, or replacement work:

(1) No violation of § 152.106 will occur, and

(2) The permittee will comply to the extent reasonably possible with all provisions of this chapter applicable to the existing use (except that the permittee shall not lose his right to continue a nonconforming use).

(E) Compliance with a requirement of this chapter is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.

(Ord. passed 9-8-92)

§ 152.108 CHANGE IN USE OF PROPERTY WHERE A NONCONFORMING SITUATION EXISTS.

(A) A change in use of property where a nonconforming situation exists, that is substantial to require a new general use, special use, or conditional use permit in accordance with § 152.108 may not be made except in accordance with division (B) through (D).

(B) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this chapter applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this chapter is achieved, the property may not revert to its nonconforming status.

(C) If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this chapter applicable to that use cannot reasonably be complied with, then the change is permissible if the entity authorized by this chapter to issue a permit for that particular use issues a permit authorizing the change. This permit may be issued if the permit issuing authority finds, in addition to any other findings that may be required by this chapter, that:

(1) The intended change will not result in a violation of § 152.106, and

(2) All of the applicable requirements of this chapter that can be reasonably complied with will be complied with.

(D) If the intended change in use is to another principal use that is also nonconforming, then the change is permissible if the entity authorized by this chapter to issue a permit for that particular use issues a permit authorizing the change. The permit issuing authority may issue the permit if it finds, in addition to other findings that may be required by this chapter, that:

(1) The use requested is one that is permissible in some zoning district with either a general, special, or conditional use permit, and

(2) All of the conditions applicable to the permit authorized in division (C) of this section are satisfied, and

(3) The proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for.

(Ord. passed 9-8-92)

§ 152.109 ABANDONMENT AND DISCONTINUANCE OF NONCONFORMING SITUATIONS.

(A) When a nonconforming use is discontinued for a consecutive period of 180 days, or discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes.

(B) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is discontinued for a consecutive period of 180 days, or discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be used only in conformity with all of the regulations applicable to the preexisting use unless the entity with authority to issue a permit for the intended use issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. This permit may be issued if the permit issuing authority finds that eliminating a particular nonconformity is not reasonably possible. The permit shall specify which nonconformities need not be corrected.

(C) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as whole. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

(D) When a structure or operation made nonconforming by this chapter is vacant or discontinued at the effective date of this chapter, the 180 day period for purposes of this section begins to run on the effective date of this chapter.

(Ord. passed 9-8-92)

§ 152.110 COMPLETION OF NONCONFORMING PROJECTS.

(A) All nonconforming projects on which construction was begun at least 180 days before the effective date of this chapter as well as all nonconforming projects that are at least ten percent 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 division applies only to the particular phase under construction. Provided however, that this section shall not apply to projects where a zoning vested right has been established in accordance with Article III, Part II.

(B) Except as provided in division (A), all work on any nonconforming project shall cease on the effective date of this chapter, and all permits previously issued for work on nonconforming projects may begin or may be continued only pursuant to a general use, special use, or conditional use permit issued in accordance with this section by the individual or board authorized by this chapter to issue permits for the type of development proposed. The permit issuing authority shall issue such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land use law as it existed before the effective date of this chapter and thereby would be unreasonably prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the permit issuing authority shall be guided by the following, as well as other relevant considerations:

(1) All expenditures made to obtain or pursuant to a validly issued and unrevoked building, general use, special use or conditional use permit shall be considered as evidence of reasonable reliance on the land use law that existed before this chapter became effective.

(2) Except as otherwise provided in subdivision (B)(1) immediately above, no expenditures made more than 180 days before the effective date of this chapter may be considered as evidence of reasonable reliance on the land use law that existed before this chapter became effective. An expenditure is made at the time a party incurs a binding obligation to make that expenditure.

(3) To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures.

(4) To the extent that a nonconforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion of a conforming project, a party shall not be considered prejudiced by having made such expenditures.

(5) An expenditure shall be considered substantial if it is significant both in dollar amount in terms of the total estimated cost of the proposed project, and the ordinary business practices of the developer.

(6) A person shall be considered to have acted in good faith if actual knowledge of a proposed change is the land use law affecting the proposed development site could not be attributed to him.

(7) Even though a person had actual knowledge of a proposed change in the land use law affecting a development site, the permit issuing authority may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. The permit issuing authority may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that at the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development.

(C) When it appears from the developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, stages, segments, or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing required under division (B). In addition to the matters and subject to the guidelines set forth in subdivisions (B)(1) through (6), the permit issuing authority shall, in determining whether a developer would be unreasonably prejudiced if not allowed to complete phases or segments or a nonconforming project, consider the following in addition to other relevant factors:

(1) Whether any plans prepared or approved regarding uncompleted phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural, or engineering work.

(2) Whether any improvements, such as streets or utilities, have been installed in phases not yet completed.

(3) Whether utilities and other facilities installed in completed phases have been constructed in such a manner or location or such a scale, in anticipation of connection to or interrelationship with approved but uncompleted phases, that the investment in such utilities or other facilities cannot be recouped if such approved but uncompleted phases are constructed in conformity with existing regulations.

(D) The permit issuing authority shall not consider any application for the permit authorized by division (B) that is submitted more than 60 days after the effective date of this chapter. The permit issuing authority may waive this requirement for good cause shown, but in no case may it extend the application deadline beyond one year.

(E) The administrator shall send copies of this section to the persons listed as owners for tax purposes of all properties in regard to which permits have been issued for nonconforming projects or in regard to which a nonconforming project is otherwise known to be in some state of development. This notice shall be sent by certified mail not less than 15 days before the effective date of this chapter.

(F) The permit issuing authority shall establish expedited procedures for hearing applications for permits under this section. These applications shall be heard, whenever possible, before the effective date of this chapter so that construction work is not needlessly interrupted.

(Ord. passed 9-8-92)

§§ 152.111 through 152.116 RESERVED

ARTICLE VIII ZONING DISTRICTS AND ZONING MAP

§ 152.117 RESIDENTIAL DISTRICTS ESTABLISHED.

(A) The following residential districts are hereby established: R-30, R-20, R-13, R-10, RMF, and corresponding mobile home districts (RMH). Each of these districts is designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts. Other objectives of some of these districts are explained in the remainder of this section.

(B) The R-30 and R-20 districts are designed to accommodate single family residential development in areas within the Town's planning jurisdiction that are not served by public water or sewer facilities and that are not yet appropriate for development at higher densities. The corresponding RMH-30 and RMH-20 districts are intended to accomplish the same purpose for all types of mobile homes and mobile home parks within these districts.

(C) The R-13 and R-10 districts are designed primarily to accommodate single family detached residential development uses at medium densities in areas served by public water and sewer facilities.

(D) The R-8 district is designed to accommodate higher density residential developments. The RMH-8 district is designed to accommodate higher density mobile home developments.

(E) The RMF district is designed to accommodate multi-family development including cluster development, apartment complexes and other residential planned unit developments.

(Ord. passed 9-8-92)

§ 152.118 TRANSITIONAL DISTRICTS ESTABLISHED.

(A) The following transitional districts are established: Transitional residential (TR) and Medical Arts district (MA). Transitional districts are districts which allow a mixture of residential and office and institutional uses to provide for smooth interaction between residential districts and uses containing essential services which are immediately similar or outgrowth of those residential uses. Compatibility of those uses will be the principal concern of the district.

(B) The purpose of the Transitional Residential district (TR) is to provide for a mixture of residences and office and institutional uses in areas on dividing lines between residential uses and businesses, or major traffic generators, or areas whose characters are in transition.

(C) The purpose of the Medical Arts District (MA) is to provide for medical facilities and related uses in the Town's planning jurisdiction.

(Ord. passed 9-8-92)

§ 152.119 COMMERCIAL DISTRICTS ESTABLISHED.

(A) The following commercial districts are established: Central Business (CB), General Business (GB), and Heavy Business (HB). These districts are created to accomplish the purposes and serve the objectives set forth in the remainder of this section.

(B) The Central Business (CB) district is designed to accommodate a wide variety of commercial activities, particular those that are pedestrian oriented, that will result in the most intensive and attractive use of the Town's central business area.

(C) The General Business (GB) district is designed to accommodate commercial development of the least intensity, serving neighborhoods and communities within the Town's planning jurisdiction. The types of uses permissible in this district are generally similar to those permitted in other business district except that additional automobile oriented businesses are not allowed.

(D) The Heavy Business (HB) district is designed to accommodate the widest range of commercial activities.

(Ord. passed 9-8-92)

§ 152.120 MANUFACTURING DISTRICTS.

The following districts are hereby established primarily to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment: Light Industrial (IL) and Heavy Industrial (IH).

(Ord. passed 9-8-92)

§ 152.121 SPECIAL DISTRICTS ESTABLISHED.

(A) The following special districts are hereby established: Watershed (W) district, Entranceway Overlay (EOD) district, Floodway Fringe (FFD), Floodway (FWD) district, and

Special Use (SUD) districts. These districts are established to address certain environmental, community, transportation, or compatibility concerns which may or may not be site specific and may or may not generally apply to all areas of the Town's planning jurisdiction.

(B) Watershed District.

(1) Purpose, authority and general regulations. The Legislature of the State of North Carolina has, in G.S. Chapter 143, Article 21, Watershed Protection Rules, directed local governments to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Board of Commissioners of the town does hereby ordain and enact into law the following provisions for the protection of the Little River Watershed, designated as a WS-II.

(a) Jurisdiction. The provisions of this section shall apply within areas designated as a Public Water Supply Watershed by the North Carolina Environmental Management Commission and shall be delineated on the town Zoning Map as R-80W(WS-II CA, Critical Area) and R-40W (WS-II BW, Balance of Watershed) zoning districts.

(b) Exceptions to applicability. Existing development is not subject to the requirements of this section. Expansions to structures classified as existing development must meet the requirements of this section; however, the built-upon area of the existing development is not required to be included in the density calculations.

(c) Criminal penalties. Any person violating any provision of this section shall be punished in accordance with § 156.096.

(d) Remedies. If the Planning Director finds that any of the provisions of this section are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment, in accordance with § 152.072.

(2) Additional subdivision regulations in Watershed Districts.

(a) General provisions. No subdivision plat of land within the Little River Watershed shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this section. Likewise, the Clerk of the Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this section.

(b) Additional subdivision and application review procedures.

1. All proposed subdivisions shall be reviewed prior to recording with the Register of Deeds by submitting a vicinity map to the Planning Director to determine whether or not the property is located within the Little River Watershed. Subdivisions that

are not within the designated watershed area shall not be subject to the provisions of this section.

2. Subdivision applications shall be filed with the Planning Director in accordance with § 152.055 or § 152.056.

3. Subdivision applications shall be reviewed in accordance with § 152.027.

4. If the subdivision plat is approved, such approval shall be indicated on both copies of the plat by the following certificate and signed by the Planning Director:

Certificate of Approval for Recording

I certify that the plat shown hereon complies with the Town of Zebulon Code of Ordinances § 152.121(B) regarding watershed district regulations and is approved for recordation.

Date _____ Planning Director _____

NOTICE: This property is located within a Public Water Supply Watershed - development restrictions may apply.

5. The plat shall be recorded within 30 days of approval. The subdivider shall provide the Planning Director with a copy of the recorded plat within five working days.

(c) Subdivision standards and required improvements.

1. All lots shall provide adequate building space in accordance with the development standards contained in division (C).

2. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

3. Storm water drainage facilities. The subdivision application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters and incorporates best management practices to minimize water quality impacts.

4. Erosion and sedimentation control. The subdivision application shall be accompanied by a written statement or a Wake County Environmental Service approved erosion and sedimentation control plan.

5. Roads constructed in critical areas and watershed buffer areas. Where possible roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed to minimize their impact on water quality.

(3) Development regulations in watersheds. For the purpose of this section the Watershed zoning districts are as follows:

(a) R-80W - WS-II CA (Critical Area). In order to maintain a predominantly undeveloped land use intensity pattern, single family residential uses shall be permitted at a maximum of one dwelling unit per two acres. All uses shall be allowed at a maximum six percent built-upon area. New residuals application sites and landfills are specifically prohibited.

1. Allowed uses: general, conditional or special uses in the R-20 district will be permitted in accordance with § 152.129.

2. Density and built-upon limits: development shall not exceed one dwelling unit per two acres on a project by project basis. No residential lot shall be less than two acres [80,000 square feet excluding roadway right-of-way]. Any other development shall not exceed six percent built upon area. Built-upon area shall be calculated from the principle and any accessory structures on the parcel.

(b) R-40W - WS-II BW (Balance of Watershed). In order to maintain a predominantly undeveloped land use intensity, single family residential uses shall be allowed at a maximum of one dwelling unit per acre. All residential development shall be allowed a maximum of 12% built-upon area.

l. Allowed uses: general, conditional or special uses in the R-20 district will be permitted in accordance with § 152.129.

2. Density and built-upon limits. Single family residential development shall not exceed one dwelling unit per acre on a project by project basis. No residential lot shall be less than one acre [40,000 square feet excluding roadway right-of-way]. Any other development shall not exceed 12% built upon area. Built-upon area shall be calculated from the principle and any accessory structures on the parcel.

3. Ten percent/seventy percent option. Under this option new development and expansions to existing development may occupy up to ten percent of the protected area with up to 70% built upon area on a project by project basis, when aproved. The Board of Commissioners may approve the use of this option in R-40W districts if the proposal is consistent with other provisions of this section. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate best management practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(c) Cluster development in watersheds. Cluster development is allowed in all Watershed areas in accordance with § 152.139 and under the following specific conditions:

1. The total number of lots shall not exceed the number of lots allowed for single family detached developments in subdivisions (a) or (b) above. Density or built-upon area for the project shall not exceed that allowed in R-80W or R-40W districts.

2. All built-upon areas shall be designed and located to minimize stormwater runoff impact to receiving waters and minimize concentrated stormwater flow.

3. The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local govemment for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

(d) Buffer areas required.

1. A minimum 50 foot vegetative buffer is required for all new development activities along perennial waters indicated on the most recent versions of the U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies.

2. No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles signs, and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices.

(4) General health regulations in watersheds. No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the improper management of stormwater runoff; or another situation found to pose a threat to water quality.

(a) Abatement.

1. The Planning Director shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

2. The Planning Director shall report all findings to the Board of Adjustment. The Planning Director may consult with any public agency or official and request recommendations.

3. Where the Board of Adjustment finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

(5) Administration, enforcement and appeals.

(a) Watershed Administrator and duties thereof. The Planning Director shall act in the capacity of Watershed Administrator and shall administer and enforce the provisions of this section as follows:

1. The Planning Director shall review all permits issued in the R-80W and R-40W zoning districts for compliance with all provisions of this section.

2. The Planning Director is granted the authority to administer and enforce the provisions of this section, exercising in the fulfillment of his responsibility the full police power of the town. The Planning Director, or his duly appointed representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this ordinance.

(b) Watershed Review Board. The Board of Adjustment of the town shall serve as the Watershed Review Board in accordance with §§ 152.019 - 152.024 and § 152.075.

1. Powers and duties of the Watershed Review Board.

A. Administrative Review. The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this ordinance.

B. Variances. The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this ordinance to the public interests where, owing to special conditions, a literal enforcement of this ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done.

i. Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:

a. A site plan, drawn to a scale of a least one inch to 40 feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.

b. A complete and detailed description of the proposed variance together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.

ii. Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

a. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

1. If he complies with the provisions of the ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the ordinance that will make possible the reasonable use of the property.

2. The hardship results from the application of the ordinance to the property rather than from other factors such as deed restrictions or other hardship.

3. The hardship is due to the physical nature of the applicant's property, such as size, shape, or topography, which is different from that of neighboring property.

4. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the ordinance, or who purchases the property after the effective date of the ordinance and then comes to the Board for relief.

5. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be special privilege denied to others, and would not promote equal justice.

b. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit.

c. In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public heath, safety, or general welfare.

iii. In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

iv. The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

v. A variance issued in accordance with this section shall be considered a Watershed Protection Permit and shall expire if a building permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six months from the date of the decision.

vi. If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

a. The variance application;

b. The hearing notices;

c. The evidence presented;

d. Motions, offers of proof, objections to evidence, and rulings on them;

e. Proposed findings and exceptions; and

f. The proposed decision, including all conditions proposed to be added to the permit.

(c) The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

1. If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

2. If the Commission concludes from a preliminary record that the variance qualifies as a major variance and that the property owner can secure a reasonable return from or make a practical use of the property without the variance or the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

(C) The purpose of the Entranceway Overlay (EOD) is to impose additional restrictions on use in underlying districts located in areas designated as primary entranceway to the Town, so as to provide scenic and visual buffers along major highways

within the Town's planning jurisdiction.

(D) The purpose of the Floodway Fringe (FFD) district and the Floodway (FWD) district is to provide special regulations for areas that are prone to floods as determined by the Federal Emergency Management Agency (FEMA).

(E) The purpose the Special Use Districts (SUD) is to promote greater land use compatibility by allowing land owners to voluntarily place their properties within classifications in which a special use permit is required as a prerequisite to any use or development, subject to all of the terms and conditions of §§ 152.038, 152.039 and 152.040. Every general use district shall have a corresponding special use district. There is also established a Commercial Amusement Special Use District (CASUD) in accordance with the provisions of § 152.135. Rezoning to a Special Use District shall be considered concurrently with the special use permit application and shall be subject to the provisions of Article XIII.

(Ord. passed 9-8-92; Am. Ord. ZA-1999-32, passed 12-6-99)

§ 152.122 THE ZONING MAP.

(A) There shall be a map known and designated as the Official Zoning Map, which shall show the boundaries of all zoning districts within the Town's planning jurisdiction. This map shall be drawn on acetate or other durable material from which prints can be made, shall be dated and shall be kept with the land use administrator.

(B) The Official Zoning Map is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with Article XIII.

(C) Should the Official Zoning Map be lost, destroyed, or damaged, the administrator may have a new map drawn without further authorization or action from the Board of Commissioners, so long as no district boundaries are changed in this process.

(Ord. passed 9-8-92)

§§ 152.123 through 152.128 RESERVED

§ 152.129 PERMITTED USES.

(A) Residential

Use Description	Zones										
	R30 R20	RMH 30/20	R13	RMH 13	R10	RMH 10	R8	RMH 8	R80 W	R40 W	RMF
Single family detached	G	G	G	G	G	G	G	G	G	G	G
Two family conversion			G	G		G		G			G
Duplex	C	C	C	C	C	C	C	C	C	C	C
Use Description	Zones										
	R30 R20	RMH 30/20	R13	RMH 13	R10	RMH 10	R8	RMH 8	R80 W	R40 W	RMF
Accessory Building	G	G	G	G	G	G	G	G	G	G	G
Two family apartment		C		C	C	C	C	C			G
Multi family conversion											G
Multi family apartment											G

Multi family townhouse											G
Primary residence with accessory apartment	C	C	C	C	C	C	C	C	C	C	G
Dog kennel*	S								S	S	
Veterinary hospital	S										
Campground for circuses and carnival	S										
Campground for youth or organized group	S										
Adult day care home	G	G	G	G	G	G	G	G	G	G	G
Adult day care center	S										S
Child care home	G	G	G	G	G	G	G	G	G	G	G
Child care institution	S										S
Day care center	G	G	G	G	G	G	G	G	G	G	G
Family care home***	G	G	G	G	G	G	G	G	G	G	G
Group care home	S	S	S	S	S	S	S	S	S	S	S
Halfway house	S	S	S	S	S	S	S	S	S	S	S
Handicapped, aged or infirm house	G	G	G	G	G	G	G	G	G	G	G
Handicapped, aged or infirm institution	S										S
Intermediate care home	S	S	S	S	S	S	S	S	S	S	S
Intermediate care institution	S										S

Nursing care home	S	S	S	S	S	S	S	S	S	S	S
Nursing care institution	S										S
Churches, synagogues, and temples	G	G	G	G	G	G	G	G	G	G	G
Class A,B,C mobile homes in mobile home parks		G		G		G		G			
Class A mobile homes		G		G		G		G			
Class B mobile homes		G		G		G		G			
Community centers	C	C	C	C	C	C	C	C	C	C	C
Farming, excluding livestock	G	G							G	G	
Farming, including livestock	C	C							C	C	
Golf courses	S	S	S	S							
Use Description	Zones										
	R30 R20	RMH 30/20	R13	RMH 13	R10	RMH 10	R8	RMH 8	R80 W	R40 W	RMF
Libraries	C	C	C	C	C	C	C	C			C
Sale of farm products on premises where produced	G	G							G	G	
Schools & colleges	S	S							S	S	
Site built modular structures	G	G	G	G	G	G	G	G	G	G	G

Fraternal lodges	C	C	C	C	C	C	C	C	C	C	C
Wholesale sales of items within an enclosed building	C								C	C	
Funeral homes	C	C									C
Mobile home parks		S		S		S		S			S

*Setbacks of 100 feet from all property lines, minimum lot size of 2 acres. Sound proof pens. Six foot high opaque fencing and a minimum ten foot landscape buffer around the side and back of the compound area.

***Please see §152.1464.

(B) Transitional.

Use Description	Zones	
	TR	MA
Accessory buildings	G	G
Adult day care home	G	
Adult day care center	S	S
Art galleries	G	G
Banks and saving and loans associations	C	C
Bed & breakfast inns	G	G
Cemeteries	G	G
Child care home	G	
Child care institution	S	G
Churches, synagogues and temples	G	G

Clinics, medical	G	G
Community centers	G	G
Crematorium	C	C
Use Description	Zones	
	TR	MA
Day care center	G	G
Drug stores and pharmacies	G	G
Duplex	C	
Family care home	G	
Fraternal lodges	G	
Group care home	S	
Halfway house	S	
Handicapped, aged or infirm home	S	
Handicapped, aged or infirm institution	S	G
Hospitals	C	G
Hotels & motels	C	S
Intermediate care home	S	
Intermediate care institution	S	G
Libraries	G	G
Nursing care home	S	

Nursing care institution	S	G
Office supply store	G	
Offices- business, professional, and public	G	G
Opticians	G	G
Residences for medical personnel such as interns and nurses	G	C
Rest home	S	S
Rooming houses		
Schools & colleges	S	G
Seasonal sales (Christmas trees, plants, and pumpkins)	G**	
Single family dwelling	G	
Two family dwellings	C	C

(C) Commercial and Industrial

Use Description	***Zones***				
	CB	***GB***	***HB***	***IL***	***IH***
Adult day care center		S	S		
HVAC and plumbing supplies and equipment	G	G	G	G	G
Airports				S	S
Amusement building	S	S	S		

Amusement centers				S	S
Amusement parks				S	S
Antiques	G	G	G		
Appliances	G	G	G	G	G
Armories			G	G	G
Apartment on second floor	G				
Auto graveyards					S
Automobile dealership		G	G	G	
Bakeries	G	G	G	G	G
Banks	G	G	G		
Barber and beauty shops and supplies	G	G	G		
Beauty salons	G	G	G		
Bottling plants				G	G
Bowling alleys	G	G	G		
Brick and stone yard, retail			G	G	
Brick and stone yard, manufacturing and wholesale				G	G
Bulk plants					G
Bulk storage of inflammable liquids or other hazardous substances					G
Bus stations	G	G	G	G	G
Railway stations	G	G	G	G	G

Business schools	G	G	G		
Car wash		G	G	G	
Child care institution		S	S		
Churches, synagogues and temples		G	G	C	C
Use Description	***Zones***				
	CB	***GB***	***HB***	***IL***	***IH***
Clay, stone, concrete, cement processing and sale				G	G
Commercial parking lots and garages	G	G	G		
Convenient stores	G	G	G		
Dance schools	G	G	G		
Dog kennel				G	G
Use Description	***Zones***				
	CB	***GB***	***HB***	***IL***	***IH***
Drug~~s~~ stores and pharmacies	G	G	G		
Thrift stores	G	G	G		
Electronic game machine parlors	S	S	S		
Electronic game machines that are accessory to allowable uses	G	G	G		
Flea markets			S	S	
Food and beverage processing			S	G	G
Funeral homes	C	C	C		

Furniture manufacturing				G	G
Golf courses		G	G	G	
Service station Type I			G	G	G
Service station Type II		C	G		
Service station Type III		C	G		
Handicapped, aged or infirm institution			S		
Health spas and exercise facilities	G	G	G	G	
Gift stores	G	G	G		
Grocery stores	G	G	G		
Ice plants				G	G
Intermediate care institution			S		
Junk yards					S
Laboratories for research and testing			G	G	G
Laundries, dry cleaning and laundromats	G	G	G		
Leather and leather products manufacturing				G	G
Light manufacturing which retails at least 25% of finished products on premises			G	G	
Machine shops			G	G	G
Manufacture and sales of auto accessories				G	G
Mobile home manufacturing				G	G
Mobile home sales			G	G	G

Movie theaters	G	G	G		
Moving and transfer companies				G	G
Moving van rentals			G	G	G
Use Description	***Zones***				
	CB	***GB***	***HB***	***IL***	***IH***
Musical instrument manufacturing				G	G
Nail care salons and spas	G	G	G		
Nursing care institution			S		
Office- business, professional, public	G	G	G		
Offices of permitted uses	G	G	G	G	G
Paint manufacturing					G
Pawn shops	G	G	G		
Photographic studios	G	G	G		
Planned commercial and mixed use development		S	S		
Plumbing supplies and equipment sales	G	G	G	G	G
Police, fire and rescue squad stations	G	G	G	G	G
Printing establishments	G	G	G	G	G
Privately owned recreational facilities such as golf courses, tennis courts, swimming pools, etc.		S	S		
Propane and natural gas retail stores		G	G	G	
Community centers	S	S	S	S	S

Publicly owned recreational facilities such as golf courses, tennis courts, swimming pools, playgrounds		G	G		
Repair shops conducted entirely within an enclosed structure	G	G	G	G	
Repair shops for jewelry, shoes, and household appliances	G	G	G	G	
Restaurants	G	G	G	S	S
Sale of farm equipment	G	G	G	G	
Sale of engineering supplies and equipment	G	G	G	G	
Savings and loan associations and mortgage lenders	G	G	G		
Salvage yards					S
Seasonal sales (Christmas trees, plants, and pumpkins)		G**	G**	G**	G**
Shooting range				S	S
Stores retailing:					
Antiques	G	G	G		
Auto accessories	G	G	G		
Auto parts	G	G	G		
Use Description	***Zones***				
	CB	***GB***	***HB***	***IL***	***IH***
Stores retailing:					
Appliances	G	G	G	G	

Boats and watercraft		G	G	G	
Clothing	G	G	G		
Computers	G	G	G		
Used clothing and furniture	G	G	G		
Electronics	G	G	G		
Flowers	G	G	G	G	
Furniture	G	G	G	G	
Hardware and building materials	G	G	G	G	
Hobby, craft supplies and fabrics	G	G	G		
Jewelry	G	G	G		
Office equipment and supplies	G	G	G	G	
Medical equipment supplies	G	G	G	G	
Paint and wallpaper	G	G	G	G	
Pets	G	G	G		
Reading materials	G	G	G		
Seafood	G	G	G		
Sporting goods	G	G	G		
Toys	G	G	G		
Musical equipment and records	G	G	G		
Weapons, firearms and ammunition	G	G	G		

Swimming pool			G	G	
Tailor, dressmaking, and alterations	G	G	G		
Tanning salons	G	G	G		
Taxi stands	G	G	G	G	G
Tire repair and recapping			G	G	
Upholstery shops	G		G	G	
Vehicle and motorcycle sales and operations, not including junked or wrecked vehicles		G	G	G	
Vehicle rental, commercial			G	G	G
Use Description	***Zones***				
	CB	***GB***	***HB***	***IL***	***IH***
Vehicle rental, non-commercial			G	G	G
Veterinary hospital			S	S	S
Video stores	G	G	G		
Warehousing for allowable uses		G	G	G	G

** A permit may be issued only if the zoning administrator finds that sufficient on-street or off-street parking is available to patrons of the sales operation so that the operations does not substantially interfere with the safe and convenient flow of vehicular and pedestrian traffic and that the proposed use complies with other applicable provisions of this chapter.

(Ord. passed 9-8-92; Am. Ord. ZA-1993-01, passed 8-2-93; Am. Ord. ZA-1994-01, passed 11-7-94; Am. Ord. ZA-1996-02, passed 7-1-96; Am. Ord. ZA-1996-03, passed 8-5-96; Am. Ord. ZA-1996-04, passed 10-7-96; Am. Ord. ZA-1996-05, passed 9-3-96; Am. Ord. ZA-1997-01, passed 4-7-97; Am. Ord. ZA-1999-07, passed 5-3-99; Am. Ord. ZA-2000-12, passed 6-5-00; Am. Ord. ZA-2004-02, passed 8-4-03)

§ 152.130 USE OF DESIGNATIONS G, C, S.

Subject to § 152.031, when used in connection with a particular use in the Table of Permissible Uses (Section 152.029), the letter “G” means that the use is permitted in the indicated zone with a general use permit issued by the land use administrator. The letter “C” means a conditional use permit must be obtained from the Board of Adjustment, and the letter “S” means a special use permit must be obtained from the Board of Commissioners.

(Ord. passed 9-8-92)

§ 152.131 PERMITTED USES AND SPECIFIC EXCLUSIONS.

(A) All uses that are not listed in § 152.129 are prohibited. The presumption of this chapter is that all legitimate uses of land are permissible within at least one zoning district within the Town's planning jurisdiction.

(B) Notwithstanding division (A), whenever a use is proposed to be established which is not specifically listed in the table of permitted uses, but is similar to a permitted use in the district in which it is proposed to be established, then the Board of Adjustment is authorized to issue a conditional use permit in accordance with §§ 152.038, 152.041, 152.042 and 152.043 if it first finds that the use is indeed similar in nature to one or more of the permitted uses in that district. Provided however, that if the land use administrator finds that the use, although similar to other uses in the district, will have a greater impact on the community, then the Board of Commissioners may issue a permit in accordance with §§ 152.038, 152.039, 152.040, 152.042 and 152.043.

(C) The following uses are expressly prohibited in all districts:

(1) Animal processing plants including slaughterhouses and poultry processing plants.

(Ord. passed 9-8-92; Am. Ord. ZA-1994-01, passed 11-7-94)

§ 152.132 COMBINATION USES.

When a combination use comprising two or more principal uses that require different types of permits (general, special, or conditional use), then the permit authorizing the combination use shall be:

(A) A special use permit, if any of the principal uses combined requires a special use permit.

(B) A conditional use permit, if any of the principal uses combined requires a conditional use permit but none requires a special use permit.

(C) A general use permit in all other cases.

(Ord. passed 9-8-92)

§ 152.133 ACCESSORY USES, STRUCTURES AND BUILDINGS.

(A) The Table of Permitted Uses classifies different principal uses according to their different impacts. Whenever an activity, which may or may not be separately listed as a principal use in this table, is conducted in conjunction with another principal use and the former use constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use.

(B) For purposes of interpreting division (A):

(1) A use may be regarded as incidental or insubstantial in and of itself or in relation to the principal use, or

(2) To be "commonly associated" with a principal use it is not necessary for any accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

(C) The total square footage of accessory use, structure, or building cannot exceed more than 25% of the total square footage of the principal structure. If more than one accessory structure is provided, the total square footage of all structures will be used to compute the 25% ratio for purposes of this section.

(D) No accessory structure or building shall be located in the front yard of the lot. When located in the rear or side yard, they shall maintain a ten-foot rear yard setback and a ten-foot side yard setback. Additionally, no two accessory structures can be closer than ten feet apart, back to back or side by side, nor can they be closer than ten feet to the principal structure.

(E) All accessory structures and buildings must be securely anchored to the ground so as to prevent flotation or displacement of the structure or building due to natural forces.

(F) Building and zoning permits are required for any accessory building, fuel storage tank, structure, utility or change of use.

(G) Notwithstanding, a building permit is not required for residential non-structural work under $5,000, and residential accessory structures when no dimension exceeds 12 feet.

(Ord. passed 9-8-92; Am. Ord. ZA-1994-01, passed 11-7-94; Am. Ord. ZA-2000-03, passed 2-7-00; Am. Ord. ZA-2004-01, passed 8-4-03)

§ 152.134 USES NOT REQUIRING PERMITS.

Notwithstanding any other provisions of this chapter, no general, special, or conditional use permit is necessary for the following uses:

(A) Streets.

(B) Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within public right of way.

(C) Neighborhood utility facilities located within a public right of way or public property with the permission of the owner (state, local or federal) of the right of way.

(D) Public facilities owned and operated by local, state, or federal government.

(Ord. passed 9-8-92; Am. Ord. ZA-1993-01, passed 8-2-93; Am. Ord. ZA-1994-01, passed 11-7- 94)

PART II: SUPPLEMENTARY USE AND DISTRICT REGULATIONS

§ 152.135 COMMERCIAL AMUSEMENT SPECIAL USE DISTRICT.

(A) For the purpose of promoting the health, safety and general welfare through the provision of suitable locations and standards of development for recreational, open space and amusement enterprises, there is hereby established a Commercial Amusement Special Use District. It is recognized that the public interest is best served by such district for high intensity uses, especially those designed to accommodate 1,000 persons or more, to provide for orderly and flexible development process. This district is adopted for the purposes of:

(1) Permitting the use and development, on sites of suitable size and location, of stadiums, athletic fields, arenas, fairgrounds, convention centers and similar facilities in which 1,000 or more persons may be accommodated for a single or variety of purposes at one time.

(2) Ensuring that such uses will be located at suitable locations and that appropriate standards of development will be undertaken to minimize negative impacts on adjoining properties.

(3) Providing a means of public-private partnership in development projects that promote the public welfare.

(B) In furtherance of the above, the Commercial Amusement Special Use District is established as a district which:

(1) Requires a more stringent review process for development standards than is imposed on conventional zoning districts;

(2) Permits uses which are high traffic generators only if they are developed according to an approved development plan and defined standards which, together with certain incentives, are intended to encourage the clustering of uses under a single site plan served by a common system of ingress and egress; and,

(3) Requires landscaping of exterior yards, the provision of open space and the conservation of land.

(C) Procedure for rezoning to a Commercial Amusement Special Use District shall be the same as required in § 152.121(E).

(D) No application for a rezoning to Commercial Amusement Special Use District shall be considered for any area of less than ten acres of contiguous land. Provided, however, that the minimum size required herein shall not apply when the rezoning request is contiguous to an existing Commercial Amusement Special Use District.

(E) All requirements governing special use districts shall apply except as follows:

(1) Where any proposed development adjoins a residentially zoned property, except across a public street, there shall be provided a 50 feet transitional yard made of dense trees or shrubbery at least six feet high.

(2) Where any proposed development adjoins a non-residential property, there shall be provided a 25 feet of transitional yard which shall contain trees or a screening device.

(F) No more than 30% of the land area, exclusive of parking and street surfaces, shall be devoted to enclosed buildings. Provided that this restriction shall not apply for developments which provide no less than ten percent of the land area for public park.

(G) All lights shall be beamed down and away from adjoining properties. To the extent practicable, all lights produced on site shall be contained within the perimeter of the site by design, orientation or shielding of the light source.

(H) Accessory uses and structures incidental to any permitted use such as but not limited to concession stands, restaurants, stables and storage facilities shall be permitted.

(I) Any development within the Commercial Amusement Special Use District shall be in accordance with a development plan approved by the Board of Commissioners. Plans shall be submitted in a similar manner as that required for preliminary subdivision plats. In approving a development plan, the Board of Commissioners may authorize, because of the size of the project, phase development. It is recognized that by developing in stages, it may not be possible to meet all of the purposes and standards of this ordinance for each stage as would be the case in a single, complete development. Therefore, it is found to be reasonably necessary and expedient that provision be made for flexibility in administration of certain standards of this Ordinance to provide for temporary modifications in dealing with development in stages. The Board of Commissioners is authorized to temporarily modify any development standards of this Section subject to the following conditions:

(1) The Board of Commissioners, in granting any modification shall find that there is reasonable assurance that the overall development plan is viable.

(2) The spirit and intent of the purposes of this section will be maintained.

(3) That reasonable and appropriate conditions and safeguards will be made to protect the public safety and welfare.

(J) The Board of Commissioners shall fix a time and duration of such temporary modification not to exceed two years after the completion of the final stage. At the end of the

time or duration of any temporary modification, such development shall meet all of the standards and requirements of this section.

(Ord. passed 9-8-92)

§ 152.136 ENTRANCEWAY OVERLAY DISTRICT.

(A) It is recognized that certain areas of the Town because of their orientation and/or location have an immense impact on the preservation of the community character. It is the intent of this section to preserve said character within those areas by regulating the level and type of development which can occur. An overlay district is a district in which additional requirements are imposed on certain properties within one or more underlying general or special use districts.

(B) The Entranceway Overlay District (EOD) is adopted under the authority of G.S. Chapter 160A, Article 19, Part 2.

(C) The location of the Entranceway Overlay district is indicated on the zoning map, and include those areas immediately adjacent to a major highway.

(D) The uses permitted or prohibited in the Entranceway Overlay District shall be the uses permitted or prohibited in the underlying zoning districts with the exception of drive-in or take-out restaurants, which shall not be permitted, except in shopping centers.

(E) All non residential development including those permitted in underlying zoning districts shall comply with the following standards:

(1) No building or parking shall be located within 30 feet of highway right of way line.

(2) No more than two points of access into the use from a highway, which is not controlled access, shall be permitted.

(3) The minimum distance between access points on the site shall be 50 feet measured from the two closest driveway edges.

(4) The minimum distance between a driveway into the site and the right-of- way at a street intersection shall be 75 feet.

(5) No parking shall be located within 30 feet of any highway right-of-way line.

(6) All parking shall be located on the side of the yard not facing the highway to the extent practicable.

(7) All accessory uses shall be located in the rear of the principal use.

(8) No outside display or sales and storage shall be allowed.

(9) All uses shall provide suitable areas for storage of trash which are designed and constructed or screened and buffered so as to allow no view of trash storage from the street,

to prevent waste from blowing around the site and onto adjacent properties or public rights-of-way, and to permit safe and easy removal of trash by truck or hand.

(F) In addition the provisions of Article X, Part III, all uses located in the Entranceway Overlay District shall observe the following standards for landscaping, screening, and buffering:

(1) All commercial uses shall provide one tree no less than ten feet in height and two and one-half inches in caliper, for every ten linear feet of highway frontage.

(2) Commercial uses such as service stations, automotive maintenance establishment, etc., shall complement require trees with shrubbery, hedges, and other live plant material along the highway.

(3) Industrial uses shall provide at least 25 feet of dense trees so as to make the use obscure from vehicles driving along the highway.

(4) Developers in the Entranceway Overlay District may use landscaping options established in § 152.245.

(Ord. passed 9-8-92)

§ 152.137 PLANNED UNIT DEVELOPMENT.

(A) A planned unit development allows for the unified development of tracts or parcel of land under single control for either residential or commercial purposes. Without limiting the foregoing, a planned unit development may consist of a combination of uses which are permissible in the district in which it is located.

(B) No planned unit development may be established except with a special use permit granted by the Board of Commissioners.

(C) For purpose of expediting the process, if a developer is required to seek a rezoning, subdivision approval, and special use permit for a planned unit development, then all of the procedures governing the applications for each of the required approvals shall run concurrently.

(Ord. passed 9-8-92)

§ 152.138 PLANNED RESIDENTIAL DEVELOPMENTS.

Planned residential developments are permissible by special use permits in the districts indicated in § 152.129.

(Ord. passed 9-8-92)

§ 152.139 CONSERVATION SUBDIVISIONS.

(A) *Purpose and provisions.*

(1) To provide a residential zoning district that permits flexibility of design and promotes environmentally sensitive and efficient uses of land.

(2) To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.

(3) To preserve important historic and archaeological sites.

(4) To permit clustering of houses and structures on less environmentally sensitive soils, thereby reducing the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.

(5) To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.

(6) To promote interconnected greenways and corridors throughout the community.

(7) To promote contiguous green space with adjacent jurisdictions.

(8) To encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places and encouraging use of parks and community facilities as focal points in the neighborhood.

(9) To encourage street designs that reduce traffic speeds and reliance on main arteries.

(10) To promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles.

(11) To conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space.

(12) To protect prime agricultural land and preserve farming as an economic activity.

(B) *Applicability of regulations.* This conservation subdivision option is available for parcels of at least ten acres that are to be subdivided under the Town of Zebulon Code of Ordinances, major subdivision process with a special use permit in the R-13 and R-10 residential zoning districts. The applicant shall comply with all other provisions of the zoning code and all other applicable laws, except those that are incompatible with the provisions contained herein.

(C) *Ownership of development site.* The tract of land to be subdivided may be held in single and separate ownership or in multiple ownership. If held in multiple ownership, however, the site shall be developed according to a single plan with common authority and responsibility.

(D) *Housing density determination.* The maximum number of lots in the conservation subdivision shall be determined by either of the following two methods, at the discretion of the applicant:

(1) *Calculation*. The maximum number of lots is determined by dividing the area of the tract of land by the minimum lot size specified in the underlying zoning. In making this calculation, the following shall not be included in the total area of the parcel:

(a) Slopes over 25% of at least a 5,000 square feet contiguous area;

(b) FEMA delineated floodways; and

(c) Bodies of open water over a 5,000 square feet contiguous area.

(2) *Yield plan.* The maximum number of lots is based on a conventional subdivision design plan, prepared by the applicant, in which the tract of land is subdivided in a manner intended to yield the highest number of lots possible. The plan does not have to meet formal requirements for a site design plan, but the design must be capable of being constructed, given site features and all applicable regulations.

(E) *Sketch plan required.* Concurrent with the submission of a special use permit application, the applicant shall prepare and submit a sketch plan. The purpose of the sketch plan is to ensure that the important site features have been adequately identified prior to the creation of the site design, and that the proposed open space will meet the requirements of this section. The sketch plan shall include the following features, with calculations for each provided in square feet, where applicable:

(1) Existing property boundaries with adjoining property owners identified;

(2) Proposed lot layouts for the subject property;

(3) All streams, rivers, lakes, wetlands and other hydrologic features, including all FEMA designated flood plain and floodways;

(4) Topographic contours of no less than five-foot intervals;

(5) Primary and secondary conservation areas labeled by type, as described in division (J) below of this section (Standards to determine open space);

(6) General vegetation characteristics, especially lowland and upland hardwood stands;

(7) General soil types;

(8) The planned location of protected open space;

(9) Existing roads and structures;

(10) Potential connections with existing green space and trails;

(11) Areas subject to the Neuse River Riparian Buffer requirements; and

(12) All necessary land area calculations measured in acres and/or square feet to insure the compliance with all divisions of this section.

(F) *Open space management plan required*. An open space management plan, as described in division (M) below of this section (Ownership and management of open space), shall be prepared and submitted prior to the issuance of final plat approval.

(G) *Instrument of permanent protection required.* An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant as described in division (N) below of this section (Legal instrument for permanent protection), shall be placed on the open space concurrent with the issuance of final plat approval.

(H) *Other requirements.*

(1) Building setbacks shall be proportionally reduced from underlying zoning district standards in accordance with individual lot area.

(2) Lot widths are not specifically regulated by this section but are subject to approval during the review of the sketch plan.

(3) The building envelope with setbacks for each house are to be clearly identified on the final plat of each phase prepared for development.

(4) The applicant shall adhere to all other relevant requirements including federal and state laws and Town of Zebulon Ordinances, including but not limited to the underlying zoning and the subdivision ordinance.

(I) *Definition of open space.* Open space is the portion of the conservation subdivision that has been set aside for permanent protection. Activities within the open space are restricted in perpetuity through the use of an approved legal instrument.

(J) *Standards to determine open space.*

(1) The minimum required open space shall comprise at least 25% of the gross tract area. At least 25% of the open space shall consist of land that would otherwise be suitable for building. This land shall be useable for active recreation.

(2) The following are considered primary conservation areas and are required to be included within the open space: (Note: FEMA floodway, 100-year floodplain, Neuse River Riparian buffer requirements, and wetlands that meet the definition used by the Army Corps of Engineers are not to be calculated as part of the 25% of the land considered suitable for building.)

(a) All special flood hazard areas including the FEMA delineated 100-year floodplain and the floodway;

(b) Riparian buffer of at least 100 feet wide along all perennial streams and 50 feet wide along all intermittent streams as determined by the USGS quadrangle surveys and any other areas requiring protection as Neuse River riparian area buffers;

(c) Slopes greater than or equal to 25% that are at least 5,000 square feet contiguous area;

(d) Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;

(e) Populations of endangered or threatened species, or habitat for such species; and

(f) Archaeological sites, cemeteries and burial grounds.

(3) The following are considered secondary conservation areas and should be included within the open space to the maximum extent feasible:

(a) Important historic or culturally significant sites;

(b) Existing healthy, native forests of at least one acre of contiguous area;

(c) Individual existing healthy trees greater than 12 inches caliper, as measured four feet above the average adjacent grade;

(d) Other significant natural features such as scenic view sheds, rock outcroppings, particularly those that can be seen from public roads existing or proposed;

(e) Prime agricultural lands of at least five acres contiguous area; and

(f) Existing trails that connect the tract to neighboring areas.

(4) At least 75% of the open space shall be in one contiguous tract. The open space shall adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected open space.

(5) For projects less than 50 acres, only two separate areas will be used to calculate the required open space. For projects greater than 50 acres, only three areas will be used to calculate the required open space.

(6) The open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient unrestricted public access to the open space.

(K) *Permitted uses of open space.*

(1) Conservation of natural, archeological or historical resources.

(2) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas.

(3) Walking or bicycle trails, provided they are constructed of porous paving materials.

(4) Passive recreation areas, such as open fields.

(5) Active recreation areas, cannot be located within primary conservation areas. Active recreation areas may include impervious surfaces. The shape of this land shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields and tennis courts, when a sufficient amount of land is dedicated to accommodate such facilities.

(6) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, and such activities are not conducted within primary conservation areas.

(7) Landscaped storm water management facilities.

(8) Easements for drainage and access to underground and aboveground utility lines.

(9) Other conservation-oriented uses compatible with the purposes of this section.

(10) Above ground utility structures and areas of impervious surface less than 513 square feet (three parking spaces) may be included within the protected open space. Impervious surface areas dedicated for more than 513 square feet (three parking spaces) shall be excluded from the open space.

(L) *Prohibited uses of open space*.

(1) Golf courses.

(2) Roads, parking lots and impervious surfaces, except as specifically authorized in the previous sections.

(3) Agricultural and forestry activities not conducted according to accepted Best Management Practices.

(4) Water impoundments such as detention ponds, that are greater than one acre in surface area.

(5) Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

(M) *Ownership, management, and maintenance of open space.*

(1) A homeowner's association representing residents of the conservation subdivision shall own the open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the open space and any facilities located thereon shall be borne by the homeowner's association.

(2) Prior to final plat approval the Board of Commissioners shall have the final right to decide if the active recreation area will become part of the Town of Zebulon's parks and recreation system.

(3) Prior to final plat approval the applicant shall submit a plan for management of open space and common facilities ("plan") that:

(a) Allocates responsibility and guidelines for the maintenance and operation of the open space and any facilities located thereon, including provisions for ongoing maintenance and long-term capital improvements;

(b) Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the open space, and outlines the means by which such funding will be obtained or provided;

(c) Provides that any changes to the plan be approved by the Zebulon Board of Commissioners; and

(d) Provides for enforcement of the plan by the Town of Zebulon.

(4) In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition, the Town of Zebulon may assume responsibility for its maintenance and may enter the property and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the homeowner's association or to the individual property owners that make up the homeowner's association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

(N) *Legal instrument for permanent protection.*

(1) The open space shall be protected in perpetuity by a binding legal instrument that is recorded simultaneously with the final subdivision plat. The instrument shall be one of the following:

(a) A permanent conservation easement in favor of either:

1. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or

2. A governmental entity with an interest in pursuing goals compatible with the purposes of this section. If the entity accepting the easement is not the Town of Zebulon, then a third right of enforcement favoring the Town of Zebulon shall be included in the easement.

(b) A permanent restrictive covenant for conservation purposes in favor of the Town of Zebulon.

(c) An equivalent legal tool that provides permanent protection, if approved by the Town of Zebulon.

(2) The instrument for permanent protection shall include clear restrictions on the use of the open space. These restrictions shall include all restrictions contained in this

section, as well as any further restrictions the applicant chooses to place on the use of the open space.

(O) *Minimum requirements.*

(1) There will be no minimum or average lot size requirements.

(2) (a) Sidewalk, walkway, on-road improvements, and trail systems sufficient to serve both existing and projected pedestrian and bicyclist needs shall be reflected in all site and subdivision plans. Such systems may include conventional sidewalks along street rights-of-way, wide outside travel lanes or bike lanes on existing roadways, or walkways and trails in alternative locations as deemed necessary during the review and approval process. Design, location, dimensions, dedications, easements, and reservations shall conform to applicable Town policies and plans for sidewalks, bicycle routes, and trails.

(b) Location. Unless an alternative walkway is approved, conventional sidewalks shall be located as follows:

1. On both sides of major thoroughfares (as defined by the adopted thoroughfare plan) except on freeways.

2. On one side of collector streets and nonresidential streets with existing or projected traffic of 2,000 or more vehicles per day.

3. On one side of residential streets of all types that are not cul-de-sacs.

4. On one or both sides of local streets in nonresidential areas where review indicates that sidewalks are or will be needed to accommodate pedestrian traffic.

(3) All sidewalks shall terminate or connect to a hard surface such as a driveway or handicapped accessible ramp or curb cut.

(4) Public access to the dedicated land shall be provided either by adjoining public street frontage or by a dedicated public easement, at least 30 feet wide, which connects the dedicated land to a public street or right-of-way. A sidewalk must connect pedestrians to the primary open space.

(5) If a conflict exists between these standards and any other provision in the Town of Zebulon Code of Ordinances, then the stricter requirements shall apply. In general, sidewalks shall be four feet in width and shall be constructed of concrete or other material approved by the adopted thoroughfare plan. The Public Works Director may approve alternative dimensions and materials. When the approving body determines the construction of a conventional sidewalk or alternative walkway is unfeasible due to special circumstances, including but not limited to impeding road widening, significant street trees, and severe roadside conditions, the approving body may require:

(a) Payment in lieu of sidewalk construction; or

(b) A combination of sidewalk and/or alternative walkways and/or payment in lieu funds may be used.

(6) At least one deciduous shade tree of at least 2-1/2 inch caliper is required to be planted or preserved in the front yard of each lot.

(7) Small shrubs suitable for foundation plantings are to be planted at least every five feet on center along the front yard foundation.

(8) A minimum of two off-street parking spaces shall be provided per developable lot; and no part or portion of these dedicated spaces may be within any right-of-way.

(P) *Bike routes.* For greenway trail development, other situations may be explored. Since some trail and greenway routes are located on roadways or sidewalks, development through transportation improvements is certainly an important part of trail growth. Either wide outside travel lanes or bicycle lanes, as determined by the Town of Zebulon Public Works Department or the North Carolina Department of Transportation, shall be a part of any road improvements made on roadways that are indicated as bicycle routes on either the Town's Open Space or Greenway Master Plan.

(Ord. ZA-2003-02, passed 8-13-03)

§ 152.140 (RESERVED).

§ 152.141 PLANNED COMMERCIAL DEVELOPMENT.

Planned commercial developments are permissible by special use permits in the districts indicated in § 152.129. Planned commercial development shall be guided by the same principles governing planned residential development except that:

(A) All dimensional requirements in the use district in which the development is located shall apply.

(B) Individual stores maintaining zero lot lines between them may be considered as one unit for purposes of setbacks and other applicable requirements.

(Ord. passed 9-8-92)

§ 152.142 BED AND BREAKFAST INNS AND HOMESTAYS.

(A) Bed and breakfast inns and homestays are permitted under general or conditional use permits as listed in § 152.129 and shall comply with the following regulations.

(B) The maximum number of guest rooms allowed in a homestay is three, and in an inn is seven.

(C) No bed and breakfast establishment may be located within 400 feet of a rooming house, boarding house, tourist home, or another bed and breakfast establishment.

(D) The owner of the bed and breakfast homestay or manager of the bed and breakfast inn must be domiciled on the premises.

(E) Parking shall be in accordance with Article XII.

(F) Signs shall be used for identification only. Signs which identify bed and breakfast homestays shall be no more than three square feet in area, and three and one-half feet in height. Signs which identify bed and breakfast inns shall be no more than eight square feet in area and shall not exceed a maximum height of six feet.

(G) The exterior of a bed and breakfast homestay shall not be altered from its single family character. Rooms used for sleeping shall be part of the primary residential structure and shall not have been specifically constructed or remodeled for rental purposes.

(H) The only meal to be provided to guests in a homestay shall be breakfast and it shall only be served to guests taking lodging in the facility. Bed and breakfast inns may provide various meals to guests and guests of guests of the facility.

(I) Facilities for the preparation and distribution of food and proper garbage disposal shall be approved by the Health Department. Upon reasonable evidence, the Town Manager may suspend or revoke the use permit for any establishment lacking adequate food and garbage disposal facilities.

(Ord. passed 9-8-92)

§ 152.143 HOME OCCUPATIONS.

(A) Home occupations are permitted in all residential districts or on lots maintaining residential uses only as incidental use and shall comply with the following:

(1) The home occupation may not employ more than one person who is not a resident of the residence to work inside the residence.

(2) No more than 25% of floor area shall be used in the conduct of the home occupation.

(B) No use which may have significantly adverse impact on a surrounding residential neighborhood shall be permitted. A use may be regarded as having significantly adverse impact if:

(1) Goods, stock in trade, or other commodities are displayed, where they can clearly be viewed from outside of the house;

(2) Any on premise retail sales occur, except that baked goods and similar items produced inside the house may be sold; and

(3) It creates objectionable noise, fumes, odor, dust or electrical interference.

(C) The following is a non-exhaustive list of examples of enterprises that may be home occupations if they meet the foregoing definitional criteria:

(1) The office or studio of a physician, dentist, artist, musician, lawyer, architect, engineer, teacher, or similar professional;

(2) Workshops or greenhouses; and

(3) Dressmaking or hairdressing studio.

(D) The following uses are expressly prohibited as home occupations:

(1) Car washes, commercial automotive repair garages, truck terminals;

(2) Any use which involves the bulk storage of liquid petroleum, gasoline, kerosene or other flammable liquids;

(3) Funeral homes, mortuaries, massage parlors;

(4) Sale of reading or viewing material of a pornographic nature, movie theaters; and

(5) Animal hospitals and kennels.

(E) Accessory buildings storing materials and supplies for home occupation shall not exceed 300 square feet in area and shall comply with regulations governing accessory structures in § 152.133.

(Ord. passed 9-8-92)

§ 152.144 RESIDENTIAL AND SECURITY FENCES.

(A) *Residential fences.* Residential fences are permitted on the property lines in residential districts but shall not in any case exceed a height of eight feet; shall not exceed a height of four feet in the street yard except for buffers around mobile home parks and shall not be closer than two feet to any existing public right-of-way.

(B) *Security fences.* Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed ten feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

('76 Code, § 18-222) (Ord., passed 10-15-81; Am Ord. 1983-18, passed 12-5-83; Am. Ord. 1985-24, passed 11-4-85)

§ 152.145 REQUIREMENTS FOR MOBILE HOMES.

All mobile homes which are hereafter placed either on indivisual lots or in spaces in mobile home parks shall comply with the following requirements.

(A) Any mobile home constructed before July 1, 1970, must be approved by Underwriters' Laboratories and any mobile home constructed after that time must meet all applicable state and federal standards.

(B) All mobile homes shall be tied down in accordance with the State Regulations for Mobile Homes and Modular Housing.

(C) A continuous foundation enclosure, unpierced except for required ventilation and access, shall be installed. The enclosure may consist of brick or concrete block, or other masonry, or wood, rigid vinyl, or metal fabricated for this purpose. Any wood framing for

foundation skirting shall be constructed with treated lumber. The foundation or skirt shall be in compliance with all applicable codes and regulations.

(Ord. 1985-26, passed 11-4-85)

§ 152.146 ACCESSORY APARTMENTS IN EXISTING DWELLINGS.

One accessory apartment shall be allowed within a single-family dwelling unit provided that the following regulations are met:

(A) The dwelling is at least ten years old.

(B) The accessory apartment is smaller in square footage than the primary dwelling unit.

(C) There is no enlargement to the exterior of the structure.

(D) All applicable building, housing, and other codes are met.

(E) If the conversion necessitates changes to the exterior of the structure, these changes shall make the conversion a conditional use. Plans for any changes shall be submitted and specifically approved by the Board of Adjustment.

(F) All parking requirements shall be met.

(Ord. 1985-4, passed 3-4-85)

§ 152.1461 DISH ANTENNAS OR EARTH STATIONS.

(A) *General requirements.*

(1) A zoning permit is required when installing, moving, or substantially constructing or reconstructing a dish antenna.

(2) A dish antenna must be installed in compliance with the manufacturer's specifications at a minimum.

(3) In all residential districts, dish antennas must be permanently installed on the ground and shall not exceed 12 feet in diameter.

(4) In commercial and industrial districts, dish antennas may either be installed on the ground or on the roof of the building. If installed on the roof, the dish shall not be larger than 12 feet in diameter, shall not project higher than ten feet above the maximum building height of the zoning district or more than the actual building height above the roof, whichever is less, shall be set back from the front and sides of the building at least 18 feet and shall not be used for any advertising purposes. A dish antenna may be installed on the top of another part of the building which is lower than the roof, such as a balcony or parking deck only if the location is at the rear or side of the building and all other requirements are met.

(5) A dish antenna may be attached to an accessory building which is permanently secured to the ground, but may not be attached to the principal building except as provided for in subdivision (4) above.

(6) If a dish antenna is repaired, the only permissible colors are the original color used by the manufacturer, off-white, pastel beige, grey, or pastel grey-green. The paint must have a dull (nonglossy) finish and no patterns, lettering, or numerals shall be permitted on either side of the dish surface.

(7) No dish antenna shall be installed in any public right-of-way or in any drainage or utility easement.

(B) *Location in yards.*

(1) A dish antenna shall be installed in the rear yard only, in all districts except as provided for in division (A)(4) above and in division (B)(2) below.

(2) In commercial and industrial districts only, a dealer selling dish antennas may have a maximum of one such antenna installed in the front or side yard for display purposes providing all other requirements are met. If a dealer displays a dish antenna in the front or side yard, his permissible sign area shall be reduced by one-half.

(C) *Setback requirements.*

(1) The minimum required setback for dish antennas, from the side lot line, shall be the same as for the principal building; except on corner lots, on the side abutting the street, the minimum required setback shall be the same as the required front yard setback along that street.

(2) The minimum required setback for dish antennas from the rear lot line shall be six feet or the same as accessory buildings, whichever is greater, but in no case shall any part of the antenna come closer than one foot to the property line.

(3) In districts where there are no side or rear yard requirements, a minimum setback of six feet from the side and rear lot lines shall be required of dish antennas, but in no case shall any part of the antenna come closer than one foot to the property line.

(4) In all cases, no dish antenna shall be located within 15 feet of any street right-of-way.

(D) *Maximum height requirements.*

(1) In all residential districts the maximum height of dish antennas shall be 15 feet or the height of the principal building, whichever is less.

(2) In commercial and industrial districts, the maximum height of dish antennas installed on the ground shall be 20 feet. Dish antennas mounted on the roof of a building shall not project higher than ten feet above the maximum building height of the district or more than the actual building height above the roof, whichever is less.

(E) *Bufferring requirements.*

(1) In all residential districts, dish antennas shall be surrounded on all sides with any one or combination of evergreen vegetation, topography, landscaped earth berm, or architectural features such as fences or buildings so that view of the lower of the dish area is restricted from all public streets and six feet above ground level of abutting residential property. If evergreen vegetation is used, a species and size may be planted which can be expected to screen the required area within two years of normal growth. Any screening vegetation which dies must be replaced.

(2) In commercial and industrial districts, dish antennas must be screened from view from abutting residential property and residential streets. The screening requirements as to materials and height shall be the same as in division (E)(1) above.

(Ord. 1985-24, passed 11-4-85)

§ 152.1462 SEXUALLY ORIENTED BUSINESSES AND ADULT CABARETS.

(A) No sexually oriented business or adult cabaret shall locate within 2,000 feet of any other sexually oriented business or adult cabaret, as measured in a straight line from property line to property line.

(B) No sexually oriented business or adult cabaret shall be located within 1,000 feet of a church, public or private elementary or secondary school, child day care or nursery school, public park, residence, or any establishment with an on-premise ABC license. The 1,000 foot distance shall be measured on a straight line from property line to property line.

(C) There shall not be more than one sexually oriented business or adult cabaret on the same property or in the same building, structure, or portion thereof.

(D) No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any sexually oriented business or adult cabaret.

(E) Except for the signs permitted in the Sign Ordinance, no other advertisements, displays or signs or other promotional material shall be visible to the public from pedestrian sidewalks, walkways, or vehicular use area.

(F) Wall sign area limitations for a sexually oriented business or an adult cabaret shall be limited to the following: Sign area: One-fourth of a square foot per linear foot of building wall. Only one wall sign is permitted. The wall sign shall face a public street right-of-way.

(Adopted by Public Hearing, 8-14-95)

§ 152.1463 OPEN-AIR SALES.

(A) *Purpose.* The purpose of this section is to prevent the unrestricted proliferation of open-air sales events within the town, and to protect those businesses and food services that operate from within principle buildings at permanent locations in accordance with the law.

(B) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

APPLICANT. The person(s) who are responsible for the set-up, selling, displaying, collecting of fees and clean up of the open-air sales operation.

NON-PROFIT OR CHARITABLE ORGANIZATION. A person, group or organization who operates a business for a religious, educational, civic, patriotic, charitable or fraternal purpose where none of the earnings of the organization may go to any private shareholder or individual. This shall include but not be limited to churches, Lions club, Rotary club, Junior Woman's club, Girl Scouts, Boy Scouts, and youth sports organizations.

OPEN-AIR SALES. Any sales or displays of goods, merchandise, food or other products that are to be conducted outside of a principle building or a permanent place of business.

PERSON. An individual, vendor, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.

PRINCIPLE BUILDING. A principle bulding as defined in § 152.016, that is not a temporary building or structure.

TEMPORARY BUILDING OR STRUCTURE. Any building or structure of an impermanent nature or which is designed for use for a limited time, and includes any tent or canopy.

(C) *General provisions.*

(1) No person may conduct open-air sales within the town corporate limits, unless one of the following exemptions applies.

(a) The sale or display of fruits, vegetables, other farm or homemade products produced by the person offering them for sale in a commercial zoning district with the permission of the property owner;

(b) The sale or display of goods or merchandise (not including food or food products) by a person, partnership, corporation or other entity at a particular location if such sale or display of like or same items is conducted in association with such party's sale or display of goods or merchandise at the same location from or in a principle building that is regularly entered by the general public for the transaction of business. The items to be sold are limited to the same items that are sold inside the establishment, such as toys, clothing, furniture, and outdoor equipment.

(c) Any nonprofit group, charitable or civic organization that conducts open-air sales on either their own property or on other business property for charitable or other fundraising purposes.

(d) Vendors at special events, such as, the Christmas Parade, Arts in the Park, etc. selling goods only for that event. Food vendors will need to obtain a permit from the Wake County Health Department.

(e) Seasonal sales of Christmas trees, pumpkins, etc.

(2) If an above mentioned exemption applies, the applicant must still comply with the application requirements outlined below in division (E) to receive a permit.

(D) *Cleanup, etc., upon termination.* Upon termination of an open-air sale, all temporary buildings or structures erected for the purpose of such use, and all trash and debris generated in connection with the sale, shall be removed by the applicant or owner of the premises.

(E) *Application.* Each application for the permit required by this division shall be filed with the Planning Department not less than 15 calendar days prior to the desired commencement date of the proposed use and shall be upon such form as the Planning Department shall approve. Each such application shall include information sufficient to enable the Planning Department to determine if the proposed use of a building, structure or land will comply with the following requirements:

(1) The period of duration for the use shall not be in excess of ten consecutive calendar days.

(2) The use shall be conducted with the permission of the owner of the premises that will be occupied for purposes of the use, and written evidence of such permission shall be filed with the application.

(3) The use shall comply with all the requirements of applicable zoning, building and fire prevention codes and Wake County Health Department.

(4) The applicant shall provide or arrange for adequate off street vehicle accommodation areas that must be available to prevent any traffic congestion or general safety hazard.

(5) The applicant shall apply for a sign permit, if necessary.

(6) The applicant shall provide additional information and comply with any additional requirement deemed appropriate by the Planning Department.

(F) *Issuance and form.*

(1) Subject to subdivision (2) an application in proper form filed pursuant to this section shall be approved by the Planning Department if it find that the requirements set forth in division (E) are met. Each permit issued pursuant to this section shall specify therein the commencement date for the use and the date of expiration of the permit, which date shall be within the ten consecutive day maximum period of duration permitted under division (E). If the requirements of division (E) are not met the Planning Department shall deny the permit application.

(2) No more than four permits may be issued to the same applicant during any calendar year for a use subject to the provisions of this section, and at least 60 calendar days shall elapse between the issuance of permits to the same applicant, same use at the same or different location, whether or not issued in the same calendar year. For purpose of this

subdivision, an applicant shall be deemed to include any predecessor business to such applicant, and any person, partnership, corporation or other entity that controls, is controlled by or is under common control with such applicant.

(Ord. ZA-1996-04, passed 10-7-96; Am. Ord. ZA-1999-03, passed 9-7-99)

§ 152.1464 CARE FACILITIES.

(A) Family care homes, as defined in § 152.016, which are permitted by general use permit, shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts. However, in accordance with G.S. § 168-22 the Town may prohibit a family care home from being located within a one-half mile radius of an existing family care home.

(B) Any use claiming to be a family care home, as defined, must hold a valid and appropriate license from the North Carolina Department of Health and Human Services, Division of Facility Services, their successors or assigns.

(Ord. ZA-1999-02, passed 5-3-99)

§ 152.1465 TELECOMMUNICATION TOWERS.

The siting, height, setbacks, landscaping, use, maintenance and disassembly of telecommunication towers must conform to the following regulations:

(A) *Zoning districts.* Telecommunication towers shall be permitted only with the issuance of a special use permit in R-20, Residential; R-40W, Residential Watershed; R-80W, Residential Watershed; IH, Heavy Industrial; and IL, Light Industrial zoning districts.

(B) *Co-location.* It is the stated policy of this section to minimize the number of towers and to encourage the co-location of antenna arrays of more than one wireless communication service provider on a single support structure.

(1) Antennas or arrays may be attached to an existing tower support structure that is in compliance with all applicable zoning regulations, as long as the height of the tower is not increased and structural integrity of the tower is not compromised.

(2) No new telecommunication tower may be constructed within a 2,500-foot radius of an existing tower, unless it can be demonstrated to the satisfaction of the Planning Director that the existing support tower is not available for co-location of an additional service provider, or that its specific location does not satisfy the operational requirement of the applicant.

(3) All new towers shall be structurally designed to accommodate the applicant's communications equipment as well as comparable communications equipment for at least two other users.

(4) Arrays may be mounted or attached to any existing structure (such as water towers, steeples, or electric transmission towers) provided that the owner of such structure is in agreement.

(5) Existing non-conforming towers may only be expanded to allow co-location of additional service providers. No existing non-conforming tower may be expanded or enlarged for any other reason.

(C) *Maximum height and type.* Only monopole type telecommunication towers may be constructed within the town's planning jurisdiction. Towers may not exceed 195 feet in height.

(D) *Fall zone required.* The single parcel of land proposed as a potential tower site shall be of sufficient size to accommodate a fall zone easement of not less than a circle with a radius equal to the setback distances described below. Preserving such an easement shall be a required condition of any special use permit issued in accordance with site approval. No other structures shall be within the fall zone easement. Excluded from this requirement are the necessary equipment shelters, cabinets, or other on-the-ground ancillary equipment that shall meet the setback requirements of the zone in which it is located.

(1) In IH and IL zoning districts, the radius of the circle containing the fall zone easement must be 110% of the tower height.

(2) In R-20, R-40W and R-80W zoning districts, the radius of the circle containing the fall zone easement must be 200% of the tower height.

(E) *Special use permit application for siting and construction.* Any applicant for the placement of a new telecommunications tower support structure must submit an application package to the Planning Department containing at least the following information:

(1) A copy of the survey of the property or leased area (if applicable);

(2) Copies of any necessary access easements and/or lease agreements between the property owner and the service provider. This agreement must include a statement of responsibility for tower removal. (See division (H) below for additional information on abandonment);

(3) Written statements assuring the site complies with:

(a) All applicable Federal Communications Commission (FCC) regulations; and

(b) All applicable Federal Aviation Administration (FAA) regulations;

(4) The identity of the owner of the property, including full name, address and telephone number;

(5) The identity of the owner of the telecommunication tower, including full name, address and telephone number;

(6) Precise drawings, in plan and cross-sectional view, of all proposed structural components of the tower;

(7) A vicinity map drawn to sufficient scale depicting: all adjacent properties, structures and rights-of-way; the fall-line easement; zoning district boundaries; site access; on-site and adjacent land uses to a radius of 2,500 feet from the base of the tower;

(8) A landscape plan drawn to sufficient scale to show specific location and species of vegetation. Based upon existing conditions and tower placement, this requirement may be waived by the Board of Commissioners; and

(9) Any other such information the Planning Director deems necessary to render a decision.

(F) *Specific requirements regarding construction and use.*

(1) Installation and use of wireless communication antenna arrays shall conform to such standards as are required by the FCC and the radio frequency (RF) exposure guidelines issued by the American National Standards Institute (ANSI);

(2) Any and all proposed telecommunication transmissions shall not interfere with any existing telecommunication facilities or the town's communication equipment;

(3) Towers shall not be artificially illuminated unless required by the FAA or other governmental regulation. Ground level security lighting is permitted, if it is kept less than 20 feet in height and designed to minimize its effect on adjacent properties.

(4) Signs posted on a tower:

(a) Shall only be for cautionary or advisory purposes; and

(b) May not be posted higher than 15 feet;

(5) The perimeter of the tower area shall be landscaped with a buffer of plant materials that effectively screens the view of the tower base. This standard buffer shall consist of a strip at least five feet wide outside the perimeter of the tower area. Based upon existing conditions and tower placement, this requirement may be waived by the Board of Commissioners.

(G) *Maintenance and alteration.* Minor modifications to existing towers, whether emergency or routine, are permitted, provided there is no remarkably significant change in the visual appearance of the facility. Also permitted, with a building permit, is the addition of transmission/reception devices of other service providers, provided such alteration does not:

(1) Result in substantial changes to the existing support structure; and

(2) Increase the height of the tower.

(H) *Abandonment and disassembly.*

(1) A telecommunication tower shall be considered abandoned if:

(a) It falls into obvious disrepair; or

(b) A reasonable attempt is made by the Planning Director to contact the applicant and/or owner of the tower, and no contact can be established.

(2) Once a telecommunication tower is deemed abandoned, the owner of the property and/or the owner of the tower are responsible for its removal. Removal of the tower must occur within 180 days of the determination of abandonment.

(Ord. ZA-2000-16, passed 11-6-00)

PART III: FLOODWAYS AND FLOODPLAINS

§ 152.147 STATUTORY AUTHORIZATION, FINDINGS OF FACTS, PURPOSE AND OBJECTIVES.

(A) The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of the Town does ordain as follows:

(B) (1) 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.

(2) 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, floodproofed, or otherwise unprotected from flood damages.

(C) 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:

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

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

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

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

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(D) The objectives of this chapter are:

(1) To protect human life and health;

(2) To minimize expenditure of public money for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) 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;

(6) 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,

(7) To insure that potential home buyers are notified that property is in a flood area.

(E) Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

APPEAL. A request from a review of the local administrator's interpretation of any provision of this chapter.

ADDITION (TO AN EXISTING BUILDING). Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

AREA OF SHALLOW FLOODING. A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OFF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a one percent or grater chance of being equaled or exceeded in any given year.

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

BASEMENT. That lowest level or story which has its floor subgrade on all sides.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting

foundation system. A breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. A wall with loading resistance of more than 20 pounds per square foot requires a professional engineer or architect's certificate.

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

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.

ELEVATED BUILDING. A non-basement building built, in the case of a building in Zones A1 -A30, Ae, A, A99, Ao, Ah, B, C, or X to have the top of the elevated floor, or in the case of a building in Zones Vi - V30, Ve, or V to have the bottom of the lowest horizontal structural member of the elevated floor above the ground by means of pilings, columns (post and piers), shear walls parallel to the flow of water and, adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of Zones A1 - A30, Ae, A, A99, Ao, Ah, B, C, and X, ***ELEVATED BUILDING*** also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1 - V30, Ve, or V, ***ELEVATED BUILDING,*** even though the area below is enclosed by means of breakaway walls if the breakaway walls meet the standards of Article 5, Section B(5) of this chapter.

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 the effective date of this chapter.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of the additional sites by the 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 water; 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 a 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 official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

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 a 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 the ground surface, prior to construction, next to the proposed walls of the structure.

HISTORIC STRUCTURE. Any structure that is: listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; 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; individually listed on a state inventory of historic places; individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of Interior, or directly by the Secretary of Interior in states without approved programs.

LEVEE. A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LOWEST FLOOR. 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 enclosure constructed of flood resistant materials is designed to automatically allow for entry or exit of floodwater in A zones. The definition of lowest floor includes:

(1) The basement (if one exists);

(2) The top of the lowest floor in A zones;

(3) The bottom of or lowest structural member in V zones;

(4) The elevated floor of a building (not the ground floor, provided the ground floor is only used for parking, limited storage, or building access and meets other ordinance criteria).

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. Parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD).

NATIONAL GEODETIC VERTICAL DATUM (NGVD). As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION. 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 the pouring of concrete slabs) is completed on or after the effective date of this chapter.

NONCONFORMING BUILDING OR USE. Any legally existing building or use which fails to comply with the provisions of the ordinance.

RECREATIONAL VEHICLE. A vehicle which is: built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and, 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 the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

START OF CONSTRUCTION. (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348)), includes substantial improvement, and means the date the building permit was issued, 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 the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation of 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 excavation for a basement, footings, piers or 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, including a gas or liquid storage tank, or other man-made facilities or infrastructures that are 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 term does not, however, include either: 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, 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 Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

(Ord. passed 9-8-92; Am. Ord. ZA-2000-07, passed 2-7-00)

§ 152.148 GENERAL FLOODPLAIN PROVISIONS.

(A) This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town.

(B) The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study dated January 1, 1978, with accompanying maps and other supporting data, and any revision thereto are adopted by reference and declared to be a part of this chapter.

(C) A development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities.

(D) No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(E) 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.

(F) In the interpretation and application of this chapter all provisions shall be: considered as minimum requirements; liberally construed in favor of the governing body; and, deemed neither to limit nor repeal any other powers granted under state statutes.

(G) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is base on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-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.

(H) Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation 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. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. passed 9-8-92)

§ 152.149 ADMINISTRATION OF FLOOD PROVISIONS.

(A) The land use administrator is hereby appointed to administer and implement the provisions of this chapter.

(B) Application for a development permit shall be made to the local administrator on forms furnished by him or her prior to any development activities. The development permit may include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:

(1) Where base flood elevation data is provided in accordance with division (C)(10), the application for a development permit within the Zone A on the Flood Insurance Rate Map 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 structure has been floodproofed in accordance with § 152.150(B)(2), the elevation (in relation to mean sea level) to which the structure was floodproofed.

(2) 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.

(3) 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 a map showing the location of the proposed watercourse alteration or relocation.

(4) When a structure is floodproofed, the applicant shall provide a certificate from a registered professional engineer or architect that the non-residential floodproofed structure meets the floodproofing criteria in § 152.150(B)(2).

(5) A floor elevation or floodproofing certification is required after the lowest floor is completed. Within 21 calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local administrator a certification of the elevation of the lowest floor, or floodproofed 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 same. When floodproofing 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 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 land use 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, halt further inspections and shall be cause to not issue or revoke the certificate of occupancy of said building.

(6) When a structure requires flood certification, floor elevation or floodproofing certification a zoning inspection will be performed by the land use administrator, or their designee, to insure the proper placement of the foundation in relation to the required setbacks and/or approved site plan prior to the scheduling of a footing or any other type of inspection.

(C) Duties of the land use 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 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 North Carolina 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 § 152.150 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 subdivision (B)(5).

(7) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with subdivision (B)(5).

(8) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with § 152.150(B)(2).

(9) Where interpretation is needed as to the 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 section.

(10) When base flood elevation data or floodway data has not been provided in accordance with § 152.148(B), 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 § 152.150(D)(4), in order to administer the provisions of this chapter.

(11) Make on-site inspections of projects in accordance with division (D).

(12) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with division (D).

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

(14) Provide the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program with two copies of the maps delineating new corporate limits within six months from date of annexation or change in corporate boundaries.

(D) The following shall be the established administrative procedure:

(1) *Inspections of work in progress:* As the work pursuant to a permit progresses, the land use 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 this chapter and the terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(2) *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 immediately stopped. 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 constitutes a misdemeanor.

(3) *Revocation of permits:* The land use 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 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.

(4) *Periodic inspections:* The land use administrator and each member of his 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.

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

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

(a) That the building or property is violation of the Flood Damage Prevention Ordinance;

(b) That a hearing will be held before the land use administrator at a designated place and time, not later than ten days after the date of the 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) That following the hearing, the land use administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(7) *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 the Flood Damage Prevention Ordinance, he shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, the administrator may prescribe; provided that where the administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

(8) *Appeal:* Any owner who has received an order to take corrective action may appeal from the order to the Board of Adjustment 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.

(9) *Failure to comply with 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 shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

(E) The following shall be the variance procedure:

(1) The Board of Adjustment shall hear and decide requests for variances from the requirements of this chapter.

(2) Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(3) 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.

(4) In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location, where applicable;

(f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) 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,

(k) 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.

(5) 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.

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

(7) Conditions for variances:

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

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

(c) Variances shall only be issued upon a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship, and, 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.

(d) 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 elevation. Such notification shall be maintained with a record of all variance actions.

(e) The land use administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(Ord. passed 9-8-92; Am. Ord. ZA-2000-04, passed 2-7-00)

§ 152.150 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) In all areas of special flood hazard the following provisions are required:

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

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

(3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;

(4) 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;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) 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;

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

(8) 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.

(9) Non-conforming buildings or uses may not be enlarged, replaced, 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 Zone, provided that the bulk of the building or structure below base flood elevation in the Floodway Zone is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

(B) In all areas of special flood hazard where base flood elevation data has been provided, as set forth in § 152.148(B), or § 152.149(C)(10), the following provisions are required:

(1) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than two feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided.

(2) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than two feet above the level of the base flood elevation. Structures located in A-zones may be floodproofed in lieu of elevation are watertight 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 subsection are satisfied. Such certification shall be provided to the official as set forth in § 152.149(B)(5).

(3) *Manufactured homes.*

(a) 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 one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) 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 provisions of § 152.150 (B)(3)(a) of this chapter must be elevated so that the lowest floor of the manufactured home is elevated no lower than one foot above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

(c) Manufactured homes shall be anchored to prevent floatation, 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 Regulations

for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to NCGS 143.143.15. Additionally, when the elevation would be met by an elevation of the chassis at least 36 inches or less above the grade at the sight, 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.

(d) 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 land use administrator and the local Emergency Management Coordinator.

(4) *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:

(a) Be on site for fewer than 180 consecutive days;

(b) Be fully licensed and ready for highway use; or

(c) Meet the requirements of § 152.149(B) and § 152.150(A) and (B)(3).

(5) *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 that 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 floodwaters.

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

1. 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;

2. The bottom of all openings shall be no higher than one foot above grade; and,

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(b) 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) entry to the living area (stairway or elevator).

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

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

(a) All applicants must submit to the land use administrator a plan for the removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:

1. The name, address and phone number of the individual responsible for the removal of the temporary structure;

2. The time frame prior to the event at which a structure will be removed;

3. A copy of the contract or other suitable instrument with a trucking company to insure the availability or removal equipment when needed; and

4. Designation, accompanied by documentation, or a location outside the floodplain to which the temporary structure will be moved.

(b) The above information shall be submitted in writing to the land use administrator for review and written approval.

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

(a) Accessory structures shall not be used for human habitation;

(b) Accessory structures shall be designed to have low flood damage potential;

(c) Accessory structures shall be firmly anchored in accordance with § 152.150 (A)(1); and

(d) Service facilities such as electrical and heating equipment shall be elevated in accordance with § 152.120 (A)(4).

(8) *Floodways.* Located within areas of special flood hazard established in § 152.148(B), 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:

(a) 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 land use administrator.

(b) If § 152.150(B)(6)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of § 152.150.

(c) 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 § 152.150(B)(3) are met.

(C) Located within the areas of special flood hazard established in Article 3, Section B, are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas:

(1) No encroachments, including full, new construction, substantial improvements or new development shall be permitted within a distance of the stream bank equal to five times the width of the stream at the top of the bank or 20 feet each side from top of bank, 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 § 152.150(C)(1) 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 Article 5 and shall be elevated or floodproofed in accordance with elevations established in accordance with § 152.149 (C)(10). 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.

(D) Located within the areas of special flood hazard established in § 152.148(B), are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions shall apply within such areas:

(1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.

(2) All new construction and substantial improvements of non-residential structures shall:

(a) have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or,

(b) be completely floodproofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(Ord. passed 9-8-92; Am. Ord. ZA-2000-05, passed 2-7-00)

§ 152.151 SUBDIVISIONS WITH SPECIAL FLOOD HAZARD AREAS.

(A) The following standards set forth in this division shall be applied to all subdivisions.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(4) Base flood elevation data shall be provided for all subdivision proposals that contain special flood hazard areas.

(B) Flood plain warning signs.

(1) Prior to the approval of the final plat of a subdivision that contains special flood hazard areas the developer shall cause to be erected a permanent flood plain warning sign. This sign shall be at least two square feet in the area with lettering no less than one inch in height and be placed in plain view within the right-of-way nearest to the flood prone properties in new subdivisions or new phases of existing subdivisions. This sign and its placement is subject to approval by the Board of Commissioners during final plat approval.

(2) This sign shall read: "Area Subject to Flooding".

(Ord. ZA-2000-06, passed 2-7-00)

§§ 152.152 through 152.161 RESERVED

PART IV: DENSITY AND DIMENSIONAL REGULATIONS

§ 152.162 DENSITY AND DIMENSIONAL REGULATIONS.

Except as otherwise specifically provided, all lots in the following zones shall have at least the amount of square footage, and buildings shall observe the minimum setbacks indicated in the following table:

(A) *Minimum lot widths.*

(1) No lot shall be created that is so narrow of otherwise so irregularly shaped that it would be impractical to construct on it a building that:

(a) Could be used for purposes that are permissible in that zoning district.

(b) Could satisfy any applicable setback requirements for that district.

(2) The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the street intersects with boundary lines at opposite sides of the lot.

(3) No lot created after the effective date of this section that is less than the recommended width shall be entitled to a variance from any building setback requirement.

(B) *Building setback requirements.*

(1) No portion of any building may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the table set forth in this section.

(a) If the street right-of-way is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the centerline

(b) As used in this section, the term “lot boundary line” refers to lot boundaries other than those that abut streets.

(c) As used in this section, the term ***BUILDING*** includes any substantial structure which be nature of its size, scale, dimensions, bulk or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description.

1. Gas pumps and overhead canopies or roofs.

2. Fences running along lot boundary adjacent to public street right-of-ways if fences exceed six feet and are substantially opaque.

(d) *Multi-frontage lots.* Lots that abut two or more streets are required to treat each yard abutting the street as if it were the front yard.

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

(3) Setback distances shall be measured from the property line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not merely an appendage to it (such as a flagpole, etc.)

(C) *Cluster subdivisions dimensional requirements.* As provided in § 152.056 the following minimum lot sizes apply:

R-10	8,500
R-13	11,500
R-30/20	15,000

ZONE	*LOT AREA*	*LOT WIDTH*	*FRONT YARD*	*SIDE YARD*	*REAR YARD*	*MAXIMUM HEIGHT*
R-30/20 RMH 30/20@						
Single Family*	30,000 sq ft	150 ft	50 ft	15 ft	25 ft	35 ft
Two Family						
Other Principal						
Uses	20,000 sq ft	100 f t	50 ft	15 ft	25 ft	35 ft

@ 20,000 sq ft for lots zoned R-20 and RMH-20; 100 ft of lot width

* Includes mobile homes on individual lots where R & RMH are combined

R-13 RMH-13						
Single Family	13,000	85	30	12	25	35
Two Family	17,000	100	30	15	25	35
Other Principal						
Uses	15,000	85	30	12	25	35
R-10 RMH-10						
Single Family	10,000	75	30	10	25	35
Two Family	13,000	100	30	12	25	35
Other Principal						
Uses	12,000	80	30	10	25	35
R-8 RMH-8						
Single Family	8,000	70	30	10	25	35
Two Family	10,500	95	30	12	25	35
Multi-Family*	20,000	100	30	15	25	35
Other Principal						

Uses	10,000	75	30	10	25	35

*8,000 sq ft. for each additional unit in excess of 3; additional 10 ft lot width for each unit in excess of 3

RMF	see note@	100	30	15	25	50*

@maximum permitted density= 30% of net square footage of lot

*or 3 stories; add 10 ft to lot width for each additional residential unit in excess of three

TR

Single Family	8,000	70	30	10	25	35
Two Family	10,500	95	30	12	25	35
Other Principal Use	8,000	95	30	10	25	35

MA

All Principal Uses	6,000	50	20	none	25	30*

*Structures may exceed 30 ft if the depth of the front and rear and width of each side yard are increased by 1 foot beyond that required herein for each additional 2 ft or fraction thereof in excess of 30

CB

All Principal Uses	none	none	20	none	10*	35

*only where there is no public alley.

GC HB

All Principal Uses	6,000	50	30	none	25*	100@

*only where there is no public alley.

@any building which exceeds 50 feet in height must observe standard yard requirements plus one foot for every two feet in excess of 50

IL IH

All Principal Uses	30,000	150	35	20	25	100@

@any building which exceeds 50 feet in height must observe standard yard requirements plus one foot for every two feet in excess of 50; lots in excess of two acres must observe standard setback plus two feet for each additional acre up to a maximum setback of 100 feet.

(Ord. passed 9-8-92; Am. Ord. ZA-1993-01, passed 8-2-93; Am. Ord. ZA-2000-14, passed 10-2-00; Am. Ord. ZA-2000-18, passed 11-6-00)

§§ 152.163 through 152.168 RESERVED

ARTICLE IX RECREATIONAL FACILITIES AND OPEN SPACE

§ 152.169 MINIPARKS REQUIRED.

(A) Subject to division (C), all residential developments shall provide, through dedication or reservation, recreational areas in the form of miniparks, as described in § 152.170 in an amount equal to .0025 acres or 108.9 square feet per person expected to reside in that development. Such recreational areas shall be provided in addition to the open space areas required by § 152.171.

(B) For purposes of this section, one bedroom dwelling units shall be deemed to house an average of 1.4 persons, two bedroom units 2.2 persons, three bedroom units 3.2 persons, and units with four or more bedrooms 4.0 persons. In residential subdivisions that are not approved as architecturally integrated subdivisions, each lot that is large enough for only a single dwelling unit shall be deemed to house an average of 3.2 persons. Each lot that is large enough to accommodate more than one dwelling unit shall be deemed to house 2.2 persons for each dwelling unit that can be accommodated.

(C) The Board of Commissioners recognizes that miniparks must be of certain minimum size to be usable and that such miniparks will not serve the intended purpose unless properly maintained. Therefore, residential developments that are small enough so that the amount of required minipark space does not exceed 2,000 square feet are exempt from the provisions of this section. However, as used in the foregoing sentence, the term development refers to the entire project developed on a single tract or contiguous multiple tracts under common ownership, regardless of whether the development is constructed in phases or stages. In addition, subdivided residential developments of less than 25 dwelling units shall also be exempt from the provisions of this section.

(Ord. passed 9-8-92)

§ 152.170 MINIPARKS; PURPOSE AND STANDARDS.

(A) The purpose of the minipark is to provide adequate active recreational facilities to serve the residents of the immediately surrounding neighborhood within the development.

(B) Each development shall satisfy its minipark requirement by installing the types of recreational facilities that are most likely to be suited to and used by the age bracket of persons likely to reside in that development. However, unless it appears that less than five percent of the residents of any development are likely to be children under 12, then at least five percent of the minipark must be satisfied by the construction of areas equipped with imaginative play apparatus oriented to younger children as well as seating accommodations for parents.

(C) Miniparks shall be attractively landscaped and shall be provided with sufficient natural or man made screening or buffer areas to minimize any negative impacts upon adjacent residences.

(Ord. passed 9-8-92)

§ 152.171 USABLE OPEN SPACE.

(A) Except as provided in division (C), every residential development shall be developed so that at least five percent of the total area of the development remains permanently as usable open space.

(B) For purposes of this section, usable open space means an area that:

(1) Is not encumbered with any substantial structure.

(2) Is not devoted to use as a roadway, parking area, or sidewalk.

(3) Is left, as of the date the development began, in its natural or undisturbed state if wooded, except for cutting of trails for walking or jogging, or, if not wooded at the time of development, is landscaped for ballfields, picnic areas, or similar facilities, or is properly vegetated and landscaped with the objective of creating a wooded area or other area that is consistent with the objective set forth in subdivision (4) immediately below.

(4) Is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation, and

(5) Is legally and practicably accessible to the residents of the development out of which the required open space is taken, or to the public if dedication of the open space is required pursuant to § 152.173.

(6) Consists of land no more than 25% of which lies within a floodplain or floodway as those terms are defined in § 152.147(C).

(Ord. passed 9-8-92)

§ 152.172 OWNERSHIP AND MAINTENANCE OF RECREATIONAL AREAS AND REQUIRED OPEN SPACE.

(A) Except as provided in § 152.173, recreation facilities and usable open space required to be provided by the developer in accordance with this article shall not be dedicated to the public but shall remain under the ownership and control of the developer, or his successor, or a homeowners association or similar organization.

(B) The persons or entity identified in division (A) as having the right of ownership and control over such recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same.

(Ord. passed 9-8-92)

§ 152.173 DEDICATION OF OPEN SPACE.

(A) If any portion of any lot proposed for residential development lies within an area designated on the officially adopted recreation master plan or plan having similar principle,

effect, or concept, as a neighborhood park or part of the greenway system or bikeway system, the area so designated, not exceeding five percent of the total lot area, shall be included as part of the area set aside to satisfy the requirement of § 152.171. This area shall be dedicated to public use.

(B) If more than five percent of a lot proposed for residential development lies within an area designated as provided in division (A), the Town may attempt to acquire the additional land in the following manner:

(1) The developer may be encouraged to resort to the procedures authorized by §§ 152.139 and 152.140 and dedicate the common open space thereby created; or

(2) The Town may purchase or acquire the land through condemnation.

(Ord. passed 9-8-92)

§ 152.174 FLEXIBILITY IN ADMINISTRATION AUTHORIZED.

(A) The requirements set forth in this article concerning the amount, size, location, and nature of recreational facilities and open space to be provided in connection with residential developments are established by the Board of Commissioners as standards that presumptively will result in the provision of that amount of recreational facilities and open space that is consistent with officially adopted plans. The Board recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the permit issuing body is authorized to permit minor deviations from these standards whenever it determines that, the objectives underlying these standards can be met without strict adherence to them; and because peculiarities in the developer's tract of land or the facilities proposed, it would be unreasonable to require strict adherence to these standards.

(B) Whenever the permit issuing board authorizes some deviation from the standards set forth in this article pursuant to division (A), the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

(Ord. passed 9-8-92)

§§ 152.175 through 152.180 RESERVED

ARTICLE X DEVELOPMENT STANDARDS
PART I: STREETS AND SIDEWALKS

§ 152.181 STREET CLASSIFICATION.

(A) In all new subdivisions, streets that are dedicated to public use shall be classified as provided in division (B).

(1) The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day;

(2) The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive;

(3) Whenever a subdivision street continues an existing street that formerly terminated outside the subdivision or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.

(B) The classification of streets shall be as follows:

(1) *Minor.* A street whose sole function is to provide access to a abutting properties. It serves or is designed to serve not more than nine dwelling units and is expected to or does handle up to 75 trips per day.

(2) *Local.* A street whose sole function is to provide access to abutting properties. It servers or is designed to serve at least ten but no more than 25 dwelling units and is expected to or does handle between 75 to 200 trips per day.

(3) *Cul-de-sac.* A street that terminates in a vehicular turnaround.

(4) *Subcollector.* A street whose principal function is to provide access to abutting properties but is also designed to be used or is used to connect minor and local streets with collector or arterial streets. Including residences and indirectly served through connecting streets, it serves or is designed to serve at least 26 but not more than 100 dwelling units and is expected to or does handle between 200 and 800 trips per day.

(5) *Collector.* A street whose principal function is to carry traffic between minor, local, and subcollector streets and arterial streets but that may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than 100 dwelling units and is designed to be used or is used to carry more than 800 trips per day.

(6) *Arterial.* A major street in the Town's street system that serves as an avenue for the circulation of traffic into, out, or around the city and carries high volumes of traffic.

(7) *Marginal access street.* A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

(Ord. passed 9-8-92)

§ 152.182 ACCESS TO LOTS.

Every lot shall have access to it that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.

(Ord. passed 9-8-92)

§ 152.183 ACCESS TO ARTERIAL STREETS.

Whenever a major subdivision that involves the creation of one or more new streets borders on or contains an existing or proposed arterial street, no direct driveway access may be provided from the lot within this subdivision onto this street.

(Ord. passed 9-8-92)

§ 152.184 ENTRANCES TO STREETS.

(A) All driveway entrances and other openings onto streets within the Town's planning jurisdiction shall be constructed so that:

(1) Vehicles can enter and exit from the lot in question without posing any substantial danger to themselves, pedestrians, or vehicles travelling in abutting streets, and

(2) Interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized.

(B) Specifications for driveway entrances shall be according to North Carolina State Department of Transportation driveway standards.

(Ord. passed 9-8-92)

§ 152.185 COORDINATION WITH SURROUNDING STREETS.

(A) The street system of a subdivision shall be coordinated with existing, proposed, and anticipated streets outside the subdivision or outside the portion of a single tract that is being subdivided into lots, as provided in this section.

(B) Collector streets shall intersect with surrounding collector or arterial streets at safe and convenient location.

(C) Subcollector, local, and minor residential streets shall connect with surrounding streets where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency services vehicles or for other sufficient reasons, but connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.

(D)Whenever connections to anticipated or proposed surrounding streets are required by this section, the street right-of-way shall be extended and the street developed to the property line of the subdivided property, or to the edge of the remaining undeveloped portion of a single tract, at the point where the connection to the anticipated or proposed street is expected. In addition, the permit issuing authority may require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles. Notwithstanding the other provisions of this subsection, no temporary dead end street in excess of 1,000 feet may be created unless no other practicable alternative is available.

(Ord. passed 9-8-92)

§ 152.186 RELATIONSHIP OF STREETS TO TOPOGRAPHY.

Streets shall be related appropriately to the topography. In particular, streets shall be designed to facilitate the drainage and storm water runoff objectives set forth in Part IV of this Article, and street grades shall conform as closely as practicable to the original topography.

(Ord. passed 9-8-92)

§ 152.187 STREET WIDTH, SIDEWALK, AND DRAINAGE REQUIREMENTS IN SUBDIVISIONS.

(A) Street rights-of-way are designed and developed to serve several functions: to carry motor vehicle traffic, and in some cases, allow on street parking; to provide a safe and convenient passageway for pedestrian traffic; and to serve as important link in the Town's drainage system. In order to fulfill these objectives, all public streets shall be constructed to meet either the standards set forth in division (B) or division (C)

(B) The following classifications of streets may be constructed in R20, RMH20, R40W, and R80W zoning districts if all adjoining lots exceed 30,000 square feet minimum area. These streets shall be constructed with six foot wide shoulders and drainage swales on either side in lieu of curb and gutter, so long as the street grade does not exceed a grade of six percent. Such streets shall be constructed to meet the criteria indicated in the table that follows as well as specifications referenced in any provision in this chapter.

STREET TYPE	MINIMUM R/W WIDTH (ft)	MINIMUM PAVEMENT WIDTH (ft)
Minor	45	18
Local	45	18
Sub collector	50	20

(C) Except as otherwise provided in division (B), all streets in districts R8, RMH8, R10, RMH10, R13, RMH13, RMF, HB, CB, IL, IH, TR, shall be constructed with curb and gutter and shall conform to other requirements of this subsection. Only standard 90 degree curb may be used, except that roll-type curb shall be permitted along minor and local streets in districts mentioned above within residential subdivisions. Street pavement width shall be measured from curb face to curb face where 90 degree curb is used, and from center of the curb to the center of the curb where roll type curb is used.

STREET TYPE	MIN R/W WIDTH (ft)	MIN PAVEMENT WIDTH (ft)	SIDEWALK REQUIRED
Minor	40	20	none

Local	40	24	one side
Subcollector	50	26	one side
Collector	50	34	one side

(D) The sidewalks required by this section shall be at least four feet in width. The permit issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that:

(1) Such walkways would serve the residents of the development as adequately as concrete sidewalks; and

(2) Such walkways would be more environmentally desirable or more in keeping with the overall design of the development.

(E) Whenever the permit issuing authority finds that a means of pedestrian access is necessary from the subdivision to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the streets, the developer may be required to reserve an unobstructed easement of at least 10 feet in width to provide such access.

(Ord. passed 9-8-92; Am. Ord. ZA-1999-01, passed 9-7-99)

§ 152.188 GENERAL LAYOUT OF STREETS.

(A) Subcollector, local, and minor residential streets shall be curved whenever practicable to the extent necessary to avoid conformity of lot appearance.

(B) Cul-de-sacs and loop streets are encouraged so that through traffic on residential streets is minimized. Similarly, to the extent practicable, driveway access to collector streets shall be minimized to facilitate the free flow of traffic and avoid traffic hazards.

(C) All permanent dead end streets shall be developed as cul-de-sacs in accordance with the standards set forth in division (D). Except where no other practicable alternative is available, such streets may not extend more than 550 feet, measured to the center of the turnaround.

(D) The right-of-way of a cul-de-sac shall have a radius of 50 feet. The radius of the paved portion of the turnaround, measured to the outer edge of the pavement, shall be 35 feet, and the pavement width shall be 12 feet without curb and gutter or 18 feet with curb and gutter. The unpaved center of the turnaround area shall be landscaped.

(E) Half streets, or streets of less than the full required right-of-way and pavement width, shall not be permitted except where such streets, when combined with a similar street, developed previously or simultaneously, on property adjacent to the subdivision, creates or comprises a street that meets the right-of-way and pavement requirements of this chapter.

(F) Streets shall be laid out so that residential blocks do not exceed 1,000 feet, unless no other practicable alternative is available.

(Ord. passed 9-8-92)

§ 152.189 STREET INTERSECTION.

(A) Streets shall intersect as nearly as possible at right angles, and no two streets may intersect at less than 60 degrees. Not more than two streets shall intersect at any one point, unless the public works director certifies to the permit issuing authority that such an intersection can be constructed with no extraordinary danger to public safety.

(B) Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a centrolineal offset occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 150 feet.

(C) Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 400 feet measured from centrolineal to centrolineal of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be at least 1,000 feet.

(Ord. passed 9-8-92)

§ 152.190 PUBLIC STREETS AND PRIVATE ROADS IN SUBDIVISIONS.

(A) Except as otherwise provided in this section, all lots created after the effective date of this section shall abut a public street at least to the extent necessary to comply with the access requirement set forth in § 152.182. For purposes of this section, the term “public street” includes a preexisting public street as well as a street created by the subdivider that meets the public street standards of this chapter and is dedicated for public use. Unless the recorded plat of a subdivision clearly shows a street to be private, the recording of such plat shall constitute an offer of dedication of such street.

(B) Architecturally integrated residential subdivisions containing 25 or more dwelling units may be developed with private roads that do not meet the public street and sidewalk standards of this chapter so long as:

(1) The proposed development will have direct access on a public street or, if the tract has access to a public street only via a private road, such private road is improved to public street standards.

(2) No road intended to be private is planned to be extended to serve property outside that development; and

(3) The standards applicable to unsubdivided developments in §§ 152.192 and 152.193 are complied with.

(C) Architecturally integrated containing any number of dwelling units may be developed with private roads that do meet the public street and sidewalk standards of this chapter but that are not intended for dedication to the public so long as:

(1) The proposed development will have direct access onto a public street or, if the tract has access to a public street only via a private road, such private road is improved to public street standards,

(2) No road intended to be private is planned or expected to be extended to serve property outside the development, and,

(3) The subdivider demonstrates to the reasonable satisfaction of the Board of Commissioners that the private roads will be properly maintained.

(D) A subdivision in which the access requirement of § 152.182 is satisfied by a private road that meets neither the public street standards nor the standards set forth in § 152.192 may be developed so long as, since the effective date of this chapter, not more than three lots have been created out of that same tract.

(1) The intent of this subsection is primarily to allow the creation of not more than three lots developed for single family residential purposes. Therefore, the permit issuing authority may not approve any subdivision served by a private road authorized by this subsection in which one or more of the lots thereby created is intended for two-family or multi-family residential use or any other residential or nonresidential use that would tend to generate more traffic than that customarily generated by three single-family residences.

(2) To ensure that the intent of this subsection is not subverted, the permit issuing authority may, among other possible options, require that the approved plans show the types and locations of buildings on each lot or that the lots in a residential subdivision served by a private road be smaller that the permissible size of lots on which two family or multi-family developments could be located or that restrictive covenants limiting the use of the subdivided property in accordance with this section be recorded before final plat approval.

(E) No final plat that shows lots served by private roads may be recorded unless the final plat contains the following notations:

(1) “Further subdivision of any lots shown on this plat as served by a private may be prohibited by the Zebulon Land Use Ordinance.”

(2) “The policy of the Town of Zebulon is that, if the Town improves streets i) that were never constructed to the standards required in the Land Use Ordinance for dedicated streets, and ii) on which 75 percent of the dwelling units were constructed after the effective date of this chapter, then 100 percent of the costs of such improvements shall be assessed to abutting landowners.”

(F) The recorded plat of any subdivision that includes a private road shall clearly state that such road is a private road. Further, the initial purchaser of a newly created lot served by a private road shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the road.

(Ord. passed 9-8-92)

§ 152.191 ROAD AND SIDEWALK REQUIREMENTS IN UNSUBDIVIDED DEVELOPMENTS.

(A) Within unsubdivided developments, all private roads and access ways shall be designed and constructed to facilitate the safe and convenient movement of motor vehicle and pedestrian traffic. Width of roads, use of curb and gutter, and paving specifications shall be determined by the provisions of this chapter dealing with parking (Article XII) and drainage (Part IV of this Article). To the extent not otherwise covered in the foregoing articles, and to the extent that the requirements set forth in this article for subdivision streets may be relevant to the roads in unsubdivided developments, the requirements of this article may be applied to satisfy the standard set forth in the first sentence of this subsection.

(B) Whenever a road in an unsubdivided development connects two or more subcollector, collector, or arterial streets in such a manner that any substantial volume of through traffic is likely to make use of this road, such road shall be constructed in accordance with the standards applicable to subdivision streets and shall be dedicated.

(C) In all subdivided residential development, sidewalks shall be provided linking dwelling units with other dwelling units, the public street, and on-site activity centers such as parking areas, laundry facilities, and recreational areas and facilities. Notwithstanding the foregoing, sidewalks shall not be required where pedestrians have access to a road that serves not more than nine dwelling units.

(D) Whenever the permit issuing authority finds that a means of pedestrian access is necessary from an unsubdivided development to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the roads, the developer may be required to reserve an unobstructed easement of at least ten feet to provide such access.

(E) The sidewalks required by this section shall be at least four feet wide and constructed according to the specifications set forth in this chapter. The permit issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that:

(1) Such walkways would serve the residents of the development as adequately as concrete sidewalks; and

(2) Such walkways would be more environmentally desirable or more in keeping with the overall design of the development.

(Ord. passed 9-8-92)

§ 152.192 ATTENTION TO HANDICAPPED IN STREET AND SIDEWALK CONSTRUCTION.

(A) Whenever curb and gutter construction is used on public streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian

flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with published standards of the North Carolina State Building Code.

(B) In unsubdivided developments, sidewalk construction for the handicapped shall conform to the requirements the North Carolina State Building Code.

(Ord. passed 9-8-92)

§ 152.193 STREET NAMES AND HOUSE NUMBERS.

(A) Street names shall be assigned by the developer subject to the approval of the permit issuing authority. Proposed streets that are obviously in alignment with existing streets shall be given the same name. Newly created streets shall be given names that neither duplicate nor are phonetically similar to existing streets within the Town's planning jurisdiction, regardless of the use of different suffixes as such as those set forth in division (B) immediately below.

(B) Street names shall include a suffix such as the following:

(1) *Circle.* A short street that returns to itself.

(2) *Court or place.* A cul-de-sac or dead end street.

(3) *Loop.* A street that begins at the intersection with one street and circles back to end at another intersection with the same street.

(4) *Street.* All public streets not designated by another suffix.

(C) Building numbers shall be assigned by the Town.

(D) Road address numbers must be clearly displayed so that the location can be identified easily from the road.

(1) The official address number must be displayed on the front of a building or at the entrance to a building which is most clearly visible from the street or road during both day and night.

(2) If a building is more than 75 feet from any road, the address number shall be displayed at the end of the driveway or easement nearest the road which provides access to the building.

(3) Numerals indicating the address number of a single-family dwelling shall be at least four inches in height and shall be posted and maintained so as to be legible from the road.

(4) Numerals for multiple dwelling units and nonresidential buildings shall be at least six inches in height and shall be placed on the front of the building facing the road or on the end of the building nearest the road.

(5) Numerals must be of contrasting color to the background.

(6) Mobile home lots shall have sequential address numbers throughout the park. Each lot will have a separate address number assigned. The address number of each lot must be clearly displayed on the lot so as to be legible from the road rather than mounted on the mobile home unit.

(E) Owners or occupants of buildings already constructed which do not comply with this section will be notified and requested to meet these requirements within 60 days from the date of notification. If the owner or occupant fails to comply with this request within the specified period of time, the land use administrator may revoke any of the penalties or remedies available in this chapter.

(Ord. passed 9-8-92; Am. Ord. ZA-1993-01, passed 8-2-93)

§§ 152.194 through 152.219 RESERVED

PART II: UTILITIES

§ 152.220 UTILITY OWNERSHIP AND EASEMENT RIGHTS.

In any case in which a developer installs or causes the installation of water, sewer, electrical power, telephone, or cable television facilities and intends that such facilities shall be owned, operated, or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

(Ord. passed 9-8-92)

§ 152.221 LOTS SERVED BY GOVERNMENTALLY OWNED WATER OR SEWER LINES.

(A) Whenever it is legally possible and practicable in terms of topography to connect a lot with a city water or sewer line by running a connection line not more than 200 feet from the lot to such line, then no use requiring water or sewage disposal service may be made of such lot unless connection is made to such line.

(B) Connection to such water or sewer is not legally possible if, in order to make connection with such line by a connecting line that does not exceed 200 feet in length, it is necessary to run the connecting line over property not owned by the owner of the property to be served by the connection, and, after diligent effort, the easement necessary to run the connecting line cannot reasonably be obtained.

(C) For purposes of this article, a lot is “served” by a city owned water or sewer line if connection is required by this section.

(Ord. passed 9-8-92)

§ 152.222 SEWAGE DISPOSAL FACILITIES REQUIRED.

Every principal use and every lot within a subdivision shall be served by a sewage disposal system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations.

(Ord. passed 9-8-92)

§ 152.223 DETERMINING COMPLIANCE WITH SECTION 152.222.

(A) Primary responsibility for determining whether a proposed development will comply with the standards set forth in § 152.222 often lies with a county or state agency rather than the Town, and the developer must comply with the detailed standards and specifications of such other agency.

(B) Whenever, applicable the developer must present the Director of Public Works with certification from the appropriate agency which regulate the type of sewage disposal facility being proposed that the facility complies with all standards and requirements. If a permit is required, the developer must present the Director of Public Works with a copy of the permit as well as any detailed drawings which was required prior to its issuance.

(Ord. passed 9-8-92)

§ 152.224 WATER SUPPLY SYSTEM REQUIRED.

Every principal use and every lot within a subdivision shall be served by a water supply system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations.

(Ord. passed 9-8-92)

§ 152.225 DETERMINING COMPLIANCE WITH SECTION 152.224.

(A) Primary responsibility for determining whether a proposed development will comply with the standards set forth in § 152.222 often lies with a county or state agency rather than the Town, and the developer must comply with the detailed standards and specifications of such other agency.

(B) Whenever, applicable the developer must present the Director of Public Works with certification from the appropriate agency which regulate the type of sewage disposal facility being proposed that the facility complies with all standards and requirements. If a permit is required, the developer must present the Director of Public Works with a copy of the permit as well as any detailed drawings which was required prior to its issuance.

(Ord. passed 9-8-92)

§ 152.226 LIGHTING REQUIREMENTS.

(A) Subject to division (B), all public streets, sidewalks, and other common areas or facilities in subdivisions created after the effective date of this chapter shall be sufficiently illuminated to ensure the security of property and the safety of persons using such streets, sidewalks, and other common areas or facilities.

(B) To the extent that fulfillment of the requirements established in division (A) would normally require street lights installed along public streets, this requirement shall be applicable only to subdivisions located within the corporate limits of the city.

(C) All roads, driveways, sidewalks, parking lots, and other common areas and facilities in unsubdivided developments shall be sufficiently illuminated to ensure the security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities.

(D) All entrances and exits in substantial buildings used for nonresidential purposes and in two-family or multi-family residential developments containing more than four dwelling units shall be adequately lighted to ensure the safety of persons and the security of buildings.

(Ord. passed 9-8-92)

§ 152.227 EXCESSIVE ILLUMINATION.

Lighting within any lot that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if it clearly exceeds the standard set forth in § 152.226 or if the standard set forth in § 152.226 could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.

(Ord. passed 9-8-92)

§ 152.228 ELECTRIC POWER.

Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

(A) If the use is not a subdivision and is located on a lot that is served by an existing power line and the use can be served by a simple connection to such power line, then no further certification is needed.

(B) If the use is a subdivision or is not located on a lot served by an existing power line or a substantial internal distribution system will be necessary, then the electric utility service provider must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

(Ord. passed 9-8-92)

§ 152.229 TELEPHONE SERVICE.

Every principal use and every lot within a subdivision shall have available to it a telephone service cable adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

(A) If the use is not a subdivision and is located on a lot that is served by an existing telephone line and the use can be served by a simple connection to such power line, then no further certification is needed.

(B) If the use is a subdivision or is not located on a lot served by an existing telephone line or a substantial internal distribution system will be necessary, then the telephone utility company provider must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

(Ord. passed 9-8-92)

§ 152.230 UNDERGROUND UTILITIES.

(A) All electric power lines, not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meter, or capacitors which may be pad mounted, telephone, gas distribution, and cable television lines in subdivisions constructed after the effective date of this chapter shall be placed underground in accordance with the specifications and policies of the respective utility service and subject to approval by the Town.

(B) Whenever an unsubdivided development is hereafter constructed on a lot that is undeveloped on the effective date of this chapter, then all electric power, telephone, gas distribution, and cable television lines installed to serve the development that are located on the development site outside of a previously existing public street right-of-way shall be placed underground in accordance with the specifications and policies of the respective utility companies and subject to approval by the Town.

(Ord. passed 9-8-92)

§ 152.231 UTILITIES TO BE CONSISTENT WITH INTERNAL AND EXTERNAL DEVELOPMENT.

(A) Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments, such utility facilities shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

(B) All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

(Ord. passed 9-8-92)

§ 152.232 AS-BUILT DRAWINGS REQUIRED.

Whenever a developer installs or causes to be installed any utility line in any public right-of-way, the developer shall, as soon as practicable after installation is complete, and before acceptance of any water or sewer line, furnish the city with a copy of a drawing that shows

the exact location of such utility lines. Such drawings must be verified as accurate by the utility service provider. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing such development.

(Ord. passed 9-8-92)

§ 152.233 FIRE HYDRANTS.

(A) Every development that is served by a public water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings located or intended to be located within such development.

(B) *Residential Zoning Districts.* Fire hydrants shall be located at each street intersection. The maximum distance between fire hydrants in residential districts, measured along street centerlines, shall not exceed 1000 feet. On group housing projects, all parts of the buildings shall be within 500 feet of a fire hydrant.

(C) *Business, Commercial, Industrial Zoning Districts.* There shall be at least one fire hydrant located at each intersection. The maximum distance between fire hydrants in these districts, measuring along street centerlines, shall be 300 feet. All parts of each building shall be within 500 feet of a hose run from a fire hydrant. Hose run lengths shall be measured along a route not closer than 20 feet from the building(s). All fire hydrant locations shall have full vehicular access with a durable surface. Fire hydrants shall be coordinated with the Engineer, the Town of Zebulon Fire Department, and the Wake County Fire Marshalls Office.

(D) Where automatic sprinkler systems are used, a fire department connection shall be provided on the building. The fire department connection shall be located within 100 feet of a hydrant.

(E) *Automatic Sprinklers.* Where a single riser serves more than one occupancy, or building tenant, an approved indicating shut off valve must be provided for each occupancy and supervised in accordance with the N.C. State Building Code.

(F) *Main size.* Water mains supplying fire hydrants shall be six inches in diameter or larger. Only one fire hydrant may be fed from a dead-end six inch water main.

(G) *Valves.* There shall be one valve on hydrant branches. Main line valves shall coincide with fire hydrants.

(H) *Hydrants.* Fire hydrants shall be of the compression type meeting AWWA C502-80 standards, designed for a minimum working pressure of 150 psi and a hydrostatic test pressure of 300 psi with the valve in the open and closed position. All hydrants shall be equipped with two 2 1/2” and one 4 1/2” connections. All threads shall be National Standard and all caps with steel chains to secure them to the hydrant. The minimum valve opening shall be 5¼”. These hydrants shall be Mueller Centurion A-423, American Darling B-62-B, or Clow Medallion model 2545.

(Ord. passed 9-8-92; Am. Ord. ZA-1999-14, passed 5-3-99)

§ 152.234 SITES FOR AND SCREENING OF DUMPSTERS.

(A) Every development that, under the city's solid waste collection policies, is or will be required to provide one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:

(1) Located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way, and

(2) Constructed according to specifications established by the public works director to allow for collection without damage to the development site or the collection vehicle.

(B) All such dumpsters shall be screened if and to the extent that, in the absence of screening, they would be clearly visible to:

(1) Persons located within any dwelling unit on residential property other than that where the dumpster is located.

(2) Occupants, customers, or other invitees located within any building on nonresidential property other than that where the dumpster located, unless such other property is used primarily for purposes permitted exclusively in the Light Industrial (IL) or Heavy Industrial (IH) districts.

(3) Persons travelling on any public street, sidewalk, or other public way.

(C) When dumpster screening is required under this section, such screening shall be constructed, installed, and located to prevent or remedy the conditions requiring the screening.

(Ord. passed 9-8-92)

§§ 152.235 through 152.245 RESERVED

PART IV: EROSION AND STORMWATER CONTROL

§ 152.246 NATURAL DRAINAGE SYSTEM UTILIZED TO THE EXTENT FEASIBLE.

(A) To the extent practicable, all development shall conform to the natural contours of the land and natural and preexisting man-made drainage ways shall remain undisturbed.

(B) To the extent practicable, lot boundaries shall be made to coincide with natural and preexisting man-made drainage ways within subdivisions to avoid creation of lots that can be built upon only by altering such drainage ways.

(Ord. passed 9-8-92)

§ 152.247 DEVELOPMENT MUST DRAIN PROPERLY.

(A) All development shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:

(1) The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or storm water runoff control plan; or

(2) The retention is not substantially different in location or degree than that experienced by the development site in its predevelopment stage, unless such retention presents a danger to health or safety.

(B) No surface water may be channelled or directed into a sanitary sewer.

(C) Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.

(D) Use of drainage swales rather than curb and gutter and storm sewers in subdivisions is provided in Section (216). Private roads and access ways within unsubdivided developments shall utilize curb and gutter and storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner or if other sufficient reasons exist to require such construction.

(Ord. passed 9-8-92)

§ 152.248 STORM WATER MANAGEMENT.

All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments. More specifically:

(A) No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from higher adjacent properties across such development thereby unreasonably causing substantial damage to such higher adjacent properties; and

(B) No development may be constructed or maintained so that surface waters from such development are unreasonably collected and channelled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

(Ord. passed 9-8-92)

§ 152.249 SEDIMENTATION AND EROSION CONTROL.

(A) No general, special, or conditional use permit may be issued and final plat approval for subdivisions may not be given with respect to any development that would cause land disturbing activity of more than one acre unless a sedimentation and erosion control plan has been submitted to and approved by the Wake County Inspection Division.

(B) For purposes of this section, land disturbing activity means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, and highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin.

(Ord. passed 9-8-92)

(C) Adopting by reference the Wake County Soil Erosion and Sedimentation Control ordinance. (Res. 1993-1)

§§ 152.250 through 152.253 RESERVED

ARTICLE XI SIGNS

§ 152.254 PURPOSES, APPLICATION, EFFECT AND PROVISIONS.

(A) *Purpose.* The purposes of these sign regulations are: to encourage the effective use of signs as a means of communication in the Town; to maintain and enhance the aesthetic environment and the Town's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions.

(B) *Application*. A sign may be erected, placed, established, painted, created or maintained in the Town only in conformance with the standards, procedures, exemptions and other requirements of this subchapter. Only signs advertising events exempt from regulation under § 152.259 (Exempt Signs) are not subject to this subchapter. Signs are only permissible for events or entities within the Town of Zebulon's Planning Jurisdiction or Corporate Limits.

(C) *Effect*. The effect of this subchapter is to establish a permit system to allow a variety of types of signs in business, commercial and industrial zones, and to limit the variety of signs in other zones; to allow certain signs that are small, unobtrusive and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this subchapter, but without a requirement for permits; to provide for temporary signs in limited circumstances; to prohibit all signs not expressly permitted by this subchapter; and to provide for the enforcement of the provisions of this subchapter.

(D) *Provisions.* All signs legally erected prior to the adoption of this subchapter may remain in place and in use, subject to certain restrictions on modification, replacement and other actions affecting the sign, as set forth in this subchapter.

(Ord. passed 9-8-92; Am. Ord. ZA-2003-01, passed 9-9-02)

§ 152.255 DEFINITIONS.

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

AGRICULTURAL SIGN. A sign advertising fruits, vegetables or other homemade products.

ANIMATED SIGN. Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

ATTENTION-ATTRACTING DEVICE. Any device or object visible from any public right-of-way which is primarily designed to attract the attention of the public to a business, institution, sign or activity through such means, including but not limited to illumination, color, size or location. Approved traffic-control devices are not considered to be attention-attracting devices.

AWNING. Any non-rigid material, such as canvas, fabric or flexible plastic, that extends from the exterior wall of a building and is supported by or attached to a frame.

AWNING SIGN. A sign located on an awning.

BANNER. Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

BEACON. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

BUILDING MARKER. Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into masonry surface or made of bronze or other permanent material.

BUILDING SIGN. Any sign attached to any part of a building as contrasted to a freestanding sign.

CAMPAIGN SIGN. A sign expressing support for a candidate for public office or another position regarding a public figure or issue, but not bearing a commercial message.

CANOPY. A roof structure constructed of rigid materials, which is attached to and supported by a building, or is freestanding and supported by columns, poles, or braces extended to the ground.

CANOPY SIGN. Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

CERTIFIED NON PROFIT AGENCY. An agency with a 501C3 federal tax-exempt form on file with the Town of Zebulon.

CHANGEABLE COPY SIGN. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than three times per day shall be considered

an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a “time and temperature” portion of a sign and not a changeable copy sign for purposes of this ordinance.

COMMERCIAL MESSAGE. Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

CONSTRUCTION SIGN. Any sign bearing the names of contractors, architects, engineers and the like, or advertising promotions, price ranges and similar information, that is placed at a construction site that has received site plan approval.

DIRECTORY SIGN. A ground or wall sign that lists tenants of a building with unit numbers, telephone numbers, arrows or other directional information.

FLAG. Any fabric containing distinctive colors, patterns, or symbols, used as a symbol of government, political subdivision or other entity, adopted by an elected body of competent jurisdiction.

FREESTANDING SIGN. Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

GOVERNMENTAL SIGN. Any sign installed by the Town of Zebulon, the State of North Carolina, or the United States Federal Government and approved by the Land Use Administrator.

GROUND SIGN (ENTRANCE SIGN/MONUMENT SIGN). Any sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground and is independent of any other structure.

HOLIDAY DECORATIONS. Displays erected on a seasonal basis in observance of religious, national or state holidays, which are not intended to be permanent and contain no advertising material.

IDENTIFICATION SIGN. A sign bearing the address of the premises or name of occupant, but containing no logo or commercial message.

INCIDENTAL SIGN. A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

LOGO. The graphic or pictorial presentation of a message, including, but not limited to, the use of shapes, designs, decorations, emblems, trademarks, symbols, seals, illustrations, graphics or images.

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

MARQUEE SIGN. Any sign attached to, in any manner, or made a part of a marquee.

MENU BOARD. An accessory sign providing items and prices associated with a drive-through window.

NONCONFORMING SIGN. Any sign that met the requirements of the Town Ordinance at the time it was erected but does not conform to the requirements of the current ordinance.

PENNANT. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

POLE SIGN. A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

PORTABLE SIGN. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frame; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operation of the business.

PROJECTING SIGN. Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

PUBLIC EVENT SIGN. Any sign installed in accordance with the Town of Zebulon Code of Ordinances, approved by the Land Use Administrator, temporary in nature, owned by a certified non-profit agency with headquarters within the corporate limits of the Town of Zebulon.

REAL ESTATE SIGN. A sign advertising real property for sale or lease.

RESIDENTIAL SIGN. Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such a location conforms with all requirements of the zoning ordinance.

ROOF SIGN. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

ROOF SIGN, INTEGRAL. Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

SIGN. Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

SUSPENDED SIGN. A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

TEMPORARY SIGN. A sign that is used only temporarily and is not permanently mounted and that can be used only for a designated period of time.

TOWN MANAGER. The Town Manager of the Town of Zebulon or his or her designee.

WALL SIGN. Any sign attached parallel, but within six inches of a wall, or erected and confined within the limits of an outside wall or building, which displays only one sign surface.

WINDOW SIGN. Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

(Ord. passed 9-8-92; Am. Ord. ZA-1996-04, passed 10-7-96; Am. Ord. ZA-2003-01, passed 9-9-02)

§ 152.256 COMPUTATION OF SIGN AREA.

The following principles shall control the computation of sign height and area.

(A) The area of a sign shall be computed by means of the entire surface on which the letters, emblem or other display is to be located not including the framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

(B) The sign area of a sign with more than one face shall be calculated to include the entire area of all faces or parts which is visible from one vantage point. When two identical faces are placed back to back so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure and are not more than ten inches apart, the sign shall be computed by the measurement of one of the faces.

(C) The height of the sign shall be computed to be the distance from the base of the sign at normal grade to the highest component or structure which is attached. Normal grade shall be computed to mean the grade level of the site before construction.

(D) No sign may exceed above any parapet or be placed upon any roof surface, except that for purpose of this section, roof surfaces constructed at an angle of 75 degrees or more from horizontal shall be regarded as wall space. This subsection shall not apply to displays, including lighting, erected in connection with the observation of holidays on the roofs of residential structures.

(Ord. passed 9-8-92; Am. Ord. ZA-1996-04, passed 10-7-96; Am. Ord. ZA-2003-01, passed 9-9-02)

§ 152.257 PERMIT REQUIRED.

No sign shall be placed, constructed, erected, or modified on any lot without a sign permit unless the sign is exempt from such requirement as identified by a “G” below. Before erecting the sign the owner of the lot must first apply to the land use administrator for a sign permit. Submission and issuance of a sign permit shall be governed by the same procedure used for zoning permits in Article III.

(A) Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition, to other remedies hereunder, the Town shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

(B) Signs shall be permitted in accordance with the following table:

Reference §152.263	Sign Type	Residential Districts (All Residential) and TR	Business Districts HB, CB & GB	Industrial Districts IL & IH	Medical District MA
	Ground				
1	Agricultural	G	G	G	G
2	Construction Sign	G	G	G	G
3	Changeable Copy	N	SP/BP	SP/BP	SP/BP
4	Directory	N	SP/BP	SP/BP	SP/BP
5	Identification	G	G	G	G
6	Incidental	SP/BP	SP/BP	SP/BP	SP/BP
7	Institutional	N	SP/BP	SP/BP	SP/BP
8	Menu Board	N	SP/BP	SP/BP	N
9	Campaign	G	G	G	G
10	Principal Ground	SP/BP	SP/BP	SP/BP	SP/BP
11	Real Estate	G	G	G	G

12	Temporary	SP	SP	SP	SP
13	Yard Sale	G	G	G	G
	Building				
14	Awning	N	SP/BP	SP/BP	SP/BP
15	Building Marker	G	G	G	G
3	Changeable Copy	N	SP/BP	SP/BP	SP/BP
2	Construction	G	G	G	G
4	Directory	N	SP/BP	SP/BP	SP/BP
5	Identification	G	G	G	G
6	Incidental	SP	SP	SP	SP
16	Marquee	N	SP/BP	SP/BP	SP/BP
17	Suspended	N	SP/BP	SP/BP	SP/BP
Reference §152.263	Sign Type	Residential Districts (All Residential) and TR	Business Districts HB, CB & GB	Industrial Districts IL & IH	Medical District MA
13	Temporary	SP	SP	SP	SP
18	Roof Sign	N	N	SP/BP	N
19	Wall	N	SP/BP	SP/BP	SP/BP
20	Window	SP	SP	SP	SP
	Other				
21	Flags	G	G	G	G

22	Public Event	N	SP	SP	SP
23	Pennant	N	SP	SP	N
24	Portable	N	SP/BP	SP/BP	N
25	Pole	N	SP/BP	SP/BP	N

Use of Designations:

G = General Use no sign permit or building permit required

SP = Sign Permit required from the Town of Zebulon Planning Department

BP = Building Permit required from Wake County; application available from the Town of Zebulon

N = Not permitted

(Ord. passed 9-8-92; Am. Ord. ZA-1993-01, passed 8-2-93; Am. Ord. ZA-1996-04, passed 10-7-96; Am. Ord. ZA-2003-01, passed 9-9-02; Am. Ord. ZA-2004-01, passed 1-5-04)

§ 152.258 DESIGN, CONSTRUCTION, AND MAINTENANCE.

All signs shall be designed, constructed, and maintained in accordance with the following standards.

(A) All signs shall comply with the North Carolina State Building Codes.

(B) All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.

(C) If a sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall, within 30 days after such abandonment, be removed by the owner of the property where the sign is located, or other party having control over such sign.

(D) Any sign in such a state of disrepair, or signs which lack adequate lettering, fixtures or devices, so that they no longer effectively communicate a message as originally intended, shall be immediately removed without notice by the Town and the sign permit shall be revoked.

(E) For multi-occupant buildings the total signage for the building is 75 square feet. Each tenant shall be allotted an equal area with the exception of the name of the building or

the primary business/developer being allowed a larger proportion of the 75 square feet. Signs are to be enclosed within a single structure and lettering is to be uniform in terms of style, material and size with the exception of the building name, primary business or developer being allowed to vary in the lettering size only.

(F) Altering the average adjacent grade by more than two feet, for installing a sign is subject to the discretionary approval by the Land Use Administrator. It is not intended to allow for mounding that would circumvent any requirements of any applicable ordinance.

(Ord. passed 9-8-92; Am. Ord. ZA-2003-01, passed 9-9-02)

§ 152.259 EXEMPT SIGNS.

The following signs are exempt from regulation under this section, except otherwise specifically regulated in this chapter.

(A) Signs not exceeding four square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as signs giving property identification names or numbers or names of occupants, signs on mailboxes or newspaper tubes, and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

(B) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.

(C) Signs of a non commercial nature erected by public utilities.

(D) Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.

(E) Signs directing and guiding traffic on private property that do not exceed four square feet each and that bear no advertising matter.

(F) Church bulletin boards, church identification signs, and church directional signs that do not exceed one per abutting street frontage.

(G) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.

(H) Holiday lights and decorations with no commercial messages. May be placed 40 days before the holiday and must be removed ten days after.

(I) Signs posted inside a sports facility such as those commonly placed along fences inside baseball parks.

(Ord. passed 9-8-92; Am. Ord. ZA-2003-01, passed 9-9-02)

§ 152.260 PROHIBITED SIGNS.

All signs not expressly permitted under this ordinance or exempt from regulations hereunder in accordance with the previous section are prohibited. Such signs include but are not limited to the signs below.

(A) Beacons, string of lights not permanently mounted to a rigid background, except those exempt under previous sections, and inflatable signs and tethered balloons.

(B) Signs painted directly on walls.

(C) Signs placed on the public rights-of-way or on utility poles.

(D) Off site advertising, unless where specifically provided in other provisions of this chapter.

(E) Signs with lights or illumination which flash, move, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsations, except for time and temperature units.

(Ord. passed 9-8-92; Am. Ord. ZA-2003-01, passed 9-9-02)

§ 152.261 SIGNS EXISTING ON EFFECTIVE DATE.

(A) For any non-conforming sign in existence prior to the adoption of this subchapter an application for a sign permit must be submitted to the Town Manager. The Town Manager may prepare such application to maintain record of the following information:

(1) Approximate month and year the sign was installed;

(2) Owner;

(3) Value of the sign at installation;

(4) Approximate value of the sign at date of the application; and

(5) Size and area and height of the sign.

(B) The Town Manager may also request information which would be adequate for such a purpose of record keeping. Failure to apply for a sign permit shall constitute a violation of the ordinance which could result in the removal of the sign by the Town.

(Ord. passed 9-8-92; Am. Ord. ZA-2003-01, passed 9-9-02)

§ 152.262 NONCONFORMING SIGNS.

Any sign which was in existence on or before the effective date of this chapter, but which by reason or its size, height, location, design, or construction is not in conformance with the requirements of this chapter shall be issued a Nonconforming Sign Permit if an application is filed in accordance with §152.261 immediately above. The following regulations shall govern nonconforming signs.

(A) No sign permit will be issued for the installation of any new sign on a lot which maintains a lawful nonconforming sign.

(B) Nonconforming signs are non transferrable in situations where there is a change in occupancy or business license on the premises.

(Ord. passed 9-8-92; Am. Ord. ZA-2003-01, passed 9-9-02)

§ 152.263 REFERENCE TO SIGN TABLE.

The provisions contained in this section refer to the corresponding numbered sign types listed in the table in §152.257.

(1) *Agricultural sign.*	Allowed only on the property where product is produced. No off site agricultural signs are allowed unless the parcel is land locked and the sign is placed on the nearest parcel with road frontage, with the permission of the property owner. Agricultural signs are not to exceed 5 square feet in size or 42 inches in height. All signs for products produced outside of Zebulon's planning jurisdiction or any off site advertising will be removed by Town staff.
(2) *Construction sign.*	Construction signs shall be allowed during the time of construction, are not to exceed ten square feet, and are to be removed after the job is completed, after the issuance of the certificate of occupancy or after the closing out of the building permit. Signs are to be located a minimum of 20 feet from the public right-of-way and are not to interfere with the sight triangle near intersections, driveways or curb cuts.
(3) *Changeable copy* signs.	Changeable copy signs are allowed only at theaters, service stations, restaurants, schools, and by governmental users.
(4) *Directory signs*.	Directory signs are allowed in multiple occupant buildings or shopping centers. They are to be placed at least 40 feet from the public right-of-way so that drivers and/or pedestrians can read the directory without impeding traffic. Directory signs are not to exceed five feet in height.
(5) *Identification* signs.	Identification signs are limited to one per principal building entrance, not to exceed three square feet in size are to be affixed to a building wall.
(6) *Incidental* signs.	Incidental signs are allowed so long as they contain no commercial message and do not exceed four square feet in size.
(7) *Institutional*	Institutional signs are allowed so long as they contain no commercial message

signs.	and do not exceed four square feet in size.
(8) *Menu boards.*	Menu boards are allowed on site as an accessory use to a permitted restaurant.
(9) *Campaign* signs.	Campaign signs are allowed so long as they are located on private property with the permission of the owner. They shall be removed within 15 days after the election or specific event.
(10) *Principal* ground sign.	Principal ground signs are allowed, provided that they do not exceed 32 square feet per side and they are not to exceed 42 inches in height. Both sides of the sign are to be identical in design and content. Setbacks shall be adequate to protect the clear sight triangle and are to be a minimum of 20 feet from the public right-of-way. Only one principal ground signs is allowed per parcel.
(11) *Real estate* signs.	Real estate signs are allowed provided that they are placed on the property that is for sale. No off site real estate signs are allowed unless the parcel is land locked and the sign is placed on the nearest parcel with road frontage, with the permission of the property owner. Real estate signs are not to exceed five square feet in size or 42 inches in height except for lots equal to or greater than three acres where signs are not to exceed 42 square feet total and two signs are permitted. One offsite sign may not exceed five square feet in size and is only permitted to remain in place between 5:00 p.m. Friday until 8:00 a.m. Monday.
(12) *Temporary* signs.	Temporary signs are permitted only for special events of "not for profit", civic, philanthropic, educational, or governmental entities. Such signs are to be located on private property only. Sign permits are valid for maximum of six days only. No more than one sign permit shall be issued within any six-month period for the same organization or event location. Two off-site signs are allowed in addition to one on-premise sign. The off-site signs are to be located at the nearest major intersection to the event with the permission of the private property owner. Temporary signs are permitted only for events or organizations within the planning jurisdiction of the Town of Zebulon. Temporary signs are allowed to be placed five days prior to an event and are to be removed one day after the event.
(13) *Yard sale* signs.	Yard sale signs are allowed provided that only one such sign is placed on the lot where the yard sale is located and no more than one additional sign shall be placed on a different property, the signs may not exceed five square feet in size and are only permitted to remain in place between 5:00 p.m. Friday until 8:00 a.m. Monday.
(14) *Awning signs.*	Awning signs are allowed provided that only one tenant advertise on the awning in lieu of all other signage otherwise permitted on the same wall or

	facade to which the awning is attached.
(15) *Building* signs.	One building sign is allowed per building not to exceed five square feet in size.
(16) *Marquee* signs.	Marquee signs are allowed at theaters, hotels, motels, and public institutions.
(17) *Suspended* signs.	Suspended signs are allowed so long as they do not exceed five square feet in size and are not to exceed one per building entrance and so long as they contain only the address, suite number, logo, or name of the occupant or business served by the address.
(18) *Roof signs*.	Roof signs are permitted in industrial districts only and are not to exceed 32 square feet per side, are to be identical on each side and may not extend the roofline by more than 15 feet.
(19) *Wall signs.*	Wall signs are limited to one on single occupancy buildings. Multiple occupancy buildings are allowed one wall sign per separate entrance. On multiple occupancy buildings serving office uses there may be one wall sign on two separate walls that adjoin a common door.
(20) *Window signs.*	Window signs are allowed on the first floor of the interior window glass so long as the building is not in a residential district and that is does not cover more than 25% of each window.
(21) *Flags and flag* poles.	Flagpoles are not to exceed 30 feet in height and must maintain a 20-foot setback.
(22) *Public event* banners.	Permitted only to the Town of Zebulon.
(23) *Pennants*.	Pennants count toward the total permitted sign area and are not allowed in residential districts.
(24) *Portable* signs.	Portable signs count toward the total permitted sign area and are not allowed in residential districts. They may be backlit or illuminated only between dusk and 11:00 p.m.

(25) *Pole signs.*	Pole signs where allowed, are not to exceed 75 square feet per side and they are not to exceed 20 feet in height. Both sides of the sign are to be identical in design and content unless one side is blank. Setbacks shall be adequate to protect the clear sight triangle and are to be a minimum of 20 feet from the public right-of-way. Only one pole sign is allowed per parcel.

(Ord. ZA-2003-01, passed 9-9-02; Am. Ord. ZA-2004-01, passed 1-5-04)

§ 152.264 MAXIMUM ALLOWABLE SIGN AREA BY ZONING DISTRICT.

Maximum Allowable Sign Area by Zoning District							
Residential Districts		Business Districts		Industrial Districts		Medical District	
R8, R10, R13, R20, R30, R40W, R80W, RMH8, RMH10, RMH13, RMH20, RMH30, RMF	20 sq. ft.	HB, CB, GB	75 sq. ft.	IL, IH	75 sq. ft.	MA	75 sq. ft.
TR	32 sq. ft.						
* At the discretion of the Land Use Administrator Multiple Occupant Buildings adjoining TR or another business district may be allowed 75 sq. ft.							

(Ord. ZA-2004-01, passed 1-5-04)

§§ 152.265 through 152.267 RESERVED

ARTICLE XII PARKING

§ 152.268 NUMBER OF PARKING SPACES REQUIRED.

(A) 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. The number of parking space required shall be according to the following table:

Residential Uses	***Parking Requirements***
Single Family Dwelling	2 spaces per dwelling unit

Two Family Dwellings	2 spaces per dwelling unit except, that one bedroom units require only one space.
Multi-family	For buildings where each dwelling unit has an entrance and living space on the ground floor, the requirement shall be 1½ spaces for each one bedroom unit and 2 spaces for each unit with two or more bedrooms. Multi-family units limited to the elderly require only 1 space per unit. All other multi family units require 1 space for each bedroom in each unit plus 1 additional space for every four units in the development.
Homes emphasizing special services such as Child Care Home, Child Care Institution, Family Care Home, Group Care Home, Nursing Care Homes, Nursing Care Institution, Nursing Home Handicapped, Aged or infirm Home, Handicapped, Aged or Infirm Institution, Intermediate Care Home, Intermediate Care Institution or halfway houses, Rest Home, etc.	3 spaces for every five beds except for uses exclusively serving children under 16, in which case 1 space for every three beds shall be required.
Home Occupations	4 spaces for offices of physicians or dentists; 2 spaces for attorneys, 1 space for all others
Bed and Breakfast Inns	1 space for each room to be rented
Rooming Houses, Hotels and Motels	1 space per room plus additional space for restaurants or other facilities
Office and Institutional Uses	***Parking Requirements***
Elementary and Secondary schools	1.75 spaces per classroom in elementary schools, 5 spaces per classroom in high schools.
Colleges, universities, and associated facilities	1 space per 150 square feet of gross floor area
Churches, synagogues, temples	1 space for every four seats in the principle meeting place. Parking requirements for residential uses within church

	facilities shall be governed by requirements set forth above for residential uses.
Community centers, social and fraternal clubs, libraries, art galleries, and similar uses	1 space per 300 square feet of gross floor area
Office and Institutional Uses	*Parking Requirements*
Hospitals, clinics, other medical facilities in excess of 10,000 square feet	2 spaces per bed or 1 space per 150 square feet of gross floor area, whichever is greater.
Adult Day Care Center	1 space per employee plus 1 space per 200 square feet of gross floor area.
Day Care Centers	1 space per employee plus 1 space per 200 square feet of gross floor area
Office of attorneys, physicians, other professions, insurance stock brokers, travel agents, government office buildings, etc.	1 space per 200 square feet of gross floor area. Office or clinics of physicians and dentists with less than 10,000 square feet of gross floor area may provide 1 space per 150 square feet of gross floor area.
Operations, such as consulting firms, sales offices, data processing offices, etc., designed to attract little or no customer or client traffic - other than employees of the entity operating the principle use.	1 space per 400 square feet of gross floor area.
Copy Centers/Printing Operations	1 space per 200 square feet of gross floor area.
Banks with drive-in window	1 space per 200 square feet of area within main building plus reservoir lane capacity equal to five spaces per window.
Automatic Teller Machine, freestanding	3 spaces arranged in close proximity to this use.
Commercial Uses	***Parking Requirements***

Recreational activities conducted entirely within an enclosed building such as skating rinks, bowling alleys, indoor tennis and squash courts, billiard and pool halls, indoor athletics and exercise facilities and similar uses	1 space per 200 square feet of gross floor area.
Movie Theaters	1 space for every four seats.
Recreational activities conducted outside an enclosed building	1 space for every three persons that the outdoor facilities are designed to accommodate when used to the maximum capacity.
Commercial Uses	***Parking Requirements***
Restaurant, bars, and night clubs with no substantial carry out or delivery service, no drive in service, no service or consumption outside fully enclosed structures	1 space per 100 square feet of gross floor area.
Restaurants, bars, and night clubs with carry out or delivery service, drive in service, and service or consumption outside fully enclosed structures	1 space per 100 square feet of gross floor area, plus 1 space for every four outside seats, plus reservoir lane capacity equal to 5 spaces per drive in window.
Restaurant food delivery	1 space per 200 square feet of floor area plus one space per employee engaged in delivery service.
Motor vehicle related sales and service operations	1 space per 200 square feet of gross floor area.
Car Wash	Conveyer type- 1 space for every three employees on the maximum shift plus reservoir capacity equal to five times the capacity of the washing operation. Self-service type - 2 spaces for drying and cleaning purposes per stall plus two reservoir spaces in front of each stall.
Automobile storage and parking	1 space for every two employees on the maximum shift but not less than 1 space per 5,000 square feet or area devoted to

	storage.
Junk yards/auto graveyards/ salvage yards	1 space per 200 square feet of gross floor area.
Veterinary Hospital/Kennel	1 space per 200 square feet of gross floor area.
Emergency Services	1 space per 200 square feet of gross floor area.
Dry cleaner laundromat	1 space per 200 square feet of gross floor area.
Open air markets	1 space per 1,000 square feet of lot area used for storage, display, or sales.
Funeral Homes/Crematorium/ Cemeteries	1 space per 200 square feet of gross floor area.

Industrial Uses	***Parking Requirements***
Manufacturing, processing, creating, repairing, renovating, painting, cleaning, assembling of goods, merchandise and equipment	1 space for every two employees on the maximum shift, except that, if permissible and located in commercial districts such uses may provide 1 space per 200 square feet.

(B) The presumptions established by this article are that: a development must comply with the parking standards set forth in division (A), and any development that does meet these standards is in compliance.

(C) The Table of Parking Requirement provide specific determination of the number of parking spaces for particular uses. In cases where a proposed use is not listed in the table, the permit issuing authority may determine the parking requirement using the Table of Parking requirement as a guide.

(Ord. passed 9-8-92; Am. Ord. ZA-1996-04, passed 10-7-96; Am. Ord. passed 5-6-02)

§ 152.269 PARKING SPACES DIMENSION.

(A) Subject to divisions (B) and (C), each parking space shall contain a rectangular area at least 19 feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.

(B) In parking areas containing ten or more parking spaces, up to 20% of the parking spaces need contain a rectangular area of only 7½ feet in width by 15 feet in length. If such spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.

(C) Whenever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 22 feet by nine feet.

(Ord. passed 9-8-92)

§ 152.270 REQUIRED WIDTHS OF PARKING AREA AISLES AND DRIVEWAYS.

(A) Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

AISLE WIDTH	0°	30°	45°	60°	90°
One Way	13	11	13	18	24
Two Way	19	20	21	23	24

(B) Driveways shall be not less than ten feet in width for one-way traffic and 18 feet in width for two-way traffic, except that ten-feet-wide driveways are permissible for two-way traffic when the driveway is not longer than 50 feet, it provides access to not more than six spaces, and sufficient turning space is provided so that vehicles need not back into a public street.

(Ord. passed 9-8-92)

§ 152.271 GENERAL DESIGN REQUIREMENTS.

(A) Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, although backing onto arterial streets is discouraged.

(B) Vehicle accommodation areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.

(C) Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

(D) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

(Ord. passed 9-8-92)

§ 152.272 VEHICLE ACCOMMODATION AREA SURFACES.

(A) All vehicle accommodation areas shall be graded and surfaced with asphalt or concrete to provide protection against potholes, erosion, and dust.

(B) All preexisting vehicle accommodation areas must comply with division (A) within five years beginning September 1, 1993.

(C) Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition, and parking spaces lines or markings shall be kept clearly visible and distinct.

(Ord. passed 9-8-92; Am. Ord. ZA-1993-01, passed 8-2-93)

§ 152.273 JOINT USE OF REQUIRED PARKING SPACES.

(A) One parking area may contain required parking spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.

(B) To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to one use with the alternate use being credited with only that fraction of the spaces not in use at the times of its operation.

(Ord. passed 9-8-92)

§ 152.274 SATELLITE PARKING.

(A) If the number of off street parking spaces required by this chapter cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section. These off site spaces are referred to in this section as satellite parking spaces.

(B) All such satellite parking spaces, except spaces intended for employee use, must be located within 400 feet of a public entrance of a principal building housing the use associated with such parking. Satellite parking spaces intended for employee use may be located within any reasonable distance.

(C) The developer wishing to take advantage of the provisions of this section must present satisfactory written evidence that he has the permission of the owner or other person in charge of the satellite parking spaces to use such spaces. The developer must also sign an

acknowledgement that the continuing validity of his permit depends upon his continuing ability to provide the requisite number of parking spaces.

(D) Persons who obtain satellite parking spaces in accordance with this section shall not be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this article.

(Ord. passed 9-8-92)

§§ 152.275 through 152.279 RESERVED

ARTICLE XIII AMENDMENTS

§ 152.280 AMENDMENTS IN GENERAL.

(A) Amendments to the text of this chapter or to the zoning map may be made in accordance with the provisions of this article.

(B) The term major map amendment shall refer to an amendment that addresses the zoning district classification of five or more tracts of land in separate ownership or any parcel of land in excess of 50 acres regardless of the number of lots or acres. All other amendments to the zoning district map shall be referred to as minor map amendments.

(Ord. passed 9-8-92)

§ 152.281 INITIATION OF AMENDMENTS.

(A) Whenever a request to amend this chapter is initiated by the Board of Commissioners, the Planning Board, the Board of Adjustment, or the Town staff, the Town Attorney in consultation with the Town staff shall draft an appropriate ordinance and present that ordinance to the Board of Commissioners so that a date for a public hearing may be set.

(B) Any other person may also petition the Board of Commissioners to amend this chapter. The petition shall be filed with the land use administrator and shall include, among the information deemed relevant by the administrator:

(1) The name, address, and phone number of the applicant;

(2) A description of the land affected by the amendment if a change in zoning district classification is proposed;

(3) A description of the proposed or a summary of the specific objectives of any proposed change in the text of this chapter; and

(4) Filing fee as provided in § 152.008.

(C) Upon receipt of a petition as provided in division (B), the administrator shall:

(1) Forward the proposed amendment to the Town Attorney to review for sufficiency; and

(2) Forward the petition to the Board of Commissioners with or without written comment for a determination of whether an ordinance should be drafted and a public hearing set in accordance with division (D).

(D) Upon receipt of a proposed ordinance as provided in division (A), the Board of Commissioners may establish a date for a public hearing on it. Upon receipt of a petition for an ordinance amendment as provided in division (B), the Board of Commissioners may summarily deny the petition or set a date for a public hearing on the requested amendment and order the Town Attorney, in consultation with the land use administrator, to draft an appropriate ordinance.

(E) If the proposed amendment involves only a change in zoning classification and not a corresponding change in text, then the Town Manager may set the date for public hearing after finding of sufficiency by the Town Attorney.

(Ord. passed 9-8-92; Am. Ord. ZA-1993-01, passed 8-2-93)

§ 152.282 PLANNING BOARD CONSIDERATION OF PROPOSED AMENDMENTS.

(A) If the Board of Commissioners set a date for a public hearing on a proposed amendment, it shall also refer the proposed amendment to the planning board for its consideration.

(B) The planning board shall endeavor to review the proposed amendment in such a timely fashion that any recommendations it may have can be presented to the Board of Commissioners after the public hearing on the amendment. However, if the planning board is not prepared to make recommendations at or after the public hearing, it may request that the Board of Commissioners delay final action on the amendment until such time as the planning board can present its recommendations.

(C) The Board of Commissioners need not await the recommendations of the planning board before taking action on a proposed amendment, nor is the Board of Commissioners bound by any recommendations of the planning board that are before it at the time it takes action on the proposed amendment.

(Ord. passed 9-8-92)

§ 152.283 HEARING REQUIRED.

No ordinance that amends any of the provisions of this chapter may be adopted until a public hearing has been held in accordance with the provisions of Article V.

(Ord. passed 9-8-92)

§ 152.284 BOARD OF COMMISSIONERS ACTION ON AMENDMENTS.

(A) At the conclusion of the public hearing on a amendment, the Board of Commissioners may proceed to vote on the proposed ordinance, refer it for further study, or take any other action consistent with its usual rules of procedure.

(B) The Board of Commissioners is not required to take final action on a proposed amendment within any specific period of time, but it should proceed expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

(C) Voting on amendments to this chapter shall proceed in the same manner as other ordinances.

(Ord. passed 9-8-92)

§ 152.285 ULTIMATE ISSUE BEFORE BOARD OF COMMISSIONERS ON AMENDMENTS.

In deciding whether to adopt a proposed amendment to this chapter, the central issue before the Board of Commissioners is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the mayor and excluded. In particular, when considering proposed minor map amendments:

(A) The Board of Commissioners 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. Rather, the Board of Commissioners 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.

(B) The Board of Commissioners shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

(Ord. passed 9-8-92)

§§ 152.286 through 152.289 RESERVED

ARTICLE XIV DEVELOPMENT PROCEDURES

§ 152.290 WRITTEN APPLICATION.

Every applicant for a variance or a zoning, sign, special-use or conditional-use permit shall complete a written application containing at least the following information:

(A) The name, address, and phone number of the applicant.

(B) If the applicant is not the owner of the property in question, the name, address, and phone number of the owner, and the legal relationship of the applicant to the owner that entitles the applicant to make application.

(C) The date of the application.

(D) Identification of the particular permit sought.

(E) A sufficient statement of the nature of the development proposed under the permit or the nature of the variance.

(F) The zoning district within which the property lies.

(G) The number of square feet in the lot where the development is to take place.

(H) The gross floor area of all existing or proposed buildings located on the lot where the development is to take place.

(I) If the proposed development is a two-family or multi-family residential development or an architecturally integrated subdivision, the number of one-, two-, three-, or four-bedroom dwelling units proposed for construction.

(Ord. passed 9-8-92)

§ 152.291 DEVELOPMENT SITE PLANS.

Every application for a variance or a zoning, sign, special-use or conditional-use permit shall contain plans that locate the development site and geographically demonstrate existing and proposed natural, man-made, and legal features on and near the site in question, all in conformity with this guide.

(Ord. passed 9-8-92)

§ 152.292 GRAPHIC MATERIALS REQUIRED FOR PLANS.

(A) The plans shall include a location map that shows the location of the project in the broad context of the city or planning jurisdiction. This location map may be drawn on the development site plans or it may be furnished separately using reduced copies of maps of the city's planning jurisdiction available at the planning department.

(B) Development site plans shall be drawn to scale, using such a scale that all features required to be shown on the plans are readily discernible. Very large developments may require that plans show the development in sections to accomplish this objective without resort to plans that are so large as to be cumbersome, or the objective may be accomplished by using different plans or plans drawn to difficult scales to illustrate different features. In all cases, the permit- issuing authority shall make the final determination whether the plans submitted are drawn to the appropriate scale, but the applicant for a conditional or special-use permit may rely in the first instance on the recommendations of the administration.

(C) Development site plans should show on the first page the following information:

(1) Name of applicant.

(2) Name of development (if any).

(3) North arrow.

(4) Legend.

(5) Scale.

(6) Zoning District.

(7) P.I.N. Number, or Map and Parcel Number.

(D) All of the features required to be shown on plans may be included on one set of plans, so long as the features are distinctly discernible.

(Ord. passed 9-8-92)

§ 152.293 EXISTING NATURAL, MAN-MADE, AND LEGAL FEATURES.

(A) Development site plans shall show all existing natural, man-made, and legal features on the lot where the development is to take place, including but not limited to those listed below. In addition, the plans shall also show those features, indicated in the following by an asterisk, that are located within 50 feet in any direction of the lot where the development is to take place, and shall specify (by reference to the Table of Permissible Uses or otherwise) the use made of adjoining properties.

(B) Existing natural features:

(1) Tree line of wooded areas.

(2) Individual trees 12 inches in diameter or more, identified by common or scientific name.

(3) Orchards or other agricultural groves by common or scientific name.

(4) Streams, ponds, drainage ditches, swamps, boundaries of floodways and floodplains.

(5) If the proposed development is a subdivision of more than 50 lots or if more than five acres of land are to be developed, base flood elevation data.

(6) Contour lines (shown as dotted lines) with no larger than two-foot contour intervals. (Proposed contour lines shall be shown as solid lines.)

(C) Existing man-made features:

(1) Vehicle accommodation areas (including parking areas, loading areas and circulation areas), all designated by surface material and showing the layout of existing parking spaces and direction of travel lanes, aisles, or driveways.

(2) Streets, paved roads, sidewalks, and other walkways, all designated by surface material.

(3) Curbs and gutters, curb inlets and curb cuts, and drainage grates.

(4) Other storm water or drainage facilities, including manholes, pipes, and drainage ditches.

(5) Underground utility lines, including water, sewer, electric power, telephone, gas, cable television.

(6) Above ground utility lines and other facilities.

(7) Fire Hydrants.

(8) Buildings, structures and signs (including dimensions of each).

(9) Location of exterior light fixtures.

(10) Location of Dumpsters.

(D) Existing legal fixtures:

(1) The zoning of property, including zoning district lines where applicable.

(2) Property lines (with dimensions identified).

(3) Street right-of-way lines.

(4) Utility or other easement lines.

(Ord. passed 9-8-92)

§ 152.294 PROPOSED CHANGES IN EXISTING FEATURES OR NEW FEATURES.

(A) Development site plans shall show changes in existing natural features, existing man-made features and existing legal features.

(B) Development site plans shall show proposed new legal features (especially new property lines, street right-of-way lines, and utility and other easements), as well as proposed man-made features, including, but not limited to, the following:

(1) The number of square feet in every lot created by a subdivision.

(2) Lot dimensions, including lot widths.

(3) The location and dimensions of all buildings and freestanding signs on the lot as well as, the distance that all buildings and freestanding signs are set back from property lines, streets or street right-of-way lines.

(4) Areas intended to remain as usable open space. The plans shall clearly indicate whether such open space areas are intended to be offered for dedication to public use or to remain privately owned.

(5) The location and dimensions of all recreation areas and their type of use.

(6) Streets and street names showing whether curb and gutter or shoulders and swales are to be provided and indicating street paving widths. Private roads in subdivisions

shall also be shown and clearly labeled as such. Curbs and gutters, curb inlets and curb cuts, drainage ditches, retention ponds, drainage grates, pipes, etc.

(7) Other storm water or drainage facilities, including manholes, pipes, drainage ditches, retention ponds, etc.

(8) Sidewalks and walkways, showing widths and surface material.

(9) Bridges.

(10) Outdoor illumination with lighting fixtures sufficiently identified to demonstrate compliance.

(11) Underground utility lines including water, sewer, electric power, telephone, gas, cable television, water and sewer pipe line signs shall be labeled.

(12) Aboveground utility lines and other facilities.

(13) Fire hydrants.

(14) Dumpsters.

(15) New contour line resulting from earth movement.

(16) Vehicle accommodation areas, (including parking areas loading areas, and circulation areas), all designated by surface material and showing the dimensions and layout of proposed parking spaces and the dimensions and direction of travel of lanes, aisles, and driveways.

(17) Proposed plantings to comply with the landscape ordinance.

(Ord. passed 9-8-92)

§ 152.295 DOCUMENTS AND WRITTEN INFORMATION IN ADDITION TO PLANS.

In addition to the written application and the plans, whenever the nature of the proposed development makes information or documents such as the following relevant, such documents of information shall be provided. The following is a representative list of the type of information or documents that may be requested:

(A) Documentation confirming that the application 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.

(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.

(C) Detailed description of play apparatus or other recreational facilities to be provided in miniparks.

(D) Legal documentation establishing homeowners associations or other legal entities responsible for control over required common areas and facilities.

(E) Bonds, letters of credit, or other surety devices.

(F) Stamped envelopes containing the names and addresses of all those to whom notices of a public hearing must be sent.

(G) Written evidence of permission to use satellite parking spaces under the control of someone other than the developer.

(H) Time schedules for the completion of phases.

(I) 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.

(Ord. passed 9-8-92)

§ 152.296 NUMBER OF COPIES OF PLANS AND DOCUMENTS.

With respect to all plans and other documents required, the developer shall submit the number of copies that the administrator deems necessary to expedite the review process and to provide necessary permanent records.

(Ord. passed 9-8-92)

§§ 152.297 through 152.299 RESERVED

ARTICLE XV LANDSCAPE REGULATIONS
PART I: GENERAL REGULATIONS

§ 152.300 PURPOSE OF LANDSCAPING.

The purpose of the landscaping requirements in this chapter shall be to bring relief from heat, noise and glare through proper placement of green plants and trees, and to enhance, conserve and stabilize property values by encouraging pleasant and attractive surroundings.

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.301 DEFINITIONS.

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

BERM. An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

BUFFER. A method of screening which separates a proposed development from adjacent major streets and adjacent land uses or zoning designation in order to minimize

potential nuisances such as the transmission of noise, dust, litter and glare of lights, to reduce the visual impact of unsightful aspects of adjacent development: to provide for the separation of space; and to establish a sense of privacy.

DECIDUOUS. A plant with foliage that is shed annually.

CANOPY TREE. Any tree expected to reach a height in excess of 30 feet at maturity.

SCREEN. A method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.

SHADE TREE. Usually a deciduous tree -rarely an evergreen- planted primarily for its high crown of foliage or overhead canopy.

SHRUBS. Any of a variety of low-growing plants, generally characterized by several upright stems not exceeding ten feet in height.

SPECIMEN TREE. A particularly impressive or unusual example of a species due to its size, shade, age, or any other trait that epitomizes the character of the species.

TREE. A large, woody plant having one or several self-supporting stems or trunks and numerous branches. May be classified as deciduous or evergreen.

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.302 PLAN APPROVAL.

Except for single and two-family dwellings, prior to issuance of any building permit, a plot and planting plan shall be submitted to and approved by the land use administrator. No site plan shall be considered complete unless accompanied by landscaping and planting plan.

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.303 INSTALLATION.

All landscaping shall be installed in accordance with the plot plan as finally approved prior to issuance of a certificate of accordance with accepted landscape practices within the area. In instances where conditions do not permit immediate planting, the land use administrator may authorize use and occupancy of the premises subject to the provisions of this chapter.

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.304 APPLICABILITY.

(A) Where landscaping is required by the applicable zoning district regulations all construction projects for which a site specific development plan is submitted on or after the effective date of this section shall be subject to requirements and standards set forth herein.

(B) The following minimum landscaping requirements are applicable to each allowable general, special or conditional use in any established zoning district relative to the landscaping of certain setback areas and additional requirements on site landscaping, which includes vehicular use areas. Such off-street facilities and land shall conform to the landscaping provisions of this chapter, except that of single and two-family residential uses on individually platted lots shall be exempt from such requirements.

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.305 ALTERNATE METHODS OF COMPLIANCE.

(A) Although certain or a particular method of construction is specifically prescribed by this chapter, this Article is not intended, especially whenever a stream, natural rock formation or other physiographic condition exists, to prevent the use of a material or method of construction, different from the material or method of construction specifically prescribed by this section: provided, any such alternate material or method of construction has been approved in writing or in plan and its use authorized by the body or department authorized to approve the original plan or permit.

(B) The body or department may approve in writing or in plan any such alternate material or method of construction: provided, it is found that the proposed alternate material of construction for the purpose intended, is at least the equivalent of that specifically prescribed by the code in quality, effectiveness, durability, hardiness, and performance. The body or department may require that sufficient evidence or proof be submitted to substantiate any claim that may be made regarding its use.

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.306 INFORMATION REQUIRED ON LANDSCAPE PLANS.

(A) Landscape plans shall be prepared by persons who have knowledge and experience in the field of landscaping such as, but not limited to landscape architects, nurserymen, and horticulturists, who are professionally certified to prepare such a plan.

(B) The landscaping plan shall include a plant list with the following information:

(1) All plant materials to be use, keyed to plan and defined by botanic and common name;

(2) Quantity to be used;

(3) Size of material to be planted; and

(4) Ultimate sizes of each plant and time to reach maturity.

(C) The landscape design must include:

(1) Location of all existing plant material to remain on site.

(2) Indication of screening and buffer plantings as required by this chapter.

(3) Location and spacing of each plant to be planted, shown to scale.

(4) Methods to be used in welling, staking and guying, mulching and wrapping according to generally accepted standards.

(5) Ground covers to be used in design, which may be indicated as a mass planting, but spacing must be defined in plant list.

(6) A means of screening utility boxes where they appear at ground level.

(D) Other information to be provided include:

(1) Name and address of person, firm or organization preparing landscape plans.

(2) Placement and size of street trees, indicated along all thoroughfare.

(Ord. ZA-1994-01, passed 11-7-94)

PART II SCREENING AND BUFFERS

§ 152.307 BURDEN OF PROVISION OF A BUFFER.

(A) The burden of provision and selection of the landscape buffer shall be as follows:

(1) Where two different districts, requiring a buffer between them, are both in an existing improved condition, the landscape requirement is not retroactive and should a buffer be desired, it shall be by mutual agreement between property owners or as otherwise provided by law. However, in the event any or all of the improved property is abandoned, destroyed, demolished, etc, for purpose of renewal, redevelopment that portion of such property shall be considered vacant land subject to the requirements herein.

(2) Where two different districts requiring a buffer between them are vacant or partially developed, the burden of providing a buffer shall fall on the developer of the higher zoned property at time of development.

(B) Where the line between two districts, requiring a buffer, follows a right-of-way, railroad, stream, or other similar barrier, the requirement for a buffer may be waived, provided such waiver does not permit the exposure of undesirable characteristics of land use to public view.

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.308 LAND USE CLASSIFICATIONS FOR BUFFERS.

(A) Single family dwellings, two family dwellings, recreational uses of less than five acres, agricultural uses including plant nurseries and greenhouses.

(B) Architecturally integrated subdivisions under single ownership, schools, public services, dormitories and residence halls, parks of five acres or more, recreational facilities

not located within the Commercial Amusement Special Use District (CASUD), Fraternal Lodges, churches, community centers.

(C) Multi-family complexes, cemeteries, planned residential development, mobile home parks, meeting halls, nursing homes, hospitals, child care centers.

(D) Individual retail stores, shopping centers, office parks, restaurants, vehicle sales and services, mobile home sales, bus stations, railway stations, car wash, warehousing, convenience stores, movie theaters, service stations Type II, service stations Type III.

(E) Light and heavy manufacturing, animal hospitals, laboratories, bulk plants, service stations Type I, processing plants, industrial parks, facilities within Commercial Amusement Special Use Districts (CASUD).

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.309 TYPES OF BUFFERS.

When required by this section, the buffer provided shall be in accordance with any of the four types established in this section. Buffers required on any side of a property will depend on the unique land use patterns occurring as set out in § 152.308 (A) through (E).

TYPE A

Function: Opaque screen from the ground to a height of at least six feet, excluding visual contact between uses and creating a strong impression of spatial separation.

Plant selection/placement: Trees shall obtain a height at maturity of no less than 20 feet and have no openings wider than ten feet between trees canopies upon maturity. At least 50% of the required trees, and at least 75% of the required shrubs, shall be evergreen species suitable to this area.

Composition: May include a wall, fence, landscaped earthen berm, planted vegetation, existing vegetation, or any appropriate combination of these elements.

To View Picture Click Here

To View Picture Click Here

TYPE B

Function: Semi-opaque screen from the ground to a height of three feet.

Plant Selection/Placement: Trees shall obtain a height at maturity of no less than 20 feet and have no openings wider than 20 feet between canopies upon maturity. At least 75% of the required shrubs shall be evergreen species suitable to this area.

Composition: May include a wall, fence, landscaped earthen berm, planted vegetation, existing vegetation, or any appropriate combination of these elements.

To View Picture Click Here

TYPE C

Function: Intermittent visual screen, creating the impression of spatial separation without eliminating visual contact between uses.

Plant Selection/Placement: Trees shall obtain a height at maturity of no less than 20 feet. Trees plantings of either deciduous and/or evergreen species may be installed in either a random, clustered, and/or linear fashion with an aggregate opening between canopies no wider than 40 feet upon maturity.

Composition: May include a wall, fence, landscaped earthen berm, planted vegetation, existing vegetation, or any appropriate combination of these elements.

To View Picture Click Here

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.310 TABLE OF BUFFER REQUIREMENTS.

The following table shall be used to determine the required buffer on each side of any proposed development:

To View Picture Click Here

(Ord. ZA-1994-01, passed 11-7-94)

PART III: STREETSCAPE

§ 152.311 STREETSCAPE ALONG THOROUGHFARE.

(A) All uses which require site plan approval shall install and maintain a planted streetscape along each thoroughfare, which abuts the perimeter of the property. The function of the streetscape will be to provide intermittent visual screen, creating the impression of spatial separation without eliminating views into and from the property. All streetscape planting, including the installation of street trees shall be performed in accordance with the requirements of this section, and shall use `Streetscape Illustration Layout Options 1 and 2 as guide'.

(B) At least one deciduous or evergreen canopy tree is required for each 40 linear feet of street frontage or with a spacing of no less than 35 feet between trunks or clusters. These trees can be arranged in a random, clustered, and/ or linear fashion and shall reach a height at maturity of at least 20 feet. In situations where a vehicle accommodation area is adjacent to the streetfront buffer, the buffer shall include a semi-opaque screen at least three feet in height above the ground.

(C) Trees shall be installed on the thoroughfare side of any berm or screen planting, and no less than ten feet from the outermost permanent structure of the thoroughfare section of the right-of-way.

(D) Each canopy tree in the streetscape shall be provided with at least 300 square feet of pervious ground area for root growth. Any planting area bounded by an impervious surface shall be at least ten feet wide.

(E) Where there is a vehicular surface area between the thoroughfare and a permanent building, the streetscaping shall provide a barrier between the right-of-way and the vehicular use area. The screen or barrier may consist of shrubs, earthen berms, fences, walls, or any combination thereof which meets the following requirements:

(1) The screen shall occupy 75% of the length of the vehicular use area except for sidewalks and driveways which cut through the screen to connect the vehicular use area to streets and other properties. Plant material shall be at least two feet tall above the ground at the time of installation.

(2) Berms may be used or installed in lieu of or in addition to plantings.

(F) Where the right-of-way is bounded by slopes steeper than two to one (2:1) or is otherwise not suitable for the planting of street trees, the following standards shall apply:

(1) The streetscaping shall provide a planting strip for street trees at least ten feet wide located parallel to the thoroughfare. The planting strip shall be positively drained throughout. The planting strip shall be located adjacent or close to the thoroughfare section, or behind any proposed permanent improvements, such as curbs, sidewalks, and utility lines. All street trees required by this section shall be located at least ten feet from the curb. Any plantings may be located in the right-of-way only with the prior approval of the authority or agency which controls the right-of-way.

(2) Even with such prior approval, the planting strip may be located within the right-of-way only if either the bottom or top of the slope at existing or proposed grade originates within the thoroughfare right-of-way beyond the required five-foot utility strip.

(3) Existing significant vegetation within ten feet of and extending to the right-of-way may be used to satisfy the requirements of this section, provided that:

(a) The existing vegetation meets the requirements of this section; and

(b) The vertical grade change is less than four feet above or below the existing or proposed permanent features of the thoroughfare.

(G) Streetscape may be installed or may originate within the right-of-way of the thoroughfare, provided that:

(1) The streetscape meets the standards of this section;

(2) All plant materials within the right-of-way will be maintained by the property owner; and

(3) The streetscape shall incorporate any utility easements.

(H) Existing healthy, well-formed, canopy tree may be counted toward the requirements of this section, provided that these trees are protected and maintained according to the requirements of this section.

(Ord. ZA-1994-01, passed 11-7-94)

To View Picture Click Here

PART IV VEHICLE ACCOMMODATION AREAS

§ 152.312 VEHICLE ACCOMMODATION AREAS.

The landscape design of all vehicle accommodation areas required by Chapter 152 shall meet the following specifications:

(A) All planting medians shall be at least ten feet long by ten feet wide.

(B) All double parking islands shall be at least 300 square feet.

(C) All single parking islands shall be at least 150 square feet.

(D) The size of the planting area and size of plant material at maturity shall allow for a three-foot bumper overhang from the face of the curb.

(E) All sidewalks shall be at least ten feet from the trunks of large trees, unless otherwise approved by the Land Use Administrator where the placement of the sidewalk would require the removal of an existing large tree to meet this requirement or where there is not enough space on the site to accommodate both the tree and the sidewalk.

(F) Barriers, such as curbs or wheel stops, shall be provided between vehicular surface areas and landscaping areas.

(G) Parking lots shall be graded so that landscaping islands do not impound water, unless surface impoundment is required as a method of on-site retention of storm water.

(H) Groves of trees, as well as isolated islands with single trees, are encouraged.

(I) Canopy trees shall be at least two and one half inches caliper when installed.

(J) Evergreen shrubs shall be at least 18 inches in height and three-gallon container size at the of installation.

(K) The selection of plants and planting methods shall conform to the standards of the American Association of Nurserymen and the Planting Material list (see Plant Listing).

(L) Adequate drainage, mulching, and irrigation shall be provided for planting medians and islands.

(M) The property owner or developer shall provide for continuous maintenance of the landscaped areas.

(N) The number of trees required for vehicular accommodation areas shall be calculated using the following table:

Vehicle Accommodation Area Tree Requirements

# OF PARKING SPACES	(x) Factor (=)		# OF TREES/TREE ISLAND
	NEW	RETROFIT	
1 to 50	0.10	0.05	~1 tree/8 spaces
51 to 100	0.15	0.07	~1 tree/10 spaces
101 to 400	0.10	0.05	~1 tree/15 spaces
401 to 600	0.05	0.02	~ tree/20 spaces
>600	0.05	0.02	~ tree/25 spaces

(Ord. ZA-1994-01, passed 11-7-94)

PART V SUPPLEMENTARY LANDSCAPE REGULATIONS

§ 152.313 RETROFITTING.

All vehicle accommodation areas existing on or before the effective date of this chapter shall comply with the requirements of this chapter within three years.

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.314 SUPPLEMENTAL DESIGN GUIDELINES.

In addition to requirements of this section, developers shall use graphic displays and tables as practical guides to help achieve the intent of this section.

(A) Proposed vehicle accommodation areas shall use Standard Drawing 1(A) and (B) as guides, and existing vehicle accommodation areas and proposed renovations shall use Standard Drawing 2 (A) and (B) as guides.

(B) Installation, care and protection of trees and plant material shall be guided by Standard Drawing 3 (A) and (B) and Standard Drawing 4 (A) and (B).

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.315 PLANT MATERIAL LIST.

All plant material required by this section shall be of one or more species listed below. However, the land use administrator may approve other plant material not listed herein if he finds that such material will fulfill the requirements of this section. Specifically, trees proposed to be located below utility lines shall be approved by the utility company.

BOTANICAL	***COMMON NAME***
Large Shade Trees	
ACER RUBRUM	RED MAPLE
ACER SACCHARINUM	SILVER MAPLE
ACER SACCHARINUM	SUGAR MAPLE
FRAXINUS PENNSYLVANICA	GREEN ASH
MAGNOLIA GRANDIFLORA	SOUTHERN MAGNOLIA
PLATANUS OCCIDENTALIS	SYCAMORE
QUERCUS ACUTISSIMA	SAWTOOTH OAK
QUERCUS COCCINEA	SCARLET OAK
QUERCUS LAURIFOLIA	LAUREL OAK
QUERCUS PALUSTRIS	PIN OAK
QUERCUS PHELLOS	WILLOW OAK
ZELCOVA SERRATA 'VILLAGE GREEN'	VILLAGE GREEN ZELKOVA
Small Shade Trees	
BETULANIGRA	RIVER BIRCH
CERCIS CANADENSIS	EASTERN REDBUD
CORNUS FLORIDA	FLOWERING DOGWOOD
KOELREUTERIA PANICULATA	GOLDEN-RAIN TREE
PRUNUS SERRULATA	KWANZAN CHERRY
PRUNUS YEDOENSIS	YOSHINO CHERRY
PYRUS CALLERYANA 'BRADFORD'	BRADFORD PEAR
Small Evergreen Trees	
X CUPRESSOCYPARIS LEYLANDII	LEYLAND CYPRESS

ILEX X ATTENUATA `FOSTERI' FOSTER HOLLY

ILEX X ATTENUATA `SAVANNAH' SAVANNAH HOLLY

ILEX X `NELLIE R. STEVEN' NELLIE STEVENS HOLLY

ILEX VOMITORIA YAUPON HOLLY

CORNUS FLORIDA FLOWERING DOGWOOD

LAGERSTROEMIA INDICA CREPE MYTRLE

Large Shrubs (Buffer Planting)

CLEYERA JAPONICA CLEYARA

ELAEGNUS PUNGENS THORNY ELAEAGNUS

ILEX X `EMILY BRUNER' EMILY BRUNER HOLLY

ILEX OPACA `GREENLEAF' GREENLEAF AMERICAN HOLLY

LIGUSTRUM JAPONICUM WAX LEAF LIGUSTRUM

PRUNUS CAROLINANA CARLINA CHERRY-LAUREL

PRUNUS LAUROCERASUS ENGLISH LAUREL

Medium Shrubs (Buffer Planting)

ILEX CORNURTA 'BURFORDII NANA' DWARF BURFORD HOLLY

ILEX CORNUTA 'NEEDLEPOINT' NEEDLEPOINT HOLLY

ILEX CRENATA 'CONVEXA' CONVEXA JAPENESE HOLLY

ILEX CRENATA `GREEN LUSTRE' GREEN LUSTER HOLLY

ILEX CRENATA 'ROTUNDIFOLIA' ROTUNDIFOLIA HOLLY

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.316 MAINTENANCE.

(A) Application of fertilizers to shade trees should conform to standards as established by the National Arborists Association for fertilizing shade ornament's.

(B) In order to protect streams and lakes from algae blooms and eutrophication, no fertilizer shall be applied to any soil or other surface within ten feet of any lake, pond, stream, drainage sewage or storm sewer catch basin.

(C) All newly planted trees and shrubs shall receive water a minimum of one inch per week from a combination of natural rainfall and irrigation between June 1 and October 1 for a minimum of one year after planting.

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.317 LANDSCAPE PERFORMANCE AND MAINTENANCE BOND.

(A) The required landscaping must be installed before use or occupancy of any building. Provided, however, that the developer may post a performance bond in the amount equal to 110% of the estimated, and shall be utilized by the Town to perform landscaping required in the event that the developer fails to complete the required landscaping within one year after authorization of use or occupancy.

(B) If the developer completes the required landscaping within the specify period, the Town shall promptly release the bond.

(Ord. ZA-1994-01, passed 11-7-94)

§ 152.318 ENFORCEMENT.

(A) The land use administrator may establish an annual schedule to inspect all landscape development approved under this chapter, and shall advise property owners of violations thereof.

(B) The land use administrator may use enforcement mechanism provided under this chapter to correct any violations.

(Ord. ZA-1994-01, passed 11-7-94)

PART VI APPEARANCE STANDARDS FOR CENTRAL BUSINESS DISTRICT

§ 152.319 PURPOSE.

(A) The purpose of this section is to enhance the visual quality of downtown and provide a pleasing atmosphere in which residents work and conduct business, and contribute to the economic vitality of the central business district.

(B) It is recognized that the size of lots and buildings upon them and their proximity to the public right of way in the Central Business District makes compliance with other sections of this chapter impractlcable.

(Ord. ZA-1997-02, passed 4-7-97)

§ 152.320 AWNINGS AND CANOPIES.

(A) All awnings and canopies over buildings shall be well maintained and shall not have any supporting structures embedding into any public street, sidewalk or alleyway.

(B) All buildings must replace such existing canopies or awnings by March 1, 1999. Provided however, that any such existing canopies or awnings must be replaced with standards herein before the issuance of a building, electrical, mechanical, plumbing or any other permit, and/or the issuance of a certificate of occupancy.

(Ord. ZA-1997-02, passed 4-7-97)

§ 152.321 APPEARANCE OF BUILDINGS.

In the Central Business District no portion of a building may be boarded except with decorative material approved by the Land Use Administrator.

(Ord. ZA-1997-02, passed 4-7-97; Am. Ord. ZA-2004-03, passed 8-4-03)

STANDARD DRAWING 1 To View Picture Click Here

STANDARD DRAWING 2 To View Picture Click Here

STANDARD DRAWING 3 To View Picture Click Here

STANDARD DRAWING 4 To View Picture Click Here

APPENDIX A: SPECIFICATIONS FOR STREET DESIGN AND CONSTRUCTION

Section

1. Design speed, sight distance, centerline radius
2. Cut and fill slopes
3. Sight distances at intersections
4. Intersections radius at street
5. Clearing and grubbing
6. Grading and compaction
7. Street base
8. Street surfaces
9. Pavement Section Variations
10. Street Cross Sections
11. Curb and gutter
12. Sidewalks
13. Wheelchair ramps

14. Storm water runoff control

15. Sedimentation control

§ 1. DESIGN SPEED, SIGHT DISTANCE, CENTERLINE RADIUS.

	Minor	*Local*	*Sub-Collector*	*Collector*
Design Speed	25 mph	25 mph	30 mph	35 mph
Minimum sight Distance on Vertical Curve	150 feet	150 feet	200 feet	200 feet
Minimum Centerline Radius	150 feet	150 feet	200 feet	250 feet

(Ord. passed 9-8-92)

§ 2. CUT AND FILL SLOPES.

Cut and fill slopes on any street right-of-way may not exceed 2:1.

(Ord. passed 9-8-92)

§ 3. SIGHT DISTANCES AT INTERSECTIONS.

(A) At no-stop intersections, the intersection shall be constructed so that a person standing at a location on the centerline of any street 90 feet from the intersection of the street centerlines has an unobstructed view to a point located on the centerline of the intersecting street 90 feet (in either direction) from the intersection of the street centerlines. See Standard Drawing No. 1.

(B) Subject to division (C), at stop intersections, the intersection shall be constructed so that a person standing ten feet back of the intersection of right-of-way lines on the stop street has an unobstructed view to a point on the right-of-way line of the intersecting through street located 70 feet from the intersection of the right-of-way lines. See Standard Drawing No. 2.

(C) At stop intersections where a residential street intersects with a state-maintained primary road, the intersection shall be constructed so that a person standing 30 feet back of the intersection right-of-way lines on the stop street has an unobstructed view to a point on the centerline of the through street located 150 feet from the intersection of the street right-of-way lines. See Standard Drawing No. 3.

(Ord. passed 9-8-92)

§ 4. INTERSECTIONS RADIUS AT STREET.

At street intersections, the intersections of the paved surfaces shall be rounded with a minimum radius as shown in Standard Drawings No. 4 and No. 5. Where streets intersect as less than right angles, a greater radius may be required.

(Ord. passed 9-8-92)

§ 5. CLEARING AND GRUBBING.

Clearing and grubbing shall be performed within the limits shown on the plans. All timber, brush, roots, trees, stumps, or other vegetation cut during the clearing operations shall become the contractor's responsibility to dispose of, and shall be either removed from the project by him, or satisfactorily disposed of on-site.

(Ord. passed 9-8-92)

§ 6. GRADING AND COMPACTION.

Streets shall be graded in accordance with the lines and grade set by the engineer. Before placing curb and gutter or base on the graded subgrade, the subgrade shall be compacted to 100% AASHO T99 for a depth of six inches and then shall be proof rolled in the presence of the engineer. Places that are found to be loose, or soft, or composed of unsuitable materials, whether in the subgrade or below it, must be dug out and filled with suitable material. All embankments or fills shall be made in one-foot horizontal lifts of suitable material. The fill shall be rolled with a sheepsfoot roller after each lift, followed by a wheel roller, each weighing not less than eight tons.

(Ord. passed 9-8-92)

§ 7. STREET BASE.

Base course for streets shall generally be eight inches thick, unless otherwise directed by the public works director, and shall be crushed stone conforming to N.C.D.O.T. Type ABC stone. The stone base course shall be placed in four inch layers, watered as necessary, and compacted to 100% AASHO T99. The contractor shall be responsible for keeping the stone base free of contamination from clay or other foreign materials. Handling and placement of stone base shall all be in accordance with N.C.D.O.T. specifications.

(Ord. passed 9-8-92)

§ 8. STREET SURFACES.

The asphalt surface course shall meet N.C.D.O.T. specifications for type I-2 asphalt. The asphalt shall be place in one two-inch layer, and shall be handled and placed in accordance with N.C.D.O.T. specifications.

(Ord. passed 9-8-92)

§ 9. PAVEMENT SECTION VARIATIONS.

Sections C-6, C-7, and C-8 set the standards that shall apply under normal soils conditions. However, where soils are unusually good or unusually unsuitable, the public works director may allow or require the developer to have soil test run and a pavement design made by a qualified soils engineer. Under these circumstances, the public works director may allow pavement sections constructed to lesser standards than those set forth above (for good soils) or require pavement sections constructed to greater standards than those set forth above (for unstable soils).

(Ord. passed 9-8-92)

§ 10. STREET CROSS SECTIONS.

Streets shall be constructed and utilities located in accordance with Standard Drawing No. 6 or No. 7.

(Ord. passed 9-8-92)

§ 11. CURB AND GUTTER.

(A) The concrete curb and gutter shall be constructed according to the lines and grades established by the engineer. The concrete shall meet the state highway requirements. The curb and gutter shall be 30 inches wide, and shall have a vertical curb face. The forms shall be of metal, free of marks or kinks and shall be rigidly held in position. The engineer shall approve the position of the forms before concrete is poured. The concrete shall be placed in the forms in a manner to prevent segregation, and tamped or vibrated sufficiently to prevent honeycombs. The shall be finished smooth and even by means of rollers or floats. Expansion joints shall be provided every 30 feet, and false joints every ten feet.

(B) Curb and gutter shall be constructed in accordance with Standard Drawing No. 8.

(Ord. passed 9-8-92)

§ 12. SIDEWALKS.

Sidewalk construction shall be similar to street construction, with subgrade compacted to 100% AAASHO T99. Concrete sidewalks shall be four inches thick (increasing to six inches thick at driveway entrances), and shall be at least four feet wide. Expansion joints shall be provided every 30 feet; false joints at ten feet.

(Ord. passed 9-8-92)

§ 13. WHEEL CHAIR RAMPS.

Where required, wheel chair ramps shall be constructed with Standard Drawing No. 9.

(Ord. passed 9-8-92)

§ 14. STORM WATER RUNOFF CONTROL.

(A) The minimum design frequency for storm runoff shall be ten years for storm sewer collection and 25 years for cross drainage (i.e., drainage facilities crossing a street).

(B) All storm drainage pipe shall be reinforced concrete and no pipe may be smaller than 15 inches in diameter.

(C) Culvert outlet protection and swale erosion protection shall be design based on a ten-year storm.

(D) All storm drainage structures and pipes shall be designed and constructed in accordance with N.C.D.O.T. specifications and Standard Drawings No. 10 through No. 14. However, in case of a conflict, the standard drawings shall prevail.

(Ord. passed 9-8-92)

§ 15. SEDIMENTATION CONTROL.

Road shoulders, swales, back-of-curbs, and cut and fill banks shall be completely dressed up by the contractor and seeded as soon as possible.